

CHAPTER 4

Freedom of Choice

Once it is determined that an individual has needs that could likely be met either in an ICF/IID or in the community with the provision of waiver services, you must:

- inform the individual, or his/her legal guardian, of the feasible alternatives under the waiver,
- give the individual, or his/her legal guardian, a choice of institutional (ICF/IID) services or home and community-based (Community Supports Waiver) services, and
- inform the individual, or his/her legal guardian, of his/her right to request a reconsideration of an adverse decision.

The **Freedom of Choice (Community Supports Form 1)** is used to document that you provided this information and gave the individual the choice of services. The **Freedom of Choice** form must be signed and “home and community-based services” chosen before the individual is enrolled in the Waiver and should be signed prior to requesting a determination of Level of Care. Please see Chapter 6 (*Enrollments*) for more information.

As stated, the **Freedom of Choice (Community Supports Form 1)** form must be signed and “home and community-based services” selected **prior** to waiver enrollment. The presence of this completed and signed form assures that you have explained the services available through the waiver and provided sufficient detail about both ICF/IID and waiver services so that an informed choice to be made.

Additionally, a completed and signed **Freedom of Choice (Community Supports Form 1)** signifies that you have informed the individual of his/her right to request reconsideration if he/she feels a choice of either institution or waiver services was not offered, he/she was not informed of feasible alternatives, was denied services of his/her choice, or was denied services from the provider of his/her choice. Once reconsidered, if the individual wishes he/she may appeal to the SC Department of Health and Human Services.

When completing the Freedom of Choice (Community Supports Form 1) a visit should be made with the individual or his/her legal guardian. Two copies of the Freedom of Choice (Community Supports Form 1) should be prepared and when explained and a choice made, both copies signed. One copy is placed in the individual’s file. Since the decision remains in effect until the individual/legal guardian changes his/her choice, this form will be a permanent part of the file and is not to be removed or purged. The second signed copy of the form is to be given to the individual/legal guardian.

Please note: if the initial **Freedom of Choice (Community Supports Form 1)** is signed by the parent or guardian of a minor, the form must be signed by the individual when he/she reaches the age of majority (age 18 in South Carolina) if he/she is not adjudicated incompetent. This may be done by completing a new **Freedom of Choice Form (Community Supports Form 1)** or the individual can simply sign the current form. This should be done within ninety (90) calendar days following the individual’s eighteenth birthday.

After completing the **Freedom of Choice Form (Community Supports Form 1)**, the **Acknowledgement of Rights and Responsibilities (Community Supports Form 2)** should be presented to the individual/legal guardian. You must carefully explain and review this information with the individual and/or his/her legal guardian and have the **Acknowledgement of Rights and Responsibilities Form (Community Supports Form 2)** signed if they are over the age of 18 or the family member/legal guardian if the individual is under 18 or cannot sign for himself or herself. You must also sign the form. This form **should be completed annually (within 12 months of previously completed form)**. Again, two copies should be prepared. One left with the individual and/or legal guardian and the other copy will remain in the active file. For file maintenance, the current copy and the previous copy should be kept in the active file. Prior copies may be purged into the back-up file.