

CHAPTER 2024-14

Committee Substitute for Committee Substitute for Senate Bill No. 1758

An act relating to individuals with disabilities; amending s. 393.064, F.S.; revising provisions related to programs and services provided by the Agency for Persons with Disabilities; requiring the agency, within available resources, to offer voluntary participation care navigation services to clients and their caregivers at specified times; specifying goals and requirements for such care navigation services; specifying requirements for care plans; requiring the integration of care plans with any individual education plans of clients; specifying requirements for such integration; amending s. 393.065, F.S.; requiring the agency to develop and implement an online application process; specifying requirements for the online application process; requiring the agency to maintain access to a printable paper application on its website and, upon request, provide printed paper applications; requiring the agency to acknowledge receipt of all applications it receives, regardless of the manner of submission, by providing an immediate receipt confirmation to the applicant in a specified manner; defining the term “complete application”; revising timeframes within which the agency must make eligibility determinations for services; lowering the age that a caregiver must be for an individual to be placed in a certain preenrollment category; amending s. 393.0651, F.S.; revising which types of clients are eligible for an individual support plan; clarifying the timeframe within which a family or individual support plan must be developed; requiring waiver support coordinators to inform the client, client’s parent or guardian, or client’s advocate, as appropriate, of certain information when developing or reviewing the family or individual support plan; providing for a type two transfer of the Florida Unique Abilities Partner Program from the Department of Commerce to the Agency for Persons with Disabilities; amending ss. 20.60 and 413.801, F.S.; conforming provisions to changes made by the act; providing appropriations; requiring the Agency for Health Care Administration and the Agency for Persons with Disabilities, in consultation with other stakeholders, to jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program; providing requirements for the waiver program; authorizing the Agency for Health Care Administration to contract with necessary experts, in consultation with the Agency for Persons with Disabilities, to assist in developing the plan; requiring the Agency for Persons with Disabilities, in consultation with the Agency for Health Care Administration, to submit a specified report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Section 393.064, Florida Statutes, is amended to read:

393.064 Care navigation ~~Prevention.~~—

(1) Within available resources, the agency shall offer to clients and their caregivers care navigation services for voluntary participation at the time of application and as part of any eligibility or renewal review. The goals of care navigation are to create a seamless network of community resources and supports for the client and the client's family as a whole to support a client in daily living, community integration, and achievement of individual goals. Care navigation services must involve assessing client needs and developing and implementing care plans, including, but not limited to, connecting a client to resources and supports. At a minimum, a care plan must address immediate, intermediate, and long-term needs and goals to promote and increase well-being and opportunities for education, employment, social engagement, community integration, and caregiver support. For a client who is a public school student entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended, the care plan must be integrated with the student's individual education plan (IEP). The care plan and IEP must be implemented to maximize the attainment of educational and habilitation goals give priority to the development, planning, and implementation of programs which have the potential to prevent, correct, cure, or reduce the severity of developmental disabilities. The agency shall direct an interagency and interprogram effort for the continued development of a prevention plan and program. The agency shall identify, through demonstration projects, through program evaluation, and through monitoring of programs and projects conducted outside of the agency, any medical, social, economic, or educational methods, techniques, or procedures that have the potential to effectively ameliorate, correct, or cure developmental disabilities. The agency shall determine the costs and benefits that would be associated with such prevention efforts and shall implement, or recommend the implementation of, those methods, techniques, or procedures which are found likely to be cost-beneficial.

(2) ~~Prevention~~ Services provided by the agency must ~~shall~~ include services to high-risk children from 3 to 5 years of age, and their families, to meet the intent of chapter 411. Except for services for children from birth to age 3 years which are the responsibility of the Division of Children's Medical Services in the Department of Health or part H of the Individuals with Disabilities Education Act, such services may include:

(a) Individual evaluations or assessments necessary to diagnose a developmental disability or high-risk condition and to determine appropriate, individual family and support services.

(b) Early intervention services, including developmental training and specialized therapies.

(c) Support services, such as respite care, parent education and training, parent-to-parent counseling, homemaker services, and other services which

allow families to maintain and provide quality care to children in their homes.

(3) Other agencies of state government shall cooperate with and assist the agency, within available resources, in implementing programs which have the potential to prevent, or reduce the severity of, developmental disabilities and shall consider the findings and recommendations of the agency in developing and implementing agency programs and formulating agency budget requests.

