

HB 5111

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1 A bill to be entitled
2 An act relating to the Agency for Persons with
3 Disabilities; amending s. 393.23, F.S.; revising purposes
4 of expenditures of moneys deposited in the trust accounts
5 of developmental disabilities centers; amending s.
6 393.0661, F.S.; revising provisions relating to services
7 provided to certain clients with developmental
8 disabilities served under the four-tiered waiver system;
9 revising provisions relating to the calculation of
10 annualized expenditures; deleting future review and repeal
11 of s. 393.0661(6), F.S., relating to cost plans for
12 individuals served by the home and community-based
13 services waiver or the family and supported living waiver
14 funded through the Agency for Persons with Disabilities;
15 providing effective dates.

16
17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsection (1) of section 393.23, Florida
20 Statutes, is amended to read:

21 393.23 Developmental disabilities centers; trust
22 accounts.--All receipts from the operation of canteens, vending
23 machines, hobby shops, sheltered workshops, activity centers,
24 farming projects, and other like activities operated in a
25 developmental disabilities center, and moneys donated to the
26 center, must be deposited in a trust account in any bank, credit
27 union, or savings and loan association authorized by the State

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28 Treasury as a qualified depository to do business in this state,
 29 if the moneys are available on demand.

30 (1) Moneys in the trust account must be expended for the
 31 benefit, education, or ~~and~~ welfare of clients. However, if
 32 specified, moneys that are donated to the center must be
 33 expended in accordance with the intentions of the donor. Trust
 34 account money may not be used for the benefit of employees of
 35 the agency or to pay the wages of such employees. The welfare of
 36 the clients includes the expenditure of funds for the purchase
 37 of items for resale at canteens or vending machines, and for the
 38 establishment of, maintenance of, and operation of canteens,
 39 hobby shops, recreational or entertainment facilities, sheltered
 40 workshops, activity centers, farming projects, or other like
 41 facilities or programs established at the center for the benefit
 42 of clients.

43 Section 2. Subsection (3) of section 393.0661, Florida
 44 Statutes, is amended to read:

45 393.0661 Home and community-based services delivery
 46 system; comprehensive redesign.--The Legislature finds that the
 47 home and community-based services delivery system for persons
 48 with developmental disabilities and the availability of
 49 appropriated funds are two of the critical elements in making
 50 services available. Therefore, it is the intent of the
 51 Legislature that the Agency for Persons with Disabilities shall
 52 develop and implement a comprehensive redesign of the system.

53 (3) The Agency for Health Care Administration, in
 54 consultation with the agency, shall seek federal approval and
 55 implement a four-tiered waiver system to serve clients with

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56 developmental disabilities in the developmental disabilities and
57 family and supported living waivers. The agency shall assign all
58 clients receiving services through the developmental
59 disabilities waiver to a tier based on a valid assessment
60 instrument, client characteristics, and other appropriate
61 assessment methods. ~~All services covered under the current~~
62 ~~developmental disabilities waiver shall be available to all~~
63 ~~clients in all tiers where appropriate, except as otherwise~~
64 ~~provided in this subsection or in the General Appropriations~~
65 ~~Act.~~

66 (a) Tier one shall be limited to clients who have service
67 needs that cannot be met in tier two, three, or four for
68 intensive medical or adaptive needs and that are essential for
69 avoiding institutionalization, or who possess behavioral
70 problems that are exceptional in intensity, duration, or
71 frequency and present a substantial risk of harm to themselves
72 or others.

73 (b) Tier two shall be limited to clients whose service
74 needs include a licensed residential facility and who are
75 authorized to receive a moderate level of support for standard
76 residential habilitation services or a minimal level of support
77 for behavior focus residential habilitation services or clients
78 in supported living who receive greater than 6 hours a day of
79 in-home support services. Total annual expenditures under tier
80 two may not exceed \$55,000 per client each year.

81 (c) Tier three shall include, but is not limited to,
82 clients requiring residential placements, clients in independent
83 or supported living situations, and clients who live in their

84 family home. Total annual expenditures under tier three may not
 85 exceed \$35,000 per client each year.

86 (d) Tier four is the family and supported living waiver.
 87 Tier four shall include, but is not limited to, clients in
 88 independent or supported living situations and clients who live
 89 in their family home. ~~An increase to the number of services~~
 90 ~~available to clients in this tier shall not take effect prior to~~
 91 ~~July 1, 2009.~~ Total annual expenditures under tier four may not
 92 exceed \$14,792 per client each year.

93 (e) The Agency for Health Care Administration shall also
 94 seek federal approval to provide a consumer-directed option for
 95 persons with developmental disabilities which corresponds to the
 96 funding levels in each of the waiver tiers. The agency shall
 97 implement the four-tiered waiver system beginning with tiers
 98 one, three, and four and followed by tier two. The agency and
 99 the Agency for Health Care Administration may adopt any rules
 100 necessary to administer this subsection.

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

104 1. Supported living coaching services shall not exceed 20
 105 hours per month for persons who also receive in-home support
 106 services.

107 2. Limited support coordination services shall be the only
 108 type of support coordination service provided to persons under
 109 the age of 18 who live in the family home.

110 3. Personal care assistance services shall be limited to
 111 no more than 180 hours per calendar month and shall not include

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112 rate modifiers. Additional hours may be authorized for persons
113 who have intensive physical, medical, or adaptive needs if such
114 hours are essential for avoiding institutionalization.

115 4. Residential habilitation services shall be limited to 8
116 hours per day. Additional hours may be authorized for persons
117 who have intensive medical or adaptive needs and if such hