

Bill No. SB 1124

Barcode 553850 Comm: FAV 03/28/2007 11:47 AM

603-2145-07

Proposed Committee Substitute by the Committee on Health and Human Services Appropriations

1                                   A bill to be entitled

2           An act relating to home and community-based

3           services for persons with developmental

4           disabilities; amending s. 393.0661, F.S.;

5           requiring the Agency for Persons with

6           Disabilities, in consultation with the Agency

7           for Health Care Administration, to develop and

8           implement standards for a three-tiered waiver

9           system for the purpose of serving clients with

10          developmental disabilities; providing

11          requirements and limitations with respect to

12          each tier; requiring the Agency for Persons

13          with Disabilities to seek federal approval as

14          necessary to implement the waiver system;

15          requiring the agency to adopt rules providing

16          eligibility criteria; deleting authorization

17          for the agency to adopt certain emergency

18          rules; providing an effective date.

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

22           Section 1. Section 393.0661, Florida Statutes, is  
23 amended to read:

24           393.0661 Home and community-based services delivery

25 system; comprehensive redesign.--The Legislature finds that

26 the home and community-based services delivery system for

27 persons with developmental disabilities and the availability

28 of appropriated funds are two of the critical elements in

29 making services available. Therefore, it is the intent of the

30 Legislature that the Agency for Persons with Disabilities

31 shall develop and implement a comprehensive redesign of the

603-2145-07

1 system.

2 (1) The redesign of the home and community-based  
3 services system shall include, at a minimum, all actions  
4 necessary to achieve an appropriate rate structure, client  
5 choice within a specified service package, appropriate  
6 assessment strategies, an efficient billing process that  
7 contains reconciliation and monitoring components, a redefined  
8 role for support coordinators that avoids potential conflicts  
9 of interest, and ensures that family/client budgets are linked  
10 to levels of need.

11 (a) The agency shall use an assessment instrument that  
12 is reliable and valid. The agency may contract with an  
13 external vendor or may use support coordinators to complete  
14 client assessments if it develops sufficient safeguards and  
15 training to ensure ongoing inter-rater reliability.

16 (b) The agency, with the concurrence of the Agency for  
17 Health Care Administration, may contract for the determination  
18 of medical necessity and establishment of individual budgets.

19 (2) A provider of services rendered to persons with  
20 developmental disabilities pursuant to a federally approved  
21 waiver shall be reimbursed according to a rate methodology  
22 based upon an analysis of the expenditure history and  
23 prospective costs of providers participating in the waiver  
24 program, or under any other methodology developed by the  
25 Agency for Health Care Administration, in consultation with  
26 the Agency for Persons with Disabilities, and approved by the  
27 Federal Government in accordance with the waiver.

28 (3) The agency, in consultation with the Agency for  
29 Health Care Administration, shall develop and implement  
30 standards for a three-tiered waiver system to serve clients  
31 with developmental disabilities.

Bill No. SB 1124

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603-2145-07

1           (a) Tier one shall be limited to clients whose  
2 services are paid under the home and community-based services  
3 waiver, whose higher level of service needs are essential to  
4 avoid institutionalization, or who possess behavioral concerns  
5 that are exceptional in intensity, duration, or frequency and  
6 present a substantial risk of harm to themselves or others.

7           (b) Tier two shall be limited to clients whose service  
8 needs include some or all of the services available under the  
9 family and supported living waiver, plus residential  
10 rehabilitation services. Residential rehabilitation services  
11 under tier two shall be limited to the number of hours  
12 medically necessary, but may not exceed 8 hours per day. Total  
13 annual expenditures under this waiver shall be capped at  
14 \$30,000 per client. Clients served through tier two include,  
15 but need not be limited to, clients requiring residential  
16 placements.

17           (c) Tier three, the family and supported living  
18 waiver, shall include, but need not be limited to, clients in  
19 independent or supported living situations or clients who live  
20 in their family home. Total annual expenditures under this  
21 waiver shall be capped at \$14,792 per client.

22  
23 The agency, in consultation with the Agency for Health Care  
24 Administration, shall seek federal approval as needed to carry  
25 out the provisions of this subsection, and the agency may  
26 adopt rules providing eligibility criteria and procedures for  
27 administering this subsection.

28           ~~(3) Pending the adoption of rate methodologies~~  
29 ~~pursuant to nonemergency rulemaking under s. 120.54, the~~  
30 ~~Agency for Health Care Administration may, at any time, adopt~~  
31 ~~emergency rules under s. 120.54(4) in order to comply with~~

603-2145-07

1 ~~subsection (4). In adopting such emergency rules, the agency~~  
 2 ~~need not make the findings required by s. 120.54(4)(a), and~~  
 3 ~~such rules shall be exempt from time limitations provided in~~  
 4 ~~s. 120.54(4)(c) and shall remain in effect until replaced by~~  
 5 ~~another emergency rule or the nonemergency adoption of the~~  
 6 ~~rate methodology.~~

7 (4) Nothing in this section or in any administrative  
 8 rule shall be construed to prevent or limit the Agency for  
 9 Health Care Administration, in consultation with the Agency  
 10 for Persons with Disabilities, from adjusting fees,  
 11 reimbursement rates, lengths of stay, number of visits, or  
 12 number of services, or from limiting enrollment, or making any  
 13 other adjustment necessary to comply with the availability of  
 14 moneys and any limitations or directions provided for in the  
 15 General Appropriations Act.

16 (5) The Agency for Persons with Disabilities shall  
 17 submit quarterly status reports to the Executive Office of the  
 18 Governor, the chair of the Senate Ways and Means Committee or  
 19 its successor, and the chair of the House Fiscal Council or  
 20 its successor regarding the financial status of home and  
 21 community-based services, including the number of enrolled  
 22 individuals who are receiving services through one or more  
 23 programs; the number of individuals who have requested  
 24 services who are not enrolled but who are receiving services  
 25 through one or more programs, with a description indicating  
 26 the programs from which the individual is receiving services;  
 27 the number of individuals who have refused an offer of  
 28 services but who choose to remain on the list of individuals  
 29 waiting for services; the number of individuals who have  
 30 requested services but who are receiving no services; a  
 31 frequency distribution indicating the length of time

603-2145-07

1 individuals have been waiting for services; and information  
2 concerning the actual and projected costs compared to the  
3 amount of the appropriation available to the program and any  
4 projected surpluses or deficits. If at any time an analysis by  
5 the agency, in consultation with the Agency for Health Care  
6 Administration, indicates that the cost of services is  
7 expected to exceed the amount appropriated, the agency shall  
8 submit a plan in accordance with subsection (4) to the  
9 Executive Office of the Governor, the chair of Senate Ways and  
10 Means Committee or its successor, and the chair of the House  
11 Fiscal Council or its successor to remain within the amount  
12 appropriated. The agency shall work with the Agency for Health  
13 Care Administration to implement the plan so as to remain  
14 within the appropriation.

15 Section 2. This act shall take effect July 1, 2007.

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