(4) There is created at the developmental disabilities center in Gainesville a research and education unit. Such unit shall be named the Raymond C. Philips Research and Education Unit. The functions of such unit shall include:

(a) Research into the etiology of developmental disabilities.

(b) Ensuring that new knowledge is rapidly disseminated throughout the agency.

(c) Diagnosis of unusual conditions and syndromes associated with developmental disabilities in clients identified throughout developmental disabilities programs.

(d) Evaluation of families of clients with developmental disabilities of genetic origin in order to provide them with genetic counseling aimed at preventing the recurrence of the disorder in other family members.

(e) Ensuring that health professionals in the developmental disabilities center at Gainesville have access to information systems that will allow them to remain updated on newer knowledge and maintain their post-graduate education standards.

(f) Enhancing staff training for professionals throughout the agency in the areas of genetics and developmental disabilities.

Section 2. Subsection (1) and paragraph (d) of subsection (5) of section 393.065, Florida Statutes, are amended to read:

393.065 Application and eligibility determination.—

(1)(a) The agency shall develop and implement an online application process that, at a minimum, supports paperless, electronic application submissions with immediate e-mail confirmation to each applicant to acknowledge receipt of application upon submission. The online application system must allow an applicant to review the status of a submitted application and respond to provide additional information.

(b) The agency shall maintain access to a printable paper application on its website and, upon request, must provide an applicant with a printed paper application. Paper applications may ~~Application for services shall be~~

submitted made in writing to the agency, in the region in which the applicant resides, sent to a central or regional address through regular United States mail, or faxed to a central or regional confidential fax number. The agency shall acknowledge receipt of all applications it receives, regardless of the manner of submission, with an immediate receipt confirmation provided in the same manner in which the application was received, unless the applicant has designated an alternative preferred method of communication on the submitted application.

~~(c) The agency must shall review each submitted application in accordance with federal time standards and make an eligibility determination within 60 days after receipt of the signed application. If, at the time of the application, an applicant is requesting enrollment in the home and community-based services Medicaid waiver program for individuals with developmental disabilities deemed to be in crisis, as described in paragraph (5)(a), the agency shall complete an eligibility determination within 45 days after receipt of the signed application.~~

1.(a) If the agency determines additional documentation is necessary to make an eligibility determination, the agency may request the additional documentation from the applicant.

2.(b) When necessary to definitively identify individual conditions or needs, the agency or its designee must provide a comprehensive assessment.

~~(c) If the agency requests additional documentation from the applicant or provides or arranges for a comprehensive assessment, the agency's eligibility determination must be completed within 90 days after receipt of the signed application.~~

(d)1. For purposes of this paragraph, the term "complete application" means an application submitted to the agency which is signed and dated by the applicant or an individual with legal authority to apply for public benefits on behalf of the applicant, is responsive on all parts of the application, and contains documentation of a diagnosis.

2. If the applicant requesting enrollment in the home and community-based services Medicaid waiver program for individuals with developmental disabilities is deemed to be in crisis as described in paragraph (5)(a), the agency must make an eligibility determination within 15 calendar days after receipt of a complete application.

3. If the applicant meets the criteria specified in paragraph (5)(b), the agency must review and make an eligibility determination as soon as practicable after receipt of a complete application.

4. If the application meets any of the criteria specified in paragraphs (5)(c)-(g), the agency must make an eligibility determination within 60 days after receipt of a complete application.

(e) Any delays in the eligibility determination process, or any tolling of the time standard until certain information or actions have been completed, must be conveyed to the client as soon as such delays are known through verbal contact with the client or the client's designated caregiver and confirmed by a written notice of the delay, the anticipated length of delay, and a contact person for the client.

(5) Except as provided in subsections (6) and (7), if a client seeking enrollment in the developmental disabilities home and community-based services Medicaid waiver program meets the level of care requirement for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150, the agency must assign the client to an appropriate preenrollment category pursuant to this subsection and must provide priority to clients waiting for waiver services in the following order:

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 60 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

Within preenrollment categories 3, 4, 5, 6, and 7, the agency shall prioritize clients in the order of the date that the client is determined eligible for waiver services.

Section 3. Section 393.0651, Florida Statutes, is amended to read:

393.0651 Family or individual support plan.—The agency shall provide directly or contract for the development of a family support plan for children ages 3 to 18 years of age and an individual support plan for each client served by the home and community-based services Medicaid waiver program under s. 393.0662. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, shall be consulted in the development of the plan and shall receive a copy of the plan. Each plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan must include provisions for the most appropriate level of care for the client. Within the specification of needs and services for each client, when residential care is necessary, the agency shall move toward placement of clients in residential facilities based within the client's community. The ultimate goal of each plan, whenever possible, shall be to enable the client to live a dignified life in the least restrictive setting, be that in the home or in the community. The family or individual support plan must be developed within 60 calendar days after the agency determines the client eligible pursuant to s. 393.065(3).

