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LEGISLATIVE ACTION

Senate	.	House
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Floor: AD/CR	.	
05/08/2009 11:56 AM	.	
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The Conference Committee on CS for SB 1660 recommended the following:

Senate Conference Committee Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (5) of section 393.065, Florida Statutes, is amended, present subsection (6) of that section is renumbered as subsection (7) and amended, and a new subsection (6) is added to that section, to read:

393.065 Application and eligibility determination.—

(5) Except as otherwise directed by law, beginning July 1,



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12 2010, the agency shall assign and provide priority to clients
13 waiting for waiver services in the following order:

14 (a) Category 1, which includes ~~With the exception of~~
15 ~~clients deemed to be in crisis whom the agency shall serve as~~
16 ~~described in rule., the agency shall place at the top of its~~
17 ~~wait list for waiver services those~~

18 (b) Category 2, which includes children on the wait list
19 who are from the child welfare system with an open case in the
20 Department of Children and Family Services' statewide automated
21 child welfare information system.

22 (c) Category 3, which includes, but is not required to be
23 limited to, clients:

24 1. Whose caregiver has a documented condition that is
25 expected to render the caregiver unable to provide care within
26 the next 12 months and for whom a caregiver is required but no
27 alternate caregiver is available;

28 2. At substantial risk of incarceration or court commitment
29 without supports;

30 3. Whose documented behaviors or physical needs place them
31 or their caregiver at risk of serious harm and other supports
32 are not currently available to alleviate the situation; or

33 4. Who are identified as ready for discharge within the
34 next year from a state mental health hospital or skilled nursing
35 facility and who require a caregiver but for whom no caregiver
36 is available.

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



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41 (e) Category 5, which includes, but is not required to be
42 limited to, clients who are expected to graduate within the next
43 12 months from secondary school and need support to obtain or
44 maintain competitive employment, or to pursue an accredited
45 program of postsecondary education to which they have been
46 accepted.

47 (f) Category 6, which includes clients 21 years of age or
48 older who do not meet the criteria for category 1, category 2,
49 category 3, category 4, or category 5.

50 (g) Category 7, which includes clients younger than 21
51 years of age who do not meet the criteria for category 1,
52 category 2, category 3, or category 4.

53
54 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
55 wait list of clients placed in the order of the date that the
56 client is determined eligible for waiver services.

57 (6) The client, the client's guardian, or the client's
58 family must ensure that accurate, up-to-date contact information
59 is provided to the agency at all times. The agency shall remove
60 from the wait list any individual who cannot be located using
61 the contact information provided to the agency, fails to meet
62 eligibility requirements, or becomes domiciled outside the
63 state.

64 (7)~~(6)~~ The agency and the Agency for Health Care
65 Administration may adopt rules specifying application
66 procedures, criteria associated with wait-list categories,
67 procedures for administering the wait list, and eligibility
68 criteria as needed to administer this section.

69 Section 2. Subsections (3), (4), (5), and (6) of section



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70 393.0661, Florida Statutes, are amended to read:

71 393.0661 Home and community-based services delivery system;
72 comprehensive redesign.—The Legislature finds that the home and
73 community-based services delivery system for persons with
74 developmental disabilities and the availability of appropriated
75 funds are two of the critical elements in making services
76 available. Therefore, it is the intent of the Legislature that
77 the Agency for Persons with Disabilities shall develop and
78 implement a comprehensive redesign of the system.

79 (3) The Agency for Health Care Administration, in
80 consultation with the agency, shall seek federal approval and
81 implement a four-tiered waiver system to serve eligible clients
82 through ~~with developmental disabilities in~~ the developmental
83 disabilities and family and supported living waivers. The agency
84 shall assign all clients receiving services through the
85 developmental disabilities waiver to a tier based on a valid
86 assessment instrument, client characteristics, and other
87 appropriate assessment methods. ~~All services covered under the~~
88 ~~current developmental disabilities waiver shall be available to~~
89 ~~all clients in all tiers where appropriate, except as otherwise~~
90 ~~provided in this subsection or in the General Appropriations~~
91 ~~Act.~~

92 (a) Tier one is ~~shall be~~ limited to clients who have
93 service needs that cannot be met in tier two, three, or four for
94 intensive medical or adaptive needs and that are essential for
95 avoiding institutionalization, or who possess behavioral
96 problems that are exceptional in intensity, duration, or
97 frequency and present a substantial risk of harm to themselves
98 or others.



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99 (b) Tier two is ~~shall be~~ limited to clients whose service
100 needs include a licensed residential facility and who are
101 authorized to receive a moderate level of support for standard
102 residential habilitation services or a minimal level of support
103 for behavior focus residential habilitation services, or clients
104 in supported living who receive more ~~greater~~ than 6 hours a day
105 of in-home support services. Total annual expenditures under
106 tier two may not exceed \$55,000 per client each year.

107 (c) Tier three includes ~~shall include~~, but is not limited
108 to, clients requiring residential placements, clients in
109 independent or supported living situations, and clients who live
110 in their family home. Total annual expenditures under tier three
111 may not exceed \$35,000 per client each year.

112 (d) Tier four is the family and supported living waiver and
113 includes. ~~Tier four shall include~~, but is not limited to,
114 clients in independent or supported living situations and
115 clients who live in their family home. ~~An increase to the number~~
116 ~~of services available to clients in this tier shall not take~~
117 ~~effect prior to July 1, 2009~~. Total annual expenditures under
118 tier four may not exceed \$14,792 per client each year.

119 (e) The Agency for Health Care Administration shall also
120 seek federal approval to provide a consumer-directed option for
121 persons with developmental disabilities which corresponds to the
122 funding levels in each of the waiver tiers. The agency shall
123 implement the four-tiered waiver system beginning with tiers
124 one, three, and four and followed by tier two. The agency and
125 the Agency for Health Care Administration may adopt ~~any~~ rules
126 necessary to administer this subsection.

127 (f) The agency shall seek federal waivers and amend



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128 contracts as necessary to make changes to services defined in
129 federal waiver programs administered by the agency as follows:

130 1. Supported living coaching services may ~~shall~~ not exceed
131 20 hours per month for persons who also receive in-home support
132 services.

133 2. Limited support coordination services is ~~shall be~~ the
134 only type of support coordination service that may be provided
135 to persons under the age of 18 who live in the family home.

136 3. Personal care assistance services are ~~shall be~~ limited
137 to ~~no more than~~ 180 hours per calendar month and may ~~shall~~ not
138 include rate modifiers. Additional hours may be authorized for
139 persons who have intensive physical, medical, or adaptive needs
140 if such hours are essential for avoiding institutionalization.

141 4. Residential habilitation services are ~~shall be~~ limited
142 to 8 hours per day. Additional hours may be authorized for
143 persons who have intensive medical or adaptive needs and if such
144 hours are essential for avoiding institutionalization, or for
145 persons who possess behavioral problems that are exceptional in
146 intensity, duration, or frequency and present a substantial risk
147 of harming themselves or others. This restriction shall be in
148 effect until the four-tiered waiver system is fully implemented.

149 5. Chore services, nonresidential support services, and
150 homemaker services are ~~shall be~~ eliminated. The agency shall
151 expand the definition of in-home support services to allow
152 ~~enable~~ the service provider ~~of the service~~ to include activities
153 previously provided in these eliminated services.

154 6. Massage therapy, medication review, and psychological
155 assessment services are ~~shall be~~ eliminated.

156 7. The agency shall conduct supplemental cost plan reviews



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157 to verify the medical necessity of authorized services for plans
158 that have increased by more than 8 percent during either of the
159 2 preceding fiscal years.

160 8. The agency shall implement a consolidated residential
161 habilitation rate structure to increase savings to the state
162 through a more cost-effective payment method and establish
163 uniform rates for intensive behavioral residential habilitation
164 services.

165 9. Pending federal approval, the agency may ~~is authorized~~
166 ~~to~~ extend current support plans for clients receiving services
167 under Medicaid waivers for 1 year beginning July 1, 2007, or
168 from the date approved, whichever is later. Clients who have a
169 substantial change in circumstances which threatens their health
170 and safety may be reassessed during this year in order to
171 determine the necessity for a change in their support plan.

172 10. The agency shall develop a plan to eliminate
173 redundancies and duplications between in-home support services,
174 companion services, personal care services, and supported living
175 coaching by limiting or consolidating such services.

