

1                   A bill to be entitled  
2     An act relating to the Agency for Persons with  
3     Disabilities; amending s. 393.0661, F.S.; revising  
4     provisions relating to certain clients with developmental  
5     disabilities served under the four-tiered waiver system;  
6     providing for residential habilitation services;  
7     establishing geographic differential payments for Miami-  
8     Dade, Broward, Palm Beach, and Monroe Counties; providing  
9     effective dates for applicable payments; providing for  
10    rebasement cost plans based on actual expenditures for  
11    individuals served by home and community-based services or  
12    family and supported living waiver programs; extending the  
13    effective date for the provision of certain services;  
14    providing for future review and repeal of certain  
15    provisions; amending s. 393.071, F.S.; providing for  
16    deposit of client fees into the agency's Operations and  
17    Maintenance Trust Fund; amending s. 393.125, F.S. ;  
18    granting certain persons the right to request a hearing to  
19    review agency decisions; providing an effective date.

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

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23       Section 1. Subsection (4) of section 393.0661, Florida  
24     Statutes, is renumbered as subsection (7), paragraphs (b) and  
25     (d) of subsection (3) are amended, present subsection (5) is  
26     renumbered as subsection (8) and amended, and new subsections  
27     (4), (5), and (6) are added to that section, to read:

28 | 393.0661 Home and community-based services delivery  
 29 | system; comprehensive redesign.--The Legislature finds that the  
 30 | home and community-based services delivery system for persons  
 31 | with developmental disabilities and the availability of  
 32 | appropriated funds are two of the critical elements in making  
 33 | services available. Therefore, it is the intent of the  
 34 | Legislature that the Agency for Persons with Disabilities shall  
 35 | develop and implement a comprehensive redesign of the system.

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

49 | (b) Tier two shall be limited to clients whose service  
 50 | needs include a licensed residential facility and who are  
 51 | authorized to receive a moderate level of support for standard  
 52 | residential habilitation services or a minimal level of support  
 53 | for behavior focus ~~greater than 5 hours per day in residential~~  
 54 | habilitation services or clients in supported living who receive  
 55 | greater than 6 hours a day of in-home support services. Total

56 | annual expenditures under tier two may not exceed \$55,000 per  
 57 | client each year.

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

65 | (4) Effective July 1, 2008, the geographic differential  
 66 | for Miami-Dade, Broward, and Palm Beach Counties for residential  
 67 | habilitation services shall be 7.5 percent. Effective July 1,  
 68 | 2009, the geographic differential for Miami-Dade, Broward, and  
 69 | Palm Beach Counties for residential habilitation services shall  
 70 | be 4.5 percent.

71 | (5) Effective July 1, 2008, the geographic differential  
 72 | for Monroe County for residential habilitation services shall be  
 73 | 20 percent. Effective July 1, 2009, the geographic differential  
 74 | for Monroe County for residential habilitation services shall be  
 75 | 15 percent. Effective July 1, 2010, the geographic differential  
 76 | for Monroe County for residential habilitation services shall be  
 77 | 10 percent.

78 | (6) Effective January 1, 2009, and except as otherwise  
 79 | provided in this section, an individual served by the home and  
 80 | community-based services waiver or the family and supported  
 81 | living waiver funded through the Agency for Persons with  
 82 | Disabilities may have his or her cost plan adjusted to reflect  
 83 | the amount of expenditures for the previous state fiscal year

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84 plus 5 percent if such amount is less than the individual's  
85 existing cost plan. The Agency for Persons with Disabilities  
86 shall use actual paid claims for services provided during the  
87 previous fiscal year that are submitted by October 31 to  
88 calculate the revised cost plan amount. If an individual was not  
89 served for the entire previous state fiscal year or there was  
90 any single change in the cost plan amount of more than 5 percent  
91 during the previous state fiscal year, the agency shall set the  
92 cost plan amount at an estimated annualized expenditure amount  
93 plus 5 percent. The agency shall estimate the annualized  
94 expenditure amount by calculating the average of monthly  
95 expenditures, beginning in the fourth month after the individual  
96 enrolled or the cost plan was changed by more than 5 percent and  
97 ending with August 31, 2008, and multiplying the average by 12.  
98 In the event that at least 3 months of actual expenditure data  
99 are not available to estimate annualized expenditures, the  
100 agency may not rebase a cost plan pursuant to this subsection.  
101 This subsection expires June 30, 2009, unless reenacted by the  
102 Legislature before that date.