(1) The agency shall develop and specify by rule the core components of support plans.

(2) The family or individual support plan shall be integrated with the individual education plan (IEP) for all clients who are public school students

entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended. The family or individual support plan and IEP must be implemented to maximize the attainment of educational and habilitation goals.

(a) If the IEP for a student enrolled in a public school program indicates placement in a public or private residential program is necessary to provide special education and related services to a client, the local education agency must provide for the costs of that service in accordance with the requirements of the Individuals with Disabilities Education Act, I.D.E.A., as amended. This does not preclude local education agencies and the agency from sharing the residential service costs of students who are clients and require residential placement.

(b) For clients who are entering or exiting the school system, an interdepartmental staffing team composed of representatives of the agency and the local school system shall develop a written transitional living and training plan with the participation of the client or with the parent or guardian of the client, or the client advocate, as appropriate.

(3) Each family or individual support plan shall be facilitated through case management designed solely to advance the individual needs of the client.

(4) In the development of the family or individual support plan, a client advocate may be appointed by the support planning team for a client who is a minor or for a client who is not capable of express and informed consent when:

- (a) The parent or guardian cannot be identified;
- (b) The whereabouts of the parent or guardian cannot be discovered; or
- (c) The state is the only legal representative of the client.

Such appointment may not be construed to extend the powers of the client advocate to include any of those powers delegated by law to a legal guardian.

(5) The agency shall place a client in the most appropriate and least restrictive, and cost-beneficial, residential facility according to his or her individual support plan. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, and the administrator of the facility to which placement is proposed shall be consulted in determining the appropriate placement for the client. Considerations for placement shall be made in the following order:

- (a) Client's own home or the home of a family member or direct service provider.
- (b) Foster care facility.

- (c) Group home facility.
 - (d) Intermediate care facility for the developmentally disabled.
 - (e) Other facilities licensed by the agency which offer special programs for people with developmental disabilities.
 - (f) Developmental disabilities center.
- (6) In developing a client's annual family or individual support plan, the individual or family with the assistance of the support planning team shall identify measurable objectives for client progress and shall specify a time period expected for achievement of each objective.

(7) The individual, family, and support coordinator shall review progress in achieving the objectives specified in each client's family or individual support plan, and shall revise the plan annually, following consultation with the client, if competent, or with the parent or guardian of the client, or, when appropriate, the client advocate. The agency or designated contractor shall annually report in writing to the client, if competent, or to the parent or guardian of the client, or to the client advocate, when appropriate, with respect to the client's habilitative and medical progress.

(8) Any client, or any parent of a minor client, or guardian, authorized guardian advocate, or client advocate for a client, who is substantially affected by the client's initial family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. Notice of such right to appeal shall be included in all support plans provided by the agency.

(9) When developing or reviewing a client's family or individual support plan, the waiver support coordinator shall inform the client, the client's parent or guardian, or, when appropriate, the client advocate about the consumer-directed care program established under s. 409.221.

Section 4. Type two transfer from the Department of Commerce.—All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and any other funds relating to the Florida Unique Abilities Partner Program are transferred by a type two transfer, as described in s. 20.06(2), Florida Statutes, from the Department of Commerce to the Agency for Persons with Disabilities.

Section 5. Paragraph (c) of subsection (10) of section 20.60, Florida Statutes, is amended to read:

20.60 Department of Commerce; creation; powers and duties.—

(10) The department shall, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, and the Speaker

of the House of Representatives on the condition of the business climate and economic development in the state.

(c) The report must incorporate annual reports of other programs, including:

1. A detailed report of the performance of the Black Business Loan Program and a cumulative summary of quarterly report data required under s. 288.714.

2. The Rural Economic Development Initiative established under s. 288.0656.

3. ~~The Florida Unique Abilities Partner Program.~~

4. A detailed report of the performance of the Florida Development Finance Corporation and a summary of the corporation's report required under s. 288.9610.

~~4.5.~~ Information provided by Space Florida under s. 331.3051 and an analysis of the activities and accomplishments of Space Florida.

