

By the Committee on Health and Human Services Appropriations;
and Senator Peadar

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1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.065, F.S.; requiring
4 that the agency assign and provide priority to clients
5 waiting for waiver services; specifying the order of
6 priority; authorizing the agency and the Agency for
7 Health Care Administration to adopt rules; amending s.
8 393.0661, F.S.; deleting a provision that permits all
9 developmental waiver services to be available in all
10 waiver tiers; deleting a provision that limits an
11 increase in the number of waiver services until after
12 a certain date; directing the Agency for Persons with
13 Disabilities to eliminate medication-review services
14 and redundancies in certain services and reduce the
15 supported employment services for certain clients;
16 deleting the expiration date for a provision relating
17 to the calculation of the amount of a waiver cost plan
18 adjustment; deleting obsolete provisions; amending s.
19 393.23, F.S.; revising how moneys in trust accounts in
20 developmental disability centers may be spent;
21 providing an effective date.

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

24
25 Section 1. Subsections (5) and (6) of section 393.065,
26 Florida Statutes, are amended to read:

27 393.065 Application and eligibility determination.—

28 (5) Except as otherwise directed by law, the agency shall
29 assign and provide priority to clients waiting for waiver

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30 services in the following order:

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

35 (b) Category 2, which includes children on the wait list
36 who are from the child welfare system with an open case in the
37 Department of Children and Family Services' statewide automated
38 child welfare information system, individuals who have been
39 court-ordered to receive services, and clients who are members
40 of the class covered by the Brown versus Bush settlement
41 agreement.

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

44 1. Whose caregivers have a documented condition that is
45 expected to render them unable to provide care within the next
46 12 months and for whom a caregiver is required but no alternate
47 caregiver is available;

48 2. Whose caregivers are 70 years of age or older and for
49 whom a caregiver is required but no alternate caregiver is
50 available;

51 3. At substantial risk of incarceration or court commitment
52 without supports;

53 4. Whose documented behaviors or physical needs place them
54 or their caregivers at risk of serious harm and other supports
55 are not currently available to alleviate the situation;

56 5. Who are identified as ready for discharge within the
57 next year from a state mental health hospital or nursing home
58 and require a caregiver but for whom no caregiver is available;

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59 6. Who are defendants charged with felony offenses who have
60 been determined incompetent to proceed due to retardation or
61 autism and for whom the agency has submitted an evaluation to
62 the court concluding the defendant is unlikely to be restored to
63 competency; and

64 7. Who are expected to graduate within the next 12 months
65 from secondary school and need support to obtain or maintain
66 competitive employment, or to pursue an accredited program of
67 post-secondary education to which they have been accepted.

68 (d) Category 4, which are clients 21 years of age or older
69 who do not meet the criteria for category 1, category 2, or
70 category 3.

71 (e) Category 5, which are clients younger than 21 years of
72 age who do not meet the criteria for category 1, category 2, or
73 category 3.

74 (6) Within category 3, category 4, and category 5, the
75 agency shall maintain a wait list of clients in the order of the
76 date that the client is determined eligible for waiver services.

77 (7) The client, the client's guardian, or the client's
78 family must ensure that accurate contact information is
79 registered with the agency at all times. The agency shall remove
80 from the wait list any individual who cannot be located using
81 the contact information provided to the agency, refuses an offer
82 of waiver enrollment, fails to meet eligibility requirements, or
83 becomes domiciled outside of the state.

84 (8)~~(6)~~ The agency and the Agency for Health Care
85 Administration may adopt rules specifying application
86 procedures, criteria associated with wait list categories,
87 procedures for administering the wait list, and eligibility

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88 criteria as needed to administer this section.

89 Section 2. Subsections (3) and (6) of section 393.0661,
90 Florida Statutes, are amended to read:

91 393.0661 Home and community-based services delivery system;
92 comprehensive redesign.—The Legislature finds that the home and
93 community-based services delivery system for persons with
94 developmental disabilities and the availability of appropriated
95 funds are two of the critical elements in making services
96 available. Therefore, it is the intent of the Legislature that
97 the Agency for Persons with Disabilities shall develop and
98 implement a comprehensive redesign of the system.

99 (3) The Agency for Health Care Administration, in
100 consultation with the agency, shall seek federal approval and
101 implement a four-tiered waiver system to serve eligible clients
102 through ~~with developmental disabilities in~~ the developmental
103 disabilities and family and supported living waivers. The agency
104 shall assign all clients receiving services through the
105 developmental disabilities waiver to a tier based on a valid
106 assessment instrument, client characteristics, and other
107 appropriate assessment methods. ~~All services covered under the~~
108 ~~current developmental disabilities waiver shall be available to~~
109 ~~all clients in all tiers where appropriate, except as otherwise~~
110 ~~provided in this subsection or in the General Appropriations~~
111 ~~Act.~~

112 (a) Tier one is ~~shall be~~ limited to clients who have
113 service needs that cannot be met in tier two, three, or four for
114 intensive medical or adaptive needs and that are essential for
115 avoiding institutionalization, or who possess behavioral
116 problems that are exceptional in intensity, duration, or

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117 frequency and present a substantial risk of harm to themselves
118 or others.

