

CHAPTER 65G-3
TERMINATION, SUSPENSION OR REDUCTION OF CLIENT SERVICES BY SERVICE PROVIDERS

65G-3.001	Definitions
65G-3.002	Criteria for Admissions and Services (Repealed)
65G-3.003	Rules for Reduction of Services by the Provider (Repealed)
65G-3.004	Rules for Suspension of Services by the Provider (Repealed)
65G-3.005	Rules for Termination, Reduction, or Suspension of Services by the Provider
65G-3.006	Discrimination and Retaliatory Conduct

65G-3.001 Definitions.

(1) “Contract” means a formal written agreement between the provider and Agency and includes Medicaid Waiver Services Agreement.

(2) “Discrimination” means the unjust or prejudicial treatment of different categories of people.

(3) “Fading” is the planned reduction in a client’s level of service over a specified period of time, which is determined by the client’s identified progress and needs identified based on medical necessity. This planned reduction must be documented in the client’s records which may include but is not limited to the client’s plans of care, support plan, cost plan, provider documentation, or Agency determinations.

(4) “Individual Representative” is defined in subsection 65G-4.0213(13), F.A.C.

(5) “Provider” means any individual, program, or facility that receives payment for the care, treatment, training, residence or habilitation of persons with developmental disabilities. A provider does not include:

(a) A spouse, family member or guardian with whom a person with developmental disabilities resides;

(b) A provider covered under the provisions of part VIII of Chapter 400, F.S.; or

(c) Individuals or entities providing services to clients through the Consumer Directed Care Plus program pursuant to sections 393.066, and 409.221, F.S., and the rules of the Agency.

(6) “Reduction” means a decrease in the frequency, duration or intensity in the level of services, initiated by a non-residential provider that is not a result of faded or prescribed reductions that are part of service planning.

(7) “Retaliatory Conduct” means negative action against a client or client’s individual representative motivated by the desire to punish the client or the client’s individual representative.

(8) “Suspension” means an involuntary and temporary break in services in a non-residential program initiated by the provider. Suspension does not mean a break of services to a client by a service provider due to the unavailability of funds to the provider by the Agency.

(9) “Termination” means the involuntary, permanent discharge or discontinuation of services in a program by the provider when such action is not included as part of the service planning process. Termination does not mean a discontinuation of services to a client by a service provider due to the unavailability of funds to the provider by the Agency.

(10) “Regional Office” means the Agency local office responsible for managing a specific geographical region.

Rulemaking Authority 393.125(2), 393.501(2) FS. Law Implemented 393.125(2) FS. History—New 12-10-91, Formerly 10F-8.026, 65B-8.026, Amended 6-4-19.

65G-3.002 Criteria for Admissions and Services.

Rulemaking Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History—New 12-10-91, Formerly 10F-8.028, 65B-8.028, Repealed 5-13-19.

65G-3.003 Rules for Reduction of Services by the Provider.

Rulemaking Authority 393.125(2) FS. Law Implemented 393.125(2) FS. History—New 12-10-91, Formerly 10F-8.029, 65B-8.029, Repealed 5-13-19.

65G-3.004 Rules for Suspension of Services by the Provider.

65G-3.005 Rules for Termination, Reduction, or Suspension of Services by the Provider.

(1) TERMINATIONS AND REDUCTIONS

(a) If a provider determines that he or she must terminate or reduce services the provider gives to a client, the provider shall send written notice of intent to terminate or reduce services to the client and their individual representative by certified mail or electronic mail. The provider shall send the required notice to the Regional Office and Support Coordinator via electronic mail.

1. The provider may not terminate or reduce services until at least thirty calendar days after the receipt of the notification by the client, individual representative, Regional Office, and Support Coordinator.

2. If the client is not on the iBudget Waiver pursuant to section 393.0662, F.S., notification is only required to be given by the provider to the Regional Office, the client and the client's individual's representative.

(b) Upon receipt of the notice from the provider, the Support Coordinator shall:

1. Evaluate the circumstances that led to the proposed termination or reduction,

2. Determine what actions, if any, should be taken to resolve the situation,

3. Immediately assist the client or the client's individual representative in locating an alternate provider if resolution is not acceptable to the client or provider or otherwise not possible, and

4. Update the client's support plan, cost plan and relevant service authorizations accordingly.

(c) At the request of the client or the client's individual representative, the Support Coordinator shall arrange a meeting with the provider and the client or the client's individual representative, to offer any recommendations to the client and the provider in an effort to resolve the concerns that led to the issuance of the notice of intent to terminate or reduce service. The meeting must be arranged within five (5) calendar days of the client's or the individual representative's request for the meeting.