Section 6. Section 413.801, Florida Statutes, is amended to read:

413.801 Florida Unique Abilities Partner Program.—

(1) CREATION AND PURPOSE.—~~The Agency for Persons with Disabilities Department of Economic Opportunity~~ shall establish the Florida Unique Abilities Partner Program to designate a business entity as a Florida Unique Abilities Partner if the business entity demonstrates commitment, through employment or support, to the independence of individuals who have a disability. ~~The agency department~~ shall consult with the Department of Commerce Agency for Persons with Disabilities, the Division of Vocational Rehabilitation of the Department of Education, the Division of Blind Services of the Department of Education, and CareerSource Florida, Inc., in creating the program.

(2) DEFINITIONS.—As used in this section, the term:

(a) “Agency Department” means the Agency for Persons with Disabilities Department of Economic Opportunity.

(b) “Individuals who have a disability” means persons who have a physical or intellectual impairment that substantially limits one or more major life activities, persons who have a history or record of such an impairment, or persons who are perceived by others as having such an impairment.

(3) DESIGNATION.—

(a) A business entity may apply to the agency department to be designated as a Florida Unique Abilities Partner, based on the business entity's achievements in at least one of the following categories:

1. Employment of individuals who have a disability.
2. Contributions to local or national disability organizations.
3. Contributions to, or the establishment of, a program that contributes to the independence of individuals who have a disability.

(b) As an alternative to application by a business entity, the agency department must consider nominations from members of the community where the business entity is located. The nomination must identify the business entity's achievements in at least one of the categories provided in paragraph (a).

(c) The name, location, and contact information of the business entity must be included in the business entity's application or nomination.

(d) The agency department shall adopt procedures for the application, nomination, and designation processes for the Florida Unique Abilities Partner Program. Designation as a Florida Unique Abilities Partner does not establish or involve licensure, does not affect the substantial interests of a party, and does not constitute a final agency action. The Florida Unique Abilities Partner Program and designation are not subject to chapter 120.

(4) ELIGIBILITY AND AWARD.—In determining the eligibility for the designation of a business entity as a Florida Unique Abilities Partner, the agency department shall consider, at a minimum, the following criteria:

(a) For a designation based on an application by a business entity, the business entity must certify that:

1. It employs at least one individual who has a disability. Such employees must be residents of this state and must have been employed by the business entity for at least 9 months before the business entity's application for the designation. The agency department may not require the employer to provide personally identifiable information about its employees;

2. It has made contributions to local and national disability organizations or contributions in support of individuals who have a disability. Contributions may be accomplished through financial or in-kind contributions, including employee volunteer hours. Contributions must be documented by providing copies of written receipts or letters of acknowledgment from recipients or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000; or

3. It has established, or has contributed to the establishment of, a program that contributes to the independence of individuals who have a disability. Contributions must be documented by providing copies of written receipts, a summary of the program, program materials, or letters of acknowledgment from program participants or volunteers. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000 in the program, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000.

A business entity that applies to the agency department to be designated as a Florida Unique Abilities Partner shall be awarded the designation upon meeting the requirements of this section.

(b) For a designation based upon receipt of a nomination of a business entity:

1. The agency department shall determine whether the nominee, based on the information provided by the nominating person or entity, meets the requirements of paragraph (a). The agency department may request additional information from the nominee.

2. If the nominee meets the requirements, the agency department shall provide notice, including the qualification criteria provided in the nomination, to the nominee regarding the nominee's eligibility to be awarded a designation as a Florida Unique Abilities Partner.

3. The nominee shall be provided 30 days after receipt of the notice to certify that the information in the notice is true and accurate and accept the nomination, to provide corrected information for consideration by the agency department and indicate an intention to accept the nomination, or to decline the nomination. If the nominee accepts the nomination, the agency department shall award the designation. The agency department may not award the designation if the nominee declines the nomination or has not accepted the nomination within 30 days after receiving notice.

(5) ANNUAL CERTIFICATION.—After an initial designation as a Florida Unique Abilities Partner, a business entity must certify each year that it continues to meet the criteria for the designation. If the business entity does not submit the yearly certification of continued eligibility, the agency department shall remove the designation. The business entity may elect to discontinue its designation status at any time by notifying the agency department of such decision.

(6) LOGO DEVELOPMENT.—

(a) The agency department, in consultation with members of the disability community, shall develop a logo that identifies a business entity that is designated as a Florida Unique Abilities Partner.

