

# FOOTHILLS GATEWAY, INC.

## Rights of Persons Receiving Services

### **POLICY:**

It is the policy of Foothills Gateway, Inc. to ensure adherence to the provisions of Colorado Revised Statutes (CRS-25.5-10-218 through and including CRS25.5-10-231; as amended) concerning the rights, benefits and privileges of persons funded in whole or part through the Health Care Policy and Financing (HCPF).

### **PROCEDURE:**

Persons receiving services have the same legal rights and responsibilities guaranteed to all other individuals under the federal and state constitutions and federal and state laws unless such rights are modified by court order. Rights may be suspended according to the rules and regulations of HCPF.

#### Rights of Persons Receiving Services:

1. Each individual receiving services shall have a Service Plan (SP) developed jointly by the Interdisciplinary Team (IDT) pursuant to the rules and regulations of HCPF.
2. Each individual has the right to appropriate dental and medical services and treatment pursuant to the rules and regulations of HCPF and in accordance with applicable licensure standards for residential programs in which they may receive services.
3. Each individual shall be protected from mistreatment, abuse, neglect, and exploitation. All service and support interventions shall meet the guidelines established in the rules and regulations of HCPF.
4. Each individual shall be allowed the right to practice the person's own religious beliefs.
  - a. Opportunities for worship shall not be limited to or arranged for the purpose of staff convenience or based on staff preferences.
  - b. No individual shall be required to perform any act or be subject to any procedure whatsoever which is contrary to their religious belief.
5. Each individual shall have the opportunity to communicate freely and privately with persons of the individual's choosing, including having reasonable access to a telephone both to make and receive calls in private.
6. Each individual shall be able to receive and send sealed, unopened correspondence or packages. No such correspondence or package shall be opened, delayed, held, or censored by any person.
7. Each individual shall be afforded reasonable and frequent opportunities to meet with visitors. Visits may be made at reasonable hours without prior notice but with consideration for roommates.
8. Each individual shall be afforded suitable opportunities for interaction with other persons and the community at large.
9. Each individual has the right to sexual interaction based on the person's individual choice. Policies and procedures of service agencies may not prohibit that right.
10. Each individual has the right to possession and use of their own clothing and personal effects.

11. Each individual has the right to manage their own fiscal affairs.
  - a. In general, each person shall be presumed able to manage their own funds unless the rights modification process has been followed.
  - b. Each person has the right to purchase property.
12. Each individual has the right to represent his/her interests and to attempt to influence the policies of the Department, Community Centered Board, Regional Center.
  - a. The Community Centered Board or Program Approved Service Agency (PASA) shall assure that persons receiving services have access to the Board of Directors or trustees to express interests and opinions on policies of the agency.
  - b. No person receiving services may be retaliated against in their receipt of services or otherwise as a result of attempts to advocate on their own behalf with the agency.
13. Each individual shall have the right to read or have explained any rules or regulations adopted by HCPF and policies and procedures of the agency pertaining to such person's activities and supports, or to obtain copies of any of these documents at a reasonable cost.
  - a. Agencies shall inform persons receiving services, parents, guardians and/or authorized representative of the rights provided in CRS-25-5-10-218 through and including CRS 25-5-10-231; as amended.
  - b. Persons receiving services, parents of minors, guardians and/or the person's authorized representative will be provided a written summary of rights and a description of how to exercise them at the time of eligibility determination, at the time of admission, or at the time any changes are made in the description of rights or substantive changes are being considered in the person's Service Plan
  - c. The agency shall provide this information in a manner that is easily understood verbally, and in writing in the native language of the person, or through other modes of communication as may be necessary to enhance understanding.
  - d. Program Approved Service Agencies (PASAs) will provide ongoing instruction on how to exercise rights.
  - e. The agency will maintain signed documentation that the person receiving services, parent of a minor, guardians and/or authorized representative has received the statement of rights.
  - f. A review and verbal description of rights will be provided at the annual Service Plan meeting.
  - g. The rights of the person receiving services, parent of a minor, or guardian and/or authorized representative shall be described at each annual SP meeting.
14. No individual shall be required to perform labor. A person may voluntarily engage in labor accordance with stipulations of CRS 25.5-10-224 as amended, and applicable minimum wage laws. Each individual who is eligible to vote according to law shall have that opportunity. If they so choose, they can be assisted by service agencies to exercise this right.
15. Each individual has the right to a record which shall be maintained by the Community Centered Board pursuant to the rules and regulations of HCPF.

- a. This record shall not be a public record.
- 16. No person shall be discriminated against because of race, color, national origin, religion, gender, disability or because he or she has received services or supports under any provision of CRS 25.5-10, as amended.
- 17. Each person has the right to decline to participate in research.

### **Safeguarding Rights of Person Receiving Services**

1. An individual's right under the provision of CRS 25.5-10 as amended, may be modified only if the person consents or by court order in accordance with the rules and regulations of HCPF or by a court order pursuant to CRS 25.5-10-216 as amended.
  - a. When rights modification is under consideration, the rights affected shall be specifically explained to the individual with notice and informed consent shall be given as defined in the rules and regulations of HCPF and the HCBS Settings Rule to the appropriate parties.
  - b. When a right is proposed to be modified it is evaluated by the individual's Interdisciplinary Team (IDT) and is documented in the Service Plan and the Benefit Utilization System (BUS) Rights Modification Section. The BUS documentation will be sent to the person/legal guardian and PASA.
  - c. When a right has been modified, the continuing need for such modification shall be reviewed by the individual's IDT at a frequency set by the team, but not less than every six months.
    1. Such review shall include the original reason for the rights modification, current circumstances, success or failure of programmatic intervention, and the need for continued suspension or modification.
    2. Restoration of affected rights shall occur at the time circumstances justify and shall not be delayed for the convenience of the agency.
  - d. Prior to modifying a modified, Notice and Informed Consent must be given, and such action shall be referred to the Human Rights Committee (HRC) for review and recommendation. (See Human Rights Committee - policy and procedures and Informed Consent Procedure. Such a review will include an opportunity for the person who is affected, parent of a minor, guardian and/or authorized representative to present relevant information to the Human Rights Committee.
2. Emergency actions may be taken to modify the rights of a person receiving services if such action is necessary to protect the health and safety of the person or others. Such actions will utilize the least intrusive means of the rights modification possible and shall include the following requirements:
  - a. The Case Manager, guardian, and a parent of a minor must be notified via an incident report within 24 hours;
  - b. The modified right shall be specifically explained to the individual with Notice given as defined in the rules and regulations of HCPF to the appropriate parties within 24 hours.
  - c. The IDT shall be convened to address the rights modification in the Service Plan and BUS as outlined above.

- d. IDT review and HRC review as outlined above in 13 c and d shall be implemented.

### **Use of an Authorized Representative**

Individuals eligible for services and supports, the parent of a minor or legal guardian may designate an authorized representative.

- a. Designation of an authorized representative must occur with informed consent of the individual receiving services.
- b. Designation of an authorized representative must be in writing and must specify the extent of involvement the representative will have in assisting the individual acquire or utilize supports and services.
- c. The written designation of an authorized representative shall be maintained in the individual's master record.
- d. The individual receiving services may withdraw their designation of an authorized representative at any time.

1/86 . . . . . 2/21; 3/22; 6/22