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

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

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

139 (e) The Agency for Health Care Administration shall also
140 seek federal approval to provide a consumer-directed option for
141 persons with developmental disabilities which corresponds to the
142 funding levels in each of the waiver tiers. The agency shall
143 implement the four-tiered waiver system beginning with tiers
144 one, three, and four and followed by tier two. The agency and
145 the Agency for Health Care Administration may adopt any rules

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146 necessary to administer this subsection.

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

150 1. Supported living coaching services may ~~shall~~ not exceed
151 20 hours per month for persons who also receive in-home support
152 services.

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

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

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

169 5. Chore services, nonresidential support services, and
170 homemaker services are ~~shall be~~ eliminated. The agency shall
171 expand the definition of in-home support services to allow
172 ~~enable~~ the service provider of the service to include activities
173 previously provided in the ~~these~~ eliminated services.

174 6. Massage therapy, medication review, and psychological

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175 assessment services are ~~shall be~~ eliminated.

176 7. The agency shall conduct supplemental cost plan reviews
177 to verify the medical necessity of authorized services for plans
178 that have increased by more than 8 percent during either of the
179 2 preceding fiscal years.

180 8. The agency shall implement a consolidated residential
181 habilitation rate structure to increase savings to the state
182 through a more cost-effective payment method and establish
183 uniform rates for intensive behavioral residential habilitation
184 services.

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

192 10. The agency shall eliminate redundancies and
193 uplications between in-home support services, companion
194 services, personal care services, and supported living coaching
195 by limiting or consolidating such services.

196 11. The agency shall reduce the intensity and frequency of
197 supported employment services to clients in stable employment
198 situations who have a documented history of at least 3 years'
199 employment with the same company or in the same industry.

200 (6) ~~Effective January 1, 2009, and~~ Except as otherwise
201 provided in this section, a client ~~an individual~~ served by the
202 home and community-based services waiver or the family and
203 supported living waiver funded through the agency ~~for Persons~~

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204 ~~with Disabilities~~ shall have his or her cost plan adjusted to
205 reflect the amount of expenditures for the previous state fiscal
206 year plus 5 percent if such amount is less than the client's
207 ~~individual's~~ existing cost plan. The agency ~~for Persons with~~
208 ~~Disabilities~~ shall use actual paid claims for services provided
209 during the previous fiscal year that are submitted by October 31
210 to calculate the revised cost plan amount. If the client ~~an~~
211 ~~individual~~ was not served during ~~for~~ the ~~entire~~ previous state
212 fiscal year or there was any single change in the cost plan
213 amount of more than 5 percent during the previous state fiscal
214 year, the agency shall set the cost plan amount at an estimated
215 annualized expenditure amount plus 5 percent. The agency shall
216 estimate the annualized expenditure amount by calculating the
217 average of monthly expenditures, beginning in the fourth month
218 after the client ~~individual~~ enrolled or the cost plan was
219 changed by more than 5 percent and ending on August 31 ~~with~~
220 ~~August 31, 2008~~, and multiplying the average by 12. If ~~In the~~
221 ~~event that~~ at least 3 months of actual expenditure data are not
222 available to estimate annualized expenditures, the agency may
223 not rebase a cost plan pursuant to this subsection. ~~This~~
224 ~~subsection expires June 30, 2009, unless reenacted by the~~
225 ~~Legislature before that date.~~

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

228 393.23 Developmental disabilities centers; trust accounts.-
229 All receipts from the operation of canteens, vending machines,
230 hobby shops, sheltered workshops, activity centers, farming
231 projects, and other like activities operated in a developmental
232 disabilities center, and moneys donated to the center, must be

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233 deposited in a trust account in any bank, credit union, or
234 savings and loan association authorized by the State Treasury as
235 a qualified depository to do business in this state, if the
236 moneys are available on demand.

237 (1) Moneys in the trust account must be expended for the
238 benefit, education, or ~~and~~ welfare of clients. However, if
239 specified, moneys that are donated to the center must be
240 expended in accordance with the intentions of the donor. Trust
241 account money may not be used for the benefit of agency
242 employees ~~of the agency~~ or to pay the wages of such employees.
243 The welfare of ~~the~~ clients includes the expenditure of funds for
244 the purchase of items for resale at canteens or vending
245 machines, and for the establishment of, maintenance of, and
246 operation of canteens, hobby shops, recreational or
247 entertainment facilities, sheltered workshops, activity centers,
248 farming projects, or other like facilities or programs
249 established at the center for the benefit of clients.

250 Section 4. This act shall take effect upon becoming a law.