(b) The agency department shall adopt guidelines and requirements for the use of the logo, including how the logo may be used in advertising. The

~~agency department~~ may allow a business entity to display a Florida Unique Abilities Partner logo upon designation. A business entity that has not been designated as a Florida Unique Abilities Partner or has elected to discontinue its designated status may not display the logo.

(7) ~~WEBSITE.~~—The ~~agency department~~ shall maintain a website for the program. At a minimum, the website must provide a list of business entities, by county, which currently have the Florida Unique Abilities Partner designation, updated quarterly; information regarding the eligibility requirements for the designation and the method of application or nomination; and best practices for business entities to facilitate the inclusion of individuals who have a disability, updated annually. The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability.

(8) INTERAGENCY COLLABORATION.—

(a) ~~The Department of Commerce Agency for Persons with Disabilities~~ shall provide a link on its website to the ~~agency's department's~~ website for the Florida Unique Abilities Partner Program.

(b) On a quarterly basis, the ~~agency department~~ shall provide the Florida Tourism Industry Marketing Corporation with a current list of all businesses that are designated as Florida Unique Abilities Partners. The Florida Tourism Industry Marketing Corporation must consider the Florida Unique Abilities Partner Program in the development of marketing campaigns, and specifically in any targeted marketing campaign for individuals who have a disability or their families.

(c) ~~The agency department~~ and CareerSource Florida, Inc., shall identify employment opportunities posted by business entities that currently have the Florida Unique Abilities Partner designation in the workforce information system under s. 445.011.

(9) REPORT.—

(a) By January 1, ~~2025~~, and annually thereafter 2017, the ~~agency department~~ shall provide a report on the progress and use of the program to the President of the Senate and the Speaker of the House of Representatives ~~on the status of the implementation of this section, including the adoption of rules, development of the logo, and development of application procedures.~~

(b) ~~Beginning in 2017 and each year thereafter, the department's annual report required under s. 20.60 must describe in detail the progress and use of the program. At a minimum, the report must include, for the most recent year, all of the following:~~

(a) The number of applications and nominations received.;

(b) The number of nominations accepted and declined.;

- (c) The number of designations awarded.;
- (d) Annual certifications.;
- (e) The use of information provided under subsection (8).; and
- (f) Any other information the agency deems ~~deemed~~ necessary to evaluate the program.

(10) RULES.—The agency ~~department~~ shall adopt rules to administer this section.

Section 7. For the 2024-2025 fiscal year, the sums of \$16,562,703 in recurring funds from the General Revenue Fund and \$22,289,520 in recurring funds from the Operations and Maintenance Trust Fund are appropriated in the Home and Community Based Services Waiver category to the Agency for Persons with Disabilities to offer waiver services to the greatest number of individuals permissible under the appropriation from preenrollment categories 3, 4, and 5, including individuals whose caregiver is age 60 or older in category 4, as provided in s. 393.065, Florida Statutes, as amended by this act.

Section 8. The Agency for Health Care Administration and the Agency for Persons with Disabilities, in consultation with other stakeholders, shall jointly develop a comprehensive plan for the administration, finance, and delivery of home and community-based services through a new home and community-based services Medicaid waiver program. The waiver program shall be for clients transitioning into adulthood and shall be designed to prevent future crisis enrollment into the waiver program authorized under s. 393.0662, Florida Statutes. The Agency for Health Care Administration is authorized to contract with necessary experts, in consultation with the Agency for Persons with Disabilities, to assist in developing the plan. The Agency for Persons with Disabilities, in consultation with the Agency for Health Care Administration, must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2024, addressing, at a minimum, all of the following:

(1) The purpose, rationale, and expected benefits of the new waiver program.

(2) The proposed eligibility criteria for clients and service packages to be offered through the new waiver program.

(3) A proposed implementation plan and timeline, including recommendations for the number of clients to be served by the new waiver program at initial implementation, changes over time, and any per-client benefit caps.

(4) Proposals for how clients will transition onto and off of the new waiver, including, but not limited to, transitions between this new waiver and the waiver established under s. 393.0662, Florida Statutes.

(5) The fiscal impact for the implementation year and projections for the subsequent 5 years, determined on an actuarially sound basis.

(6) An analysis of the availability of services that would be offered under the new waiver program and recommendations to increase availability of such services, if necessary.

(7) A list of all stakeholders, public and private, who were consulted or contacted as part of developing the plan for the new waiver program.

Section 9. This act shall take effect July 1, 2024.

Approved by the Governor March 21, 2024.

Filed in Office Secretary of State March 21, 2024.