

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 Health Care
6 Administration, in consultation with the Agency
7 for Persons with Disabilities, to seek federal
8 approval and implement a four-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; authorizing the Agency for Health
13 Care Administration and the Agency for Persons
14 with Disabilities to adopt rules; requiring the
15 Agency for Persons with Disabilities to seek
16 federal waivers and amend contracts in order to
17 implement the waiver system; providing
18 requirements for changes to various services;
19 deleting authorization for the Agency for
20 Health Care Administration to adopt certain
21 emergency rules; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Section 393.0661, Florida Statutes, is
26 amended to read:

27 393.0661 Home and community-based services delivery
28 system; comprehensive redesign.--The Legislature finds that
29 the home and community-based services delivery system for
30 persons with developmental disabilities and the availability
31 of appropriated funds are two of the critical elements in

1 making services available. Therefore, it is the intent of the
2 Legislature that the Agency for Persons with Disabilities
3 shall develop and implement a comprehensive redesign of the
4 system.

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

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

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

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

31

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

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

21 (b) Tier two shall be limited to clients whose service
22 needs include a licensed residential facility and greater than
23 5 hours per day in residential habilitation services or
24 clients in supported living who receive greater than 6 hours a
25 day of in-home support services. Total annual expenditures
26 under tier two may not exceed \$55,000 per client each year.

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

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

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

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

19 1. Supported living coaching services shall not exceed
20 20 hours per month for persons who also receive in-home
21 support services.

22 2. Limited support coordination services shall be the
23 only type of support coordination service provided to persons
24 under the age of 18 who live in the family home.

25 3. Personal care assistance services shall be limited
26 to no more than 180 hours per calendar month and shall not
27 include rate modifiers. Additional hours may be authorized
28 only if a substantial change in circumstances occurs for the
29 individual.

30 4. Residential habilitation services shall be limited
31 to 8 hours per day. Additional hours may be authorized for

1 persons who have intensive medical or adaptive needs and if
2 such hours are essential for avoiding institutionalization, or
3 for persons who possess behavioral problems that are
4 exceptional in intensity, duration, or frequency and present a
5 substantial risk of harming themselves or others. This
6 restriction shall be in effect until the four-tiered waiver
7 system is fully implemented.

8 5. Chore, nonresidential support services and
9 homemaker services shall be eliminated. The agency shall
10 expand the definition of in-home support services to enable
11 the provider of the service to include activities previously
12 provided in these eliminated services.

13 6. Massage therapy and psychological assessment
14 services shall be eliminated.

15 7. The agency shall conduct supplemental cost plan
16 reviews to verify the medical necessity of authorized services
17 for plans that have increased by more than 8 percent during
18 either of the two preceding fiscal years.

19 8. The agency shall implement a consolidated
20 residential habilitation rate structure to increase savings to
21 the state through a more cost-effective payment method and
22 establish uniform rates for intensive behavioral residential
23 habilitation services.

24 9. Pending federal approval, the agency is authorized
25 to extend current support plans for clients receiving services
26 under Medicaid waivers for 1 year beginning July 1, 2007, or
27 from the date approved, whichever is later. Clients who have a
28 substantial change in circumstances which threatens their
29 health and safety may be reassessed during this year in order
30 to determine the necessity for a change in their support plan.

31

1 ~~(3) Pending the adoption of rate methodologies~~
2 ~~pursuant to nonemergency rulemaking under s. 120.54, the~~
3 ~~Agency for Health Care Administration may, at any time, adopt~~
4 ~~emergency rules under s. 120.54(4) in order to comply with~~
5 ~~subsection (4). In adopting such emergency rules, the agency~~
6 ~~need not make the findings required by s. 120.54(4)(a), and~~
7 ~~such rules shall be exempt from time limitations provided in~~
8 ~~s. 120.54(4)(c) and shall remain in effect until replaced by~~
9 ~~another emergency rule or the nonemergency adoption of the~~
10 ~~rate methodology.~~

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

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

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

19 Section 2. This act shall take effect July 1, 2007.
20
21
22
23
24
25
26
27
28
29
30
31