

## Committee Substitute for Senate Bill No. 1660

An act relating to the Agency for Persons with Disabilities; amending s. 393.065, F.S.; requiring that the agency assign and provide priority to clients waiting for waiver services; classifying and specifying the order of priority; authorizing the agency and the Agency for Health Care Administration to adopt rules; amending s. 393.0661, F.S.; deleting a provision that permits all developmental waiver services to be available in all waiver tiers; deleting a provision that limits an increase in the number of waiver services until after a certain date; directing the agency to eliminate medication-review services; directing the agency to develop plans to eliminate redundancies in certain services and reduce the supported employment services for certain clients; deleting an upcoming reduction in the geographic differential for residential habilitation services in certain counties; revising criteria for rebasing a client's cost plan; deleting the expiration date for a provision relating to the calculation of the amount of a waiver cost plan adjustment; deleting obsolete provisions; amending s. 393.23, F.S.; revising how moneys in trust accounts in developmental disability centers may be spent; creating the Prepaid Services for Parents of Children with Developmental Disabilities Study Group to evaluate the creation of a prepaid service plan for children with disabilities; providing for membership; providing for administrative support; providing for the duties of the study group; providing for per diem and travel expenses for members; requiring the study group to present a final report to the Legislature; providing an effective date.

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

Section 1. Subsection (5) of section 393.065, Florida Statutes, is amended, present subsection (6) of that section is renumbered as subsection (7) and amended, and a new subsection (6) is added to that section, to read:

393.065 Application and eligibility determination.—

(5) Except as otherwise directed by law, beginning July 1, 2010, the agency shall assign and provide priority to clients waiting for waiver services in the following order:

(a) Category 1, which includes ~~With the exception of clients deemed to be in crisis whom the agency shall serve as described in rule, the agency shall place at the top of its wait list for waiver services those~~

(b) Category 2, which includes children on the wait list who are from the child welfare system with an open case in the Department of Children and Family Services' statewide automated child welfare information system.

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

(e) Category 5, which includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.

(f) Category 6, which includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

(g) Category 7, which includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a wait list of clients placed in the order of the date that the client is determined eligible for waiver services.

(6) The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. The agency shall remove from the wait list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(7)(6) The agency and the Agency for Health Care Administration may adopt rules specifying application procedures, criteria associated with wait-list categories, procedures for administering the wait list, and eligibility criteria as needed to administer this section.

Section 2. Subsections (3), (4), (5), and (6) of section 393.0661, Florida Statutes, are amended 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 eligible clients through ~~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.~~

(a) Tier one ~~is shall be~~ limited to clients who have service needs that cannot be met in tier two, three, or four for intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others.

(b) Tier two ~~is 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 residential habilitation services, or clients in supported living who receive more ~~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.

(c) Tier three ~~includes shall include~~, but is not limited to, clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures under tier three may not exceed \$35,000 per client each year.

(d) Tier four is the family and supported living waiver and includes. ~~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.~~ Total annual expenditures under tier four may not exceed \$14,792 per client each year.

(e) The Agency for Health Care Administration shall also seek federal approval to provide a consumer-directed option for persons with developmental disabilities which corresponds to the funding levels in each of the waiver tiers. The agency shall implement the four-tiered waiver system beginning with tiers one, three, and four and followed by tier two. The agency and the Agency for Health Care Administration may adopt ~~any~~ rules necessary to administer this subsection.

(f) The agency shall seek federal waivers and amend contracts as necessary to make changes to services defined in federal waiver programs administered by the agency as follows:

1. Supported living coaching services ~~may~~ shall not exceed 20 hours per month for persons who also receive in-home support services.
2. Limited support coordination services ~~is~~ shall be the only type of support coordination service that may be provided to persons under the age of 18 who live in the family home.
3. Personal care assistance services are ~~shall be~~ limited to ~~no more than~~ 180 hours per calendar month and may ~~shall~~ not include rate modifiers. Additional hours may be authorized for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.
4. Residential habilitation services are ~~shall be~~ limited to 8 hours per day. Additional hours may be authorized for persons who have intensive medical or adaptive needs and if such hours are essential for avoiding institutionalization, or for persons who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harming themselves or others. This restriction shall be in effect until the four-tiered waiver system is fully implemented.
5. Chore services, nonresidential support services, and homemaker services are ~~shall be~~ eliminated. The agency shall expand the definition of in-home support services to allow enable the service provider of the service to include activities previously provided in these eliminated services.
6. Massage therapy, medication review, and psychological assessment services are ~~shall be~~ eliminated.
7. The agency shall conduct supplemental cost plan reviews to verify the medical necessity of authorized services for plans that have increased by more than 8 percent during either of the 2 preceding fiscal years.
8. The agency shall implement a consolidated residential habilitation rate structure to increase savings to the state through a more cost-effective payment method and establish uniform rates for intensive behavioral residential habilitation services.
9. Pending federal approval, the agency may ~~is authorized to~~ extend current support plans for clients receiving services under Medicaid waivers for 1 year beginning July 1, 2007, or from the date approved, whichever is later. Clients who have a substantial change in circumstances which threatens their health and safety may be reassessed during this year in order to determine the necessity for a change in their support plan.
10. The agency shall develop a plan to eliminate redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating such services.
11. The agency shall develop a plan to reduce the intensity and frequency of supported employment services to clients in stable employment situations who have a documented history of at least 3 years' employment with the same company or in the same industry.

