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1
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; classifying and
6 specifying the order of priority; authorizing the
7 agency and the Agency for Health Care Administration
8 to adopt rules; amending s. 393.0661, F.S.; deleting a
9 provision that permits all developmental waiver
10 services to be available in all waiver tiers; deleting
11 a provision that limits an increase in the number of
12 waiver services until after a certain date; directing
13 the agency to eliminate medication-review services;
14 directing the agency to develop plans to eliminate
15 redundancies in certain services and reduce the
16 supported employment services for certain clients;
17 deleting an upcoming reduction in the geographic
18 differential for residential habilitation services in
19 certain counties; revising criteria for rebasing a
20 client's cost plan; deleting the expiration date for a
21 provision relating to the calculation of the amount of
22 a waiver cost plan adjustment; deleting obsolete
23 provisions; amending s. 393.23, F.S.; revising how
24 moneys in trust accounts in developmental disability
25 centers may be spent; creating the Prepaid Services
26 for Parents of Children with Developmental
27 Disabilities Study Group to evaluate the creation of a
28 prepaid service plan for children with disabilities;
29 providing for membership; providing for administrative

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30 support; providing for the duties of the study group;
31 providing for per diem and travel expenses for
32 members; requiring the study group to present a final
33 report to the Legislature; providing an effective
34 date.

35
36 Be It Enacted by the Legislature of the State of Florida:

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

42 393.065 Application and eligibility determination.—

43 (5) Except as otherwise directed by law, beginning July 1,
44 2010, the agency shall assign and provide priority to clients
45 waiting for waiver services in the following order:

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

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

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

56 1. Whose caregiver has a documented condition that is
57 expected to render the caregiver unable to provide care within
58 the next 12 months and for whom a caregiver is required but no

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59 alternate caregiver is available;

60 2. At substantial risk of incarceration or court commitment
61 without supports;

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

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

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

73 (e) Category 5, which includes, but is not required to be
74 limited to, clients who are expected to graduate within the next
75 12 months from secondary school and need support to obtain or
76 maintain competitive employment, or to pursue an accredited
77 program of postsecondary education to which they have been
78 accepted.

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

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

85
86 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
87 wait list of clients placed in the order of the date that the

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88 client is determined eligible for waiver services.

89 (6) The client, the client's guardian, or the client's
90 family must ensure that accurate, up-to-date contact information
91 is provided to the agency at all times. The agency shall remove
92 from the wait list any individual who cannot be located using
93 the contact information provided to the agency, fails to meet
94 eligibility requirements, or becomes domiciled outside the
95 state.

96 (7)~~(6)~~ The agency and the Agency for Health Care
97 Administration may adopt rules specifying application
98 procedures, criteria associated with wait-list categories,
99 procedures for administering the wait list, and eligibility
100 criteria as needed to administer this section.

101 Section 2. Subsections (3), (4), (5), and (6) of section
102 393.0661, Florida Statutes, are amended to read:

103 393.0661 Home and community-based services delivery system;
104 comprehensive redesign.—The Legislature finds that the home and
105 community-based services delivery system for persons with
106 developmental disabilities and the availability of appropriated
107 funds are two of the critical elements in making services
108 available. Therefore, it is the intent of the Legislature that
109 the Agency for Persons with Disabilities shall develop and
110 implement a comprehensive redesign of the system.

111 (3) The Agency for Health Care Administration, in
112 consultation with the agency, shall seek federal approval and
113 implement a four-tiered waiver system to serve eligible clients
114 through ~~with developmental disabilities in the developmental~~
115 ~~disabilities and family and supported living waivers.~~ The agency
116 shall assign all clients receiving services through the

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117 developmental disabilities waiver to a tier based on a valid
118 assessment instrument, client characteristics, and other
119 appropriate assessment methods. ~~All services covered under the~~
120 ~~current developmental disabilities waiver shall be available to~~
121 ~~all clients in all tiers where appropriate, except as otherwise~~
122 ~~provided in this subsection or in the General Appropriations~~
123 ~~Act.~~

124 (a) Tier one is ~~shall be~~ limited to clients who have
125 service needs that cannot be met in tier two, three, or four for
126 intensive medical or adaptive needs and that are essential for
127 avoiding institutionalization, or who possess behavioral
128 problems that are exceptional in intensity, duration, or
129 frequency and present a substantial risk of harm to themselves
130 or others.

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

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

144 (d) Tier four is the family and supported living waiver and
145 includes. ~~Tier four shall include~~, but is not limited to,

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146 clients in independent or supported living situations and
147 clients who live in their family home. ~~An increase to the number~~
148 ~~of services available to clients in this tier shall not take~~
149 ~~effect prior to July 1, 2009.~~ Total annual expenditures under
150 tier four may not exceed \$14,792 per client each year.

151 (e) The Agency for Health Care Administration shall also
152 seek federal approval to provide a consumer-directed option for
153 persons with developmental disabilities which corresponds to the
154 funding levels in each of the waiver tiers. The agency shall
155 implement the four-tiered waiver system beginning with tiers
156 one, three, and four and followed by tier two. The agency and
157 the Agency for Health Care Administration may adopt ~~any~~ rules
158 necessary to administer this subsection.

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

162 1. Supported living coaching services may ~~shall~~ not exceed
163 20 hours per month for persons who also receive in-home support
164 services.

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

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

173 4. Residential habilitation services are ~~shall be~~ limited
174 to 8 hours per day. Additional hours may be authorized for

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175 persons who have intensive medical or adaptive needs and if such
176 hours are essential for avoiding institutionalization, or for
177 persons who possess behavioral problems that are exceptional in
178 intensity, duration, or frequency and present a substantial risk
179 of harming themselves or others. This restriction shall be in
180 effect until the four-tiered waiver system is fully implemented.

181 5. Chore services, nonresidential support services, and
182 homemaker services are ~~shall be~~ eliminated. The agency shall
183 expand the definition of in-home support services to allow
184 ~~enable~~ the service provider ~~of the service~~ to include activities
185 previously provided in these eliminated services.

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

188 7. The agency shall conduct supplemental cost plan reviews
189 to verify the medical necessity of authorized services for plans
190 that have increased by more than 8 percent during either of the
191 2 preceding fiscal years.

192 8. The agency shall implement a consolidated residential
193 habilitation rate structure to increase savings to the state
194 through a more cost-effective payment method and establish
195 uniform rates for intensive behavioral residential habilitation
196 services.

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

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204 10. The agency shall develop a plan to eliminate
205 redundancies and duplications between in-home support services,
206 companion services, personal care services, and supported living
207 coaching by limiting or consolidating such services.

208 11. The agency shall develop a plan to reduce the intensity
209 and frequency of supported employment services to clients in
210 stable employment situations who have a documented history of at
211 least 3 years' employment with the same company or in the same
212 industry.

213 (4) ~~Effective July 1, 2008,~~ The geographic differential for
214 Miami-Dade, Broward, and Palm Beach Counties for residential
215 habilitation services shall be 7.5 percent. ~~Effective July 1,~~
216 ~~2009, the geographic differential for Miami-Dade, Broward, and~~
217 ~~Palm Beach Counties for residential habilitation services shall~~
218 ~~be 4.5 percent.~~

219 (5) ~~Effective July 1, 2008,~~ The geographic differential for
220 Monroe County for residential habilitation services shall be 20
221 percent. ~~Effective July 1, 2009, the geographic differential for~~
222 ~~Monroe County for residential habilitation services shall be 15~~
223 ~~percent. Effective July 1, 2010, the geographic differential for~~
224 ~~Monroe County for residential habilitation services shall be 10~~
225 ~~percent.~~

226 (6) Effective January 1, 2010 ~~2009~~, and except as otherwise
227 provided in this section, a client ~~an individual~~ served by the
228 home and community-based services waiver or the family and
229 supported living waiver funded through the agency ~~for Persons~~
230 ~~with Disabilities~~ shall have his or her cost plan adjusted to
231 reflect the amount of expenditures for the previous state fiscal
232 year plus 5 percent if such amount is less than the client's

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233 ~~individual's~~ existing cost plan. The agency ~~for Persons with~~
234 ~~Disabilities~~ shall use actual paid claims for services provided
235 during the previous fiscal year that are submitted by October 31
236 to calculate the revised cost plan amount. If the client ~~an~~
237 ~~individual~~ was not served for the entire previous state fiscal
238 year or there was any single change in the cost plan amount of
239 more than 5 percent during the previous state fiscal year, the
240 agency shall set the cost plan amount at an estimated annualized
241 expenditure amount plus 5 percent. The agency shall estimate the
242 annualized expenditure amount by calculating the average of
243 monthly expenditures, beginning in the fourth month after the
244 client individual enrolled, interrupted services are resumed, or
245 the cost plan was changed by more than 5 percent and ending on
246 with August 31, 2009 2008, and multiplying the average by 12. In
247 order to determine whether a client was not served for the
248 entire year, the agency shall include any interruption of a
249 waiver-funded service or services lasting at least 18 days. If
250 ~~In the event that~~ at least 3 months of actual expenditure data
251 are not available to estimate annualized expenditures, the
252 agency may not rebase a cost plan pursuant to this subsection.
253 The agency may not rebase the cost plan of any client who
254 experiences a significant change in recipient condition or
255 circumstance which results in a change of more than 5 percent to
256 his or her cost plan between July 1 and the date that a rebased
257 cost plan would take effect pursuant to this subsection. This
258 ~~subsection expires June 30, 2009, unless reenacted by the~~
259 ~~Legislature before that date.~~

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

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262 393.23 Developmental disabilities centers; trust accounts.—
263 All receipts from the operation of canteens, vending machines,
264 hobby shops, sheltered workshops, activity centers, farming
265 projects, and other like activities operated in a developmental
266 disabilities center, and moneys donated to the center, must be
267 deposited in a trust account in any bank, credit union, or
268 savings and loan association authorized by the State Treasury as
269 a qualified depository to do business in this state, if the
270 moneys are available on demand.

271 (1) Moneys in the trust account must be expended for the
272 benefit, education, or ~~and~~ welfare of clients. However, if
273 specified, moneys that are donated to the center must be
274 expended in accordance with the intentions of the donor. Trust
275 account money may not be used for the benefit of agency
276 ~~employees of the agency~~ or to pay the wages of such employees.
277 The welfare of ~~the~~ clients includes the expenditure of funds for
278 the purchase of items for resale at canteens or vending
279 machines, and for the establishment of, maintenance of, and
280 operation of canteens, hobby shops, recreational or
281 entertainment facilities, sheltered workshops, activity centers,
282 farming projects, or other like facilities or programs
283 established at the center for the benefit of clients.

284 Section 4. (1) The Prepaid Services for Parents of Children
285 with Developmental Disabilities Study Group is created to
286 evaluate the establishment of a prepaid service plan for
287 children with disabilities modeled after the Florida prepaid
288 college program. The prepaid service plan would allow funds to
289 be paid into a plan on behalf of a child to provide a voucher
290 for purchasing additional services from a qualified, willing

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291 provider upon the child's exit from an exceptional student
292 program. These services would provide support to help the parent
293 retain the benefits to the child of the exceptional student
294 program and to help the child in transitioning to the workforce
295 if possible.

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

297 (a) A member of the House of Representatives appointed by
298 the Speaker of the House of Representatives.

299 (b) A member of the Senate appointed by the President of
300 the Senate.

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

303 (d) The director of the Division of Vocational
304 Rehabilitation, or designee.

305 (e) The executive director of the State Board of
306 Administration, or designee.

307 (f) The Commissioner of Education, or designee.

308 (g) The executive director of The Arc of Florida, or
309 designee.

310 (h) An Arc of Florida family board member appointed by the
311 executive director of The Arc of Florida.

312 (i) The chairperson of the Family Care Council Florida, or
313 his or her designee.

314 (j) A parent representative from the Family Care Council
315 Florida appointed by the chairperson of the Family Care Council
316 Florida.

317 (3) The Agency for Persons with Disabilities shall provide
318 administrative support for the study group.

319 (4) The study group shall evaluate and develop findings and

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320 recommendations regarding the following:

321 (a) The services for which a voucher could be used.

322 (b) The financial requirements for such a system.

323 (c) The qualifications of service providers.

324 (d) The steps necessary to qualify prepaid service plan
325 funds for a federal waiver match program or other federal
326 funding and the possibilities of such a waiver match or other
327 federal funding.

328 (5) Members of the study group shall serve without
329 compensation but are entitled to reimbursement for per diem and
330 travel expenses as provided in s. 112.061, Florida Statutes.

331 (6) The members of the study group shall be appointed by
332 July 30, 2009, and shall hold their first meeting by September
333 1, 2009. The final report of the study group shall be submitted
334 to the President of the Senate and the Speaker of the House of
335 Representatives by January 29, 2010. The group is abolished and
336 this section is repealed upon submission of the group's final
337 report.

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