176 11. The agency shall develop a plan to reduce the intensity
177 and frequency of supported employment services to clients in
178 stable employment situations who have a documented history of at
179 least 3 years' employment with the same company or in the same
180 industry.

181 (4) ~~Effective July 1, 2008,~~ The geographic differential for
182 Miami-Dade, Broward, and Palm Beach Counties for residential
183 habilitation services shall be 7.5 percent. ~~Effective July 1,~~
184 ~~2009, the geographic differential for Miami-Dade, Broward, and~~
185 ~~Palm Beach Counties for residential habilitation services shall~~



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186 ~~be 4.5 percent.~~

187 (5) ~~Effective July 1, 2008,~~ The geographic differential for
188 Monroe County for residential habilitation services shall be 20
189 percent. ~~Effective July 1, 2009, the geographic differential for~~
190 ~~Monroe County for residential habilitation services shall be 15~~
191 ~~percent. Effective July 1, 2010, the geographic differential for~~
192 ~~Monroe County for residential habilitation services shall be 10~~
193 ~~percent.~~

194 (6) Effective January 1, 2010 ~~2009~~, and except as otherwise
195 provided in this section, a client ~~an individual~~ served by the
196 home and community-based services waiver or the family and
197 supported living waiver funded through the agency ~~for Persons~~
198 ~~with Disabilities~~ shall have his or her cost plan adjusted to
199 reflect the amount of expenditures for the previous state fiscal
200 year plus 5 percent if such amount is less than the client's
201 ~~individual's~~ existing cost plan. The agency ~~for Persons with~~
202 ~~Disabilities~~ shall use actual paid claims for services provided
203 during the previous fiscal year that are submitted by October 31
204 to calculate the revised cost plan amount. If the client ~~an~~
205 ~~individual~~ was not served for the entire previous state fiscal
206 year or there was any single change in the cost plan amount of
207 more than 5 percent during the previous state fiscal year, the
208 agency shall set the cost plan amount at an estimated annualized
209 expenditure amount plus 5 percent. The agency shall estimate the
210 annualized expenditure amount by calculating the average of
211 monthly expenditures, beginning in the fourth month after the
212 client ~~individual~~ enrolled, interrupted services are resumed, or
213 the cost plan was changed by more than 5 percent and ending on
214 ~~with~~ August 31, 2009 ~~2008~~, and multiplying the average by 12. In



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215 order to determine whether a client was not served for the
216 entire year, the agency shall include any interruption of a
217 waiver-funded service or services lasting at least 18 days. If
218 ~~In the event that~~ at least 3 months of actual expenditure data
219 are not available to estimate annualized expenditures, the
220 agency may not rebase a cost plan pursuant to this subsection.
221 The agency may not rebase the cost plan of any client who
222 experiences a significant change in recipient condition or
223 circumstance which results in a change of more than 5 percent to
224 his or her cost plan between July 1 and the date that a rebased
225 cost plan would take effect pursuant to this subsection. This
226 ~~subsection expires June 30, 2009, unless reenacted by the~~
227 ~~Legislature before that date.~~

228 Section 3. Subsection (1) of section 393.23, Florida
229 Statutes, is amended to read:

230 393.23 Developmental disabilities centers; trust accounts.-
231 All receipts from the operation of canteens, vending machines,
232 hobby shops, sheltered workshops, activity centers, farming
233 projects, and other like activities operated in a developmental
234 disabilities center, and moneys donated to the center, must be
235 deposited in a trust account in any bank, credit union, or
236 savings and loan association authorized by the State Treasury as
237 a qualified depository to do business in this state, if the
238 moneys are available on demand.

239 (1) Moneys in the trust account must be expended for the
240 benefit, education, or ~~and~~ welfare of clients. However, if
241 specified, moneys that are donated to the center must be
242 expended in accordance with the intentions of the donor. Trust
243 account money may not be used for the benefit of agency



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244 employees ~~of the agency~~ or to pay the wages of such employees.
245 The welfare of ~~the~~ clients includes the expenditure of funds for
246 the purchase of items for resale at canteens or vending
247 machines, and for the establishment of, maintenance of, and
248 operation of canteens, hobby shops, recreational or
249 entertainment facilities, sheltered workshops, activity centers,
250 farming projects, or other like facilities or programs
251 established at the center for the benefit of clients.