(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, 2010 2009, and except as otherwise provided in this section, a client 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 client's 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 the client 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 client individual enrolled, interrupted services are resumed, or the cost plan was changed by more than 5 percent and ending on with August 31, 2009 2008, and multiplying the average by 12. In order to determine whether a client was not served for the entire year, the agency shall include any interruption of a waiver-funded service or services lasting at least 18 days. If 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. The agency may not rebase the cost plan of any client who experiences a significant change in recipient condition or circumstance which results in a change of more than 5 percent to his or her cost plan between July 1 and the date that a rebased cost plan would take effect pursuant to this subsection. This subsection expires June 30, 2009, unless reenacted by the Legislature before that date.~~

Section 3. Subsection (1) of section 393.23, Florida Statutes, is amended to read:

393.23 Developmental disabilities centers; trust accounts.—All receipts from the operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects, and other like activities operated in a developmental disabilities center, and moneys donated to the center, must be deposited in a trust account in any bank, credit union, or savings and loan association authorized by the State Treasury as a qualified depository to do business in this state, if the moneys are available on demand.

(1) Moneys in the trust account must be expended for the benefit, education, ~~or and~~ welfare of clients. However, if specified, moneys that are donated to the center must be expended in accordance with the intentions of the donor. Trust account money may not be used for the benefit of agency employees of the agency or to pay the wages of such employees. The welfare of the clients includes the expenditure of funds for the purchase of items for resale at canteens or vending machines, and for the establishment of, maintenance of, and operation of canteens, hobby shops, recreational or entertainment facilities, sheltered workshops, activity centers, farming projects, or other like facilities or programs established at the center for the benefit of clients.

Section 4. (1) The Prepaid Services for Parents of Children with Developmental Disabilities Study Group is created to evaluate the establishment of a prepaid service plan for children with disabilities modeled after the Florida prepaid college program. The prepaid service plan would allow funds to be paid into a plan on behalf of a child to provide a voucher for purchasing additional services from a qualified, willing provider upon the child's exit from an exceptional student program. These services would provide support to help the parent retain the benefits to the child of the exceptional student program and to help the child in transitioning to the workforce if possible.

(2) The study group shall consist of the following:

(a) A member of the House of Representatives appointed by the Speaker of the House of Representatives.

(b) A member of the Senate appointed by the President of the Senate.

(c) The director of the Agency for Persons with Disabilities, or designee.

(d) The director of the Division of Vocational Rehabilitation, or designee.

(e) The executive director of the State Board of Administration, or designee.

(f) The Commissioner of Education, or designee.

(g) The executive director of The Arc of Florida, or designee.

(h) An Arc of Florida family board member appointed by the executive director of The Arc of Florida.

(i) The chairperson of the Family Care Council Florida, or his or her designee.

(j) A parent representative from the Family Care Council Florida appointed by the chairperson of the Family Care Council Florida.

(3) The Agency for Persons with Disabilities shall provide administrative support for the study group.

(4) The study group shall evaluate and develop findings and recommendations regarding the following:

- (a) The services for which a voucher could be used.
- (b) The financial requirements for such a system.
- (c) The qualifications of service providers.
- (d) The steps necessary to qualify prepaid service plan funds for a federal waiver match program or other federal funding and the possibilities of such a waiver match or other federal funding.
- (5) Members of the study group shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, Florida Statutes.
- (6) The members of the study group shall be appointed by July 30, 2009, and shall hold their first meeting by September 1, 2009. The final report of the study group shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 29, 2010. The group is abolished and this section is repealed upon submission of the group's final report.

Section 5. This act shall take effect July 1, 2009.

Approved by the Governor May 27, 2009.

Filed in Office Secretary of State May 27, 2009.