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.
This is to certify that the above named individual was informed of the feasible alternatives under the waiver, given the opportunity to choose between institutional and home and community-based services and was informed of the right to have adverse decision reconsidered. The individual has selected by written acknowledgment, or by the written acknowledgment of his or her representative, to receive the option marked below.

Signature: _______________________________ Date: _______________________________
Case Manager / Early Interventionist

I, or my authorized representative, have been afforded an opportunity to make an informed choice of receiving either institutional or home and community-based services. My and/or my representative’s signature below indicates that at this time, I have chosen to receive:

☐ home and community-based services (Community Supports Waiver)
☐ institutional services (ICF/IID)

In the event that I have not been informed of feasible options under the waiver or been given the option of institutional or waiver services, I understand that I have the right to request reconsideration of adverse decisions.

Individual’s Signature: _______________________________ Date: _______________________________
Representative’s Signature: _______________________________ Date: _______________________________
Representative’s Name: _______________________________

Representative’s Address and Phone #, if different from Individual’s: _______________________________
SCDDSN RECONSIDERATION PROCESS

The South Carolina Department of Disabilities and Special Needs (SCDDSN) is responsible for the day-to-day operations of the Intellectual Disability-Related Disabilities (ID-RD) Waiver, the Community Supports (CS) Waiver, the Head and Spinal Cord Injury (HASC1) Waiver, and the Pervasive Developmental Disorder (PDD) Waiver. If a Waiver participant disagrees with a decision made and/or action taken by SCDDSN, reconsideration and reversal of the adverse decision/action may be requested.

The SCDDSN reconsideration process must be completed in its entirety before seeking an appeal with the South Carolina Department of Health and Human Services (SCDHHS), which is the State Medicaid Agency.

A request for a SCDDSN reconsideration of an adverse decision/action must be made in writing within thirty (30) calendar days of receipt of written notification of the adverse decision/action. The request must clearly state the basis of the complaint, previous efforts to resolve the complaint, and relief sought. If the adverse decision/action was in response to a request to exceed service limits, evidence of the medical necessity of the services must be included in the request and will be considered by SCDDSN. If necessary, a Case Manager or other staff may assist the participant, legal guardian or representative in requesting reconsideration. The request must be dated and signed by the participant, legal guardian or representative assisting the participant. The request for reconsideration must be mailed to:

State Director
SC Department of Disabilities and Special Needs
P.O. Box 4706
Columbia, SC 29240

The State Director or a designee will issue a written decision within ten (10) working days of receipt of the written reconsideration request and mail it to the participant, legal guardian or representative. If the State Director upholds the original adverse decision/decision, the reason(s) shall be specifically identified in the written notification.

Note: In order for affected Waiver services to continue during the SCDDSN reconsideration process and the SCDHHS Medicaid appeal process, the participant, legal guardian or representative’s request for SCDDSN reconsideration must be submitted within ten (10) calendar days of receipt of written notification of the adverse decision/action. Continuation of the affected Waiver services must be specifically requested in the request for SCDDSN reconsideration. If the adverse decision/action is upheld, the participant or legal guardian may be required to repay the cost of affected Waiver services received during the time of the reconsideration/appeal processes.

SCDHHS MEDICAID APPEAL PROCESS

If the participant, legal guardian or representative fully completes the SCDDSN reconsideration process above and is dissatisfied with the result, the participant, legal guardian or representative has the right to request an appeal with the State Medicaid Agency, which is the South Carolina Department of Health and Human Services (SCDHHS).

The appeal request may be made electronically using the SCDHHS website indicated below or it may be mailed to SCDHHS. This must be done no later than thirty (30) calendar days after receipt of the SCDDSN notification.

The purpose of a SCDHHS administrative appeal is to prove error(s) in fact or law pertaining to a decision made and/or action taken by SCDDSN that adversely affects a Waiver participant. The appeal must clearly state the specific issue(s) that are disputed and what action is requested. A copy of the reconsideration notification received from SCDDSN must be uploaded using the SCDHHS website indicated below or included with the mailed appeal.

The participant, legal guardian or representative is encouraged to file the appeal electronically at www.scdhhs.gov/appeals.

OR

The appeal request may be mailed to:

SC Department of Health and Human Services
Division of Appeals and Hearings
P.O. Box 8206
Columbia, SC 29202-8206

An appeal request to SCDHHS is valid if filed electronically or mailed to the above address and postmarked no later than the thirtieth (30th) calendar day following receipt of the SCDDSN reconsideration notification. Unless a valid appeal request is made to SCDHHS, the SCDDSN reconsideration decision will be final and binding.

If a valid appeal request is made, the participant, legal guardian or representative will be advised by the SCDHHS Division of Appeals and Hearings as to the status of the appeal request, which may include a scheduled hearing.

