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# INDEPENDENT LIVING BENEFITS DUE PROCESS / FAIR HEARING

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DUE PROCESS NOTIFICATION AND FAIR HEARING IF INDEPENDENT LIVING BENEFITS / SERVICES DENIED,  
TERMINATED OR REDUCED

65C-31.009 F.A.C.; § 409.1451(5)(E) FLA. STAT. (2007); 45 CFR § 1355.30 AND 45 CFR 205.10

*A young adult may request a **fair hearing** when a request for services is denied, when the department fails to act on a request for services within ten [10] days of that request, or when services the young adult is currently receiving are reduced or terminated.*

## Requirements

- service worker must provide young adult with the Brochure “Independent Living Benefits Due Process Rights” when the young adult applies for IL benefits
  - Available at <http://www.dcf.state.fl.us/publications/eforms/i175-11.pdf>
- Service worker shall help young adult with fair hearing process
- Due process notification required when young adult:
  - Determined ineligible for IL benefits
  - Denied IL benefits because of lack of funding
  - IL benefits reduced or terminated – not at young adult’s request
- If there is a reduction, termination or denial of IL benefits then the supervisor of the IL service worker shall review the letter
- Due process notification
  - In writing
  - Relevant reasons for decision
  - Action, reason for action, relevant citations
  - Notice must be sent 10 days before reduction or termination in benefits

## Fair Hearing

- Request for fair hearing must be received by service worker within 30 days of notice (sent or hand delivered) 65C-31.009(10)(e)1, F.A.C.
  - Request may be oral or written 65C-31.009(10)(f), F.A.C.
- Fair hearing takes place where young adult lives
- Before Fair Hearing, must have Local [Informal] Review – no later than 10 days after request for Fair Hearing
  - Meeting with young adult, legal representative -- if young adult requests it
  - Determination of informal meeting must be made in writing
- Benefits will continue until Fair Hearing process is complete – as long as you had already been receiving benefits and request for a fair hearing was received before benefits were to be terminated or reduced
- Within 3 days of request for a fair hearing, young adult or counsel shall be given copies (no charge) of all records related to IL benefit 65C-31.009(15)(d), F.A.C.
- If it goes to a Fair Hearing and decision in favor of young adult – retroactive benefits will apply. Benefits must be reinstated within 5 days of receiving fair hearing decision.
- If the fair hearing determination is not in your favor then no further action will be taken unless you were receiving benefits during the fair hearing process – then the service worker must notify young adult in writing when the benefits will be reduced or terminated.

## Voluntary Reduction or Termination of IL Benefits (young adult requests)

- Young adult has 10 days to reconsider from the date of the letter of confirmation was sent  
Due Process Rights Brochure: <http://www.dcf.state.fl.us/publications/eforms/i175-11.pdf>