

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 (ID/RD Waiver) services, and
- inform the individual, or his/her legal guardian, of his/her right to request reconsideration of an adverse decision.

The **Freedom of Choice (ID/RD Form 1)** is used to document that you provided this information and gave the potential recipient the choice of services. Please note that the **Freedom of Choice (ID/RD Form 1)** form must be signed and “home and community-based services” chosen before the individual is enrolled in the Waiver. To meet compliance standards, the **Freedom of Choice** Form must be signed prior to completing the Level of Care Determination. Also, please see Chapter 6 (*Enrollments*) for more information.

As stated, the **Freedom of Choice (ID/RD 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 for an informed choice to be made.

Additionally, a completed and signed **Freedom of Choice (ID/RD Form 1)** signifies that you have informed the recipient 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 person wishes he/she may appeal to the SC Department of Health and Human Services.

When completing the Freedom of Choice (ID/RD Form 1) a home visit will be made with the individual and/or family. Two copies of the Freedom of Choice (ID/RD Form 1) will be prepared and when explained and a choice made, both copies signed. One copy will be 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 will not be removed or purged. The second signed copy of the form will be left with the individual/legal guardian.

Please note: if the initial Freedom of Choice form 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 will be done by completing a new FOC Form (ID/RD Form 1) or the individual can simply sign the current form. This will be done within thirty (30) days of the individual's eighteenth birthday.

After completing the **Freedom of Choice Form (ID/RD Form 1)**, you will present the individual and/or his/her legal guardian with the **Acknowledgement of Rights and Responsibilities (ID/RD Form 2)**. *You must carefully explain and review this information with the individual and/or his/her legal guardian and have the individual sign* the Acknowledgement of Rights and Responsibilities Form if they are over the age of 18 or the family member/legal guardian if the recipient is under 18 or cannot sign for himself or herself. You must also sign the form. This form **will be completed each year at the annual plan meeting.** 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 will be kept in the active file. Prior copies may be purged into the back-up file.