

House Bill No. 5087

An act relating to the Agency for Persons with Disabilities; amending s. 393.0661, F.S.; revising provisions relating to certain clients with developmental disabilities served under the four-tiered waiver system; providing for residential habilitation services; establishing geographic differential payments for Miami-Dade, Broward, Palm Beach, and Monroe Counties; providing effective dates for applicable payments; providing for rebasing cost plans based on actual expenditures for individuals served by home and community-based services or family and supported living waiver programs; extending the effective date for the provision of certain services; providing for future review and repeal of certain provisions; amending s. 393.071, F.S.; providing for deposit of client fees into the agency's Operations and Maintenance Trust Fund; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 393.0661, Florida Statutes, is renumbered as subsection (7), paragraphs (b) and (d) of subsection (3) are amended, present subsection (5) is renumbered as subsection (8) and amended, and new subsections (4), (5), and (6) are added to that section, to read:

393.0661 Home and community-based services delivery system; comprehensive redesign.—The Legislature finds that the home and community-based services delivery system for persons with developmental disabilities and the availability of appropriated funds are two of the critical elements in making services available. Therefore, it is the intent of the Legislature that the Agency for Persons with Disabilities shall develop and implement a comprehensive redesign of the system.

(3) The Agency for Health Care Administration, in consultation with the agency, shall seek federal approval and implement a four-tiered waiver system to serve clients with developmental disabilities in the developmental disabilities and family and supported living waivers. The agency shall assign all clients receiving services through the developmental disabilities waiver to a tier based on a valid assessment instrument, client characteristics, and other appropriate assessment methods. All services covered under the current developmental disabilities waiver shall be available to all clients in all tiers where appropriate, except as otherwise provided in this subsection or in the General Appropriations Act.

(b) Tier two shall be limited to clients whose service needs include a licensed residential facility and who are authorized to receive a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus ~~greater than 5 hours per day~~ in residential habilitation services or clients in supported living who receive greater than 6 hours a day of in-home support services. Total annual expenditures under tier two may not exceed \$55,000 per client each year.

(d) Tier four is the family and supported living waiver. Tier four shall include, but is not limited to, clients in independent or supported living situations and clients who live in their family home. An increase to the number of services available to clients in this tier shall not take effect prior to July 1, 2009 ~~2008~~. Total annual expenditures under tier four may not exceed \$14,792 per client each year.

(4) Effective July 1, 2008, the geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services shall be 7.5 percent. Effective July 1, 2009, the geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services shall be 4.5 percent.

(5) Effective July 1, 2008, the geographic differential for Monroe County for residential habilitation services shall be 20 percent. Effective July 1, 2009, the geographic differential for Monroe County for residential habilitation services shall be 15 percent. Effective July 1, 2010, the geographic differential for Monroe County for residential habilitation services shall be 10 percent.

(6) Effective January 1, 2009, and except as otherwise provided in this section, an individual served by the home and community-based services waiver or the family and supported living waiver funded through the Agency for Persons with Disabilities shall have his or her cost plan adjusted to reflect the amount of expenditures for the previous state fiscal year plus 5 percent if such amount is less than the individual's existing cost plan. The Agency for Persons with Disabilities shall use actual paid claims for services provided during the previous fiscal year that are submitted by October 31 to calculate the revised cost plan amount. If an individual was not served for the entire previous state fiscal year or there was any single change in the cost plan amount of more than 5 percent during the previous state fiscal year, the agency shall set the cost plan amount at an estimated annualized expenditure amount plus 5 percent. The agency shall estimate the annualized expenditure amount by calculating the average of monthly expenditures, beginning in the fourth month after the individual enrolled or the cost plan was changed by more than 5 percent and ending with August 31, 2008, and multiplying the average by 12. In the event that at least 3 months of actual expenditure data are not available to estimate annualized expenditures, the agency may not rebase a cost plan pursuant to this subsection. This subsection expires June 30, 2009, unless reenacted by the Legislature before that date.

~~(8)~~(5) The Agency for Persons with Disabilities shall submit quarterly status reports to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House Fiscal Council or its successor regarding the financial status of home and community-based services, including the number of enrolled individuals who are receiving services through one or more programs; the number of individuals who have requested services who are not enrolled but who are receiving services through one or more programs, with a description indicating the programs from which the individual is receiving services; the number of individuals who have refused an offer of services but who choose to

remain on the list of individuals waiting for services; the number of individuals who have requested services but who are receiving no services; a frequency distribution indicating the length of time individuals have been waiting for services; and information concerning the actual and projected costs compared to the amount of the appropriation available to the program and any projected surpluses or deficits. If at any time an analysis by the agency, in consultation with the Agency for Health Care Administration, indicates that the cost of services is expected to exceed the amount appropriated, the agency shall submit a plan in accordance with subsection (7) (4) to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House Fiscal Council or its successor to remain within the amount appropriated. The agency shall work with the Agency for Health Care Administration to implement the plan so as to remain within the appropriation.

Section 2. Section 393.071, Florida Statutes, is amended to read:

393.071 Client fees.—The agency shall charge fees for services provided to clients in accordance with s. 402.33. All funds collected pursuant to this section shall be deposited in the Operations and Maintenance Trust Fund.

Section 3. This act shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.