A beneficiary may request an expedited appeal. SCDHHS will grant or deny these requests as quickly as possible. If we grant your request to expedite, your appeal will be resolved as quickly as possible instead of the standard 90-day timeframe. If we deny the request to expedite, the appeal will follow the standard 90-day timeframe.

SCDHHS may grant expedited review if we determine the standard appeal timeframe could jeopardize the individual’s life, health, or ability to attain, maintain, or regain maximum function. SCDHHS may consider, among other facts:

- the medical urgency of the beneficiary’s situation
- whether a needed procedure has already been scheduled
- whether a beneficiary is unable to schedule a needed procedure due to lack of coverage
- whether other insurance will cover most of the costs of the requested treatment.

You may request an expedited appeal at the same time you file your appeal request or after you file an appeal. Please state you are requesting an expedited appeal and explain why.

To avoid delays in the process, please submit any supporting documentation with the request for expedited review or immediately thereafter. While supporting documentation is not required, SCDHHS will make its determination based on the information made available at the time we consider the request.
I acknowledge that this information is to assist me in understanding the Community Supports Waiver Program, my rights, my responsibilities, and my benefits. I will keep this information in a place where I can find it. I can contact my Case Manager/Early Interventionist at __________________ if I have any questions or need assistance.

I. By receiving services through Community Supports Waiver:

1. I have the right to be treated with dignity and respect by my Case Manager/Early Interventionist and all providers of my Community Supports Waiver services.

2. I have the right to confidentiality.

3. I have the right to receive a full explanation of all the forms that I am asked to sign.

4. I have the right to be told about all services available from SCDDSN.

5. I have the right to know the name of my Case Manager/Early Interventionist and how I can contact him or her.

6. I have the right to participate in the development of my SCDDSN Case Manager Annual Assessment Support Plan/IFSP/FSP, have my Support Plan/IFSP/FSP explained to me and a copy provided.

7. I have the right to choose the agency or provider for each of my Community Supports Waiver services from all qualified/enrolled providers (a list for each Community Supports Waiver service is available online at www.ddsn.sc.gov/). My decision to receive services from a provider cannot be based on race, color, sex, religion or national origin.

8. I have the right to contact providers to evaluate service quality and gather information to assist in making an informed choice.

9. I have the right to change my provider by notifying my Case Manager/Early Interventionist.

10. I have the right to request reconsideration and appeal if I disagree with any decision or action concerning my services or participation in the Community Supports Waiver.

11. I have the right to complain about waiver services/providers by contacting my Case Manager/Early Interventionist.

12. I have the right to discontinue participation in the Community Supports Waiver by contacting my Case Manager/Early Interventionist.

13. I have the right to be informed about any potential risk associated with waiver services. I have the right to assume that risk and be responsible for any consequences.

14. I have the right to refuse to participate in a Community Supports Waiver service, but understand that I must receive a Community Supports Waiver service at least every thirty (30) days. If I do not receive a Community Supports Waiver service at least every thirty (30) days, I will be terminated from the Community Supports Waiver. I will receive written notification of this termination which will include the processes for reconsideration and appeal of the decision.
II. As a Community Supports Waiver participant:

1. I will treat my Case Manager/Early Interventionist and service providers in a considerate, respectful and courteous manner and will expect the same treatment in return.

2. I will inform my Case Manager/Early Interventionist and all service providers in advance when I will be away from my home on dates of scheduled services/visits.

3. I will be present at the time of the provider’s scheduled visits.

4. I will admit the service provider into my home.

5. I will not ask the service provider to perform tasks that are against the law or that are not a part of my Support Plan/IFSP/FSP.

6. I understand the Community Supports Waiver will not provide for all of my service needs.

7. I will follow the agreed upon Support Plan/IFSP/FSP.

8. I will provide accurate and complete information about:
   - past and present medical histories;
   - my family or others who can provide supports;
   - other services being provided to me;
   - changes in my condition or situation, i.e. hospitalization, additional caregiver(s), income, and other events impacting my care;
   - changes in my address, phone number(s) and persons assisting me with my care; and
   - time keeping records that I may be required to sign in regards to Personal Care, Respite or In-Home Support.

9. I understand that the Community Supports Waiver and DDSN do not provide emergency care. In case of medical emergency, I must contact my physician, go to the hospital or call 911.

10. I understand that I must be available for and participate in annual plan development and that not participating may lead to the suspension of my waiver services.

11. I realize that if I am non-responsive to requests from DDSN, Case Managers, or Early Interventionists in efforts to perform periodic evaluations and follow-up procedures, it could result in delay, suspension, or termination of services.

I understand that not abiding by the rights and responsibilities indicated in this document may lead to the termination of waiver services.

__________________________________________________________________________
Signature of Community Supports Waiver Participant                                      Date
(if age 18 years or older)

OR

__________________________________________________________________________
Signature of Parent/Legal Guardian                                             Date
(if Community Supports Waiver Participant is under 18 years of age)

__________________________________________________________________________
Signature of Case Manager/Early Interventionist                                   Date