103 (8)(5) The Agency for Persons with Disabilities shall  
104 submit quarterly status reports to the Executive Office of the  
105 Governor, the chair of the Senate Ways and Means Committee or  
106 its successor, and the chair of the House Fiscal Council or its  
107 successor regarding the financial status of home and community-  
108 based services, including the number of enrolled individuals who  
109 are receiving services through one or more programs; the number  
110 of individuals who have requested services who are not enrolled  
111 but who are receiving services through one or more programs,

112 with a description indicating the programs from which the  
 113 individual is receiving services; the number of individuals who  
 114 have refused an offer of services but who choose to remain on  
 115 the list of individuals waiting for services; the number of  
 116 individuals who have requested services but who are receiving no  
 117 services; a frequency distribution indicating the length of time  
 118 individuals have been waiting for services; and information  
 119 concerning the actual and projected costs compared to the amount  
 120 of the appropriation available to the program and any projected  
 121 surpluses or deficits. If at any time an analysis by the agency,  
 122 in consultation with the Agency for Health Care Administration,  
 123 indicates that the cost of services is expected to exceed the  
 124 amount appropriated, the agency shall submit a plan in  
 125 accordance with subsection (7) ~~(4)~~ to the Executive Office of  
 126 the Governor, the chair of the Senate Ways and Means Committee  
 127 or its successor, and the chair of the House Fiscal Council or  
 128 its successor to remain within the amount appropriated. The  
 129 agency shall work with the Agency for Health Care Administration  
 130 to implement the plan so as to remain within the appropriation.

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

133 393.071 Client fees.--The agency shall charge fees for  
 134 services provided to clients in accordance with s. 402.33. All  
 135 funds collected pursuant to this section shall be deposited in  
 136 the Operations and Maintenance Trust Fund.

137 Section 3. Subsection (1) of section 393.125, Florida  
 138 Statutes, is amended to read:

139 393.125 Hearing rights.--

140 (1) REVIEW OF AGENCY DECISIONS.--

141 (a) For Medicaid programs administered by the agency, any  
 142 developmental services applicant or client, or his or her  
 143 parent, guardian, guardian advocate, or authorized  
 144 representative, may request a hearing in accordance with federal  
 145 Medicaid law and rules and shall request such a hearing pursuant  
 146 to ss. 120.569 and 120.57. These hearings shall be provided by  
 147 the Department of Children and Family Services pursuant to s.  
 148 409.285 and shall follow procedures consistent with applicable  
 149 federal Medicaid law and rules.

150 (b) ~~(a)~~ Any other developmental services applicant or  
 151 client, or his or her parent, guardian, guardian advocate, or  
 152 authorized representative, who has any substantial interest  
 153 determined by the agency, has the right to request an  
 154 administrative hearing pursuant to ss. 120.569 and 120.57, which  
 155 hearing shall be conducted pursuant to s. 120.57(1), (2), or  
 156 (3).

157 ~~(b)~~ Notice of the right to an administrative hearing shall  
 158 be given, both verbally and in writing, to the applicant or  
 159 client, and his or her parent, guardian, guardian advocate, or  
 160 authorized representative, at the same time that the agency  
 161 gives the applicant or client notice of the agency's action. The  
 162 notice shall be given, both verbally and in writing, in the  
 163 language of the client or applicant and in English.

164 (c) A request for a hearing under this section shall be  
 165 made to the agency, in writing, within 30 days of the  
 166 applicant's or client's receipt of the notice.

167 Section 4. This act shall take effect July 1, 2008.