(d) The Support Coordinator shall contact the Regional Office immediately if the client and the client's individual representative need assistance in locating an alternate provider at least 25 days prior to the effective date of termination or reduction in services. The Regional Office will assist the client and the client's individual representative in meeting the client's needs.

(e) If the termination is for services provided in a licensed residential facility, the Regional Office shall immediately work with the client's Support Coordinator to assist the client or the client's individual representative in choosing an alternate place to live before the date of termination.

(f) If the client or the client's individual representative selects an individual or entity to render the services who is not qualified to be that client's provider, the Regional Office shall issue a notice to deny the client's selection of provider choice within 30 calendar days of the client's notification to the Regional Office. The notice shall identify:

1. Any alternate providers or service options for the client that the Agency has determined are readily available;

2. The reason the Agency is denying the client's selection of provider choice;

3. The specific statute or rule supporting the denial; and

4. An explanation of the client's administrative hearing rights pursuant to sections 393.125, 120.569, and 120.57, F.S.

(2) SUSPENSIONS

(a) *Emergency Suspension:* A service provider may suspend services provided to a client in a non-residential program when the behavior of the client constitutes an immediate danger to health, safety, or welfare of the client, another recipient of the provider's services, the provider, or a third party. If a service provider suspends a client's services for this reason, the provider shall give written notice of suspension to the client, the client's individual representative, the client's Support Coordinator, and Regional Office at the time of the suspension or thereafter, detailing reasons for the suspension.

(b) *Other Suspension:* A service provider may suspend services provided to a client in a non-residential program when the client's behavior interferes with services provided to other recipients of the provider's services. If a service provider initiates a suspension for this reason, the service provider shall provide written notice of suspension from a non-residential program to the client, the client's individual representative, the client's Support Coordinator, and the Regional Office at the time of the suspension or thereafter, detailing reasons for the suspension.

1. This type of suspension shall not exceed 3 service days.

2. If the client is not on the iBudget Waiver pursuant to section 393.0662, F.S., notification is only required to be given by the provider to the Regional Office, the client and the client's individual's representative.

(c) The Support Coordinator shall ensure that appropriate service coverage is available during the time of suspension and update the support plan, cost plan, and relevant service authorizations accordingly. The Support Coordinator shall contact the Regional office the day the Support Coordinator receives notice of the suspension if assistance is needed in securing alternate services or providers. The Regional Office will assist the client and the client's individual representative in meeting the client's needs.

(3) This rule does not apply to fading or other reduction of care set forth in the client's plan of care.

Rulemaking Authority 393.125(2), 393.501(1) FS. Law Implemented 393.125(2) FS. History--New 12-10-91, Amended 5-19-93, Formerly 10F-8.031, 65B-8.031, Amended 6-4-19.

65G-3.006 Discrimination and Retaliatory Conduct.

(1) Service providers are prohibited from:

(a) Taking any action that qualifies as illegal discrimination against any client receiving services in the receipt of those services.

(b) Prejudicing the future provision of appropriate services when the client or the client's individual representative attempts to advocate with the Agency, a government entity, or advocacy organization for desired services. Providing factual information regarding a client that is pertinent to ensure the safety, health, and welfare of the client and third parties shall not be considered "prejudicing the future provision of appropriate services."

(c) Taking any action that qualifies as retaliatory conduct against a client or the client's individual representative if either has complained about the service provider to the Agency, a governmental entity or advocacy organization, or any other individual or entity.

(2) In cases where the Agency has determined the provider has engaged in retaliatory conduct, illegal discriminatory conduct, or withheld factual information, as described within this section, the Agency may initiate action against the service provider's license, pursuant to chapter 65G-32, F.A.C., or any contract with the Agency, including the Medicaid Waiver Services Agreement, in accordance with the provisions of applicable state law and administrative rules.

Rulemaking Authority 393.125(2), 393.501(1) FS. Law Implemented 393.125(2) FS. History--New 12-10-91, Amended 5-19-93, Formerly 10F-8.033, 65B-8.033, Amended 6-4-19.