252 Section 4. (1) The Prepaid Services for Parents of Children
253 with Developmental Disabilities Study Group is created to
254 evaluate the establishment of a prepaid service plan for
255 children with disabilities modeled after the Florida prepaid
256 college program. The prepaid service plan would allow funds to
257 be paid into a plan on behalf of a child to provide a voucher
258 for purchasing additional services from a qualified, willing
259 provider upon the child's exit from an exceptional student
260 program. These services would provide support to help the parent
261 retain the benefits to the child of the exceptional student
262 program and to help the child in transitioning to the workforce
263 if possible.

264 (2) The study group shall consist of the following:

265 (a) A member of the House of Representatives appointed by
266 the Speaker of the House of Representatives.

267 (b) A member of the Senate appointed by the President of
268 the Senate.

269 (c) The director of the Agency for Persons with
270 Disabilities, or designee.

271 (d) The director of the Division of Vocational
272 Rehabilitation, or designee.



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- 273 (e) The executive director of the State Board of
274 Administration, or designee.
- 275 (f) The Commissioner of Education, or designee.
- 276 (g) The executive director of The Arc of Florida, or
277 designee.
- 278 (h) An Arc of Florida family board member appointed by the
279 executive director of The Arc of Florida.
- 280 (i) The chairperson of the Family Care Council Florida, or
281 his or her designee.
- 282 (j) A parent representative from the Family Care Council
283 Florida appointed by the chairperson of the Family Care Council
284 Florida.
- 285 (3) The Agency for Persons with Disabilities shall provide
286 administrative support for the study group.
- 287 (4) The study group shall evaluate and develop findings and
288 recommendations regarding the following:
- 289 (a) The services for which a voucher could be used.
- 290 (b) The financial requirements for such a system.
- 291 (c) The qualifications of service providers.
- 292 (d) The steps necessary to qualify prepaid service plan
293 funds for a federal waiver match program or other federal
294 funding and the possibilities of such a waiver match or other
295 federal funding.
- 296 (5) Members of the study group shall serve without
297 compensation but are entitled to reimbursement for per diem and
298 travel expenses as provided in s. 112.061, Florida Statutes.
- 299 (6) The members of the study group shall be appointed by
300 July 30, 2009, and shall hold their first meeting by September
301 1, 2009. The final report of the study group shall be submitted



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302 to the President of the Senate and the Speaker of the House of
303 Representatives by January 29, 2010. The group is abolished and
304 this section is repealed upon submission of the group's final
305 report.

306 Section 5. This act shall take effect July 1, 2009.

307
308 ===== T I T L E A M E N D M E N T =====

309 And the title is amended as follows:

310 Delete everything before the enacting clause
311 and insert:

312 A bill to be entitled
313 An act relating to the Agency for Persons with
314 Disabilities; amending s. 393.065, F.S.; requiring
315 that the agency assign and provide priority to clients
316 waiting for waiver services; classifying and
317 specifying the order of priority; authorizing the
318 agency and the Agency for Health Care Administration
319 to adopt rules; amending s. 393.0661, F.S.; deleting a
320 provision that permits all developmental waiver
321 services to be available in all waiver tiers; deleting
322 a provision that limits an increase in the number of
323 waiver services until after a certain date; directing
324 the agency to eliminate medication-review services;
325 directing the agency to develop plans to eliminate
326 redundancies in certain services and reduce the
327 supported employment services for certain clients;
328 deleting an upcoming reduction in the geographic
329 differential for residential habilitation services in
330 certain counties; revising criteria for rebasing a



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331 client's cost plan; deleting the expiration date for a
332 provision relating to the calculation of the amount of
333 a waiver cost plan adjustment; deleting obsolete
334 provisions; amending s. 393.23, F.S.; revising how
335 moneys in trust accounts in developmental disability
336 centers may be spent; creating the Prepaid Services
337 for Parents of Children with Developmental
338 Disabilities Study Group to evaluate the creation of a
339 prepaid service plan for children with disabilities;
340 providing for membership; providing for administrative
341 support; providing for the duties of the study group;
342 providing for per diem and travel expenses for
343 members; requiring the study group to present a final
344 report to the Legislature; providing an effective
345 date.