

## ENROLLED

HB 5087, Engrossed 1

2008 Legislature

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; providing an effective date.

18  
19   Be It Enacted by the Legislature of the State of Florida:  
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21           Section 1. Subsection (4) of section 393.0661, Florida  
22           Statutes, is renumbered as subsection (7), paragraphs (b) and  
23           (d) of subsection (3) are amended, present subsection (5) is  
24           renumbered as subsection (8) and amended, and new subsections  
25           (4), (5), and (6) are added to that section, to read:

26           393.0661 Home and community-based services delivery  
27           system; comprehensive redesign.--The Legislature finds that the  
28           home and community-based services delivery system for persons

## ENROLLED

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2008 Legislature

29 | with developmental disabilities and the availability of  
30 | appropriated funds are two of the critical elements in making  
31 | services available. Therefore, it is the intent of the  
32 | Legislature that the Agency for Persons with Disabilities shall  
33 | develop and implement a comprehensive redesign of the system.

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

47 | (b) Tier two shall be limited to clients whose service  
48 | needs include a licensed residential facility and who are  
49 | authorized to receive a moderate level of support for standard  
50 | residential habilitation services or a minimal level of support  
51 | for behavior focus ~~greater than 5 hours per day in~~ residential  
52 | habilitation services or clients in supported living who receive  
53 | greater than 6 hours a day of in-home support services. Total  
54 | annual expenditures under tier two may not exceed \$55,000 per  
55 | client each year.

## ENROLLED

HB 5087, Engrossed 1

2008 Legislature

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

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

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

76 (6) Effective January 1, 2009, and except as otherwise  
77 provided in this section, an individual served by the home and  
78 community-based services waiver or the family and supported  
79 living waiver funded through the Agency for Persons with  
80 Disabilities shall have his or her cost plan adjusted to reflect  
81 the amount of expenditures for the previous state fiscal year  
82 plus 5 percent if such amount is less than the individual's  
83 existing cost plan. The Agency for Persons with Disabilities

## ENROLLED

HB 5087, Engrossed 1

2008 Legislature

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

101 ~~(8)-(5)~~ The Agency for Persons with Disabilities shall  
102 submit quarterly status reports to the Executive Office of the  
103 Governor, the chair of the Senate Ways and Means Committee or  
104 its successor, and the chair of the House Fiscal Council or its  
105 successor regarding the financial status of home and community-  
106 based services, including the number of enrolled individuals who  
107 are receiving services through one or more programs; the number  
108 of individuals who have requested services who are not enrolled  
109 but who are receiving services through one or more programs,  
110 with a description indicating the programs from which the  
111 individual is receiving services; the number of individuals who

## ENROLLED

HB 5087, Engrossed 1

2008 Legislature

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

129 Section 2. Section 393.071, Florida Statutes, is amended  
130 to read:

131 393.071 Client fees.--The agency shall charge fees for  
132 services provided to clients in accordance with s. 402.33. All  
133 funds collected pursuant to this section shall be deposited in  
134 the Operations and Maintenance Trust Fund.

135 Section 3. This act shall take effect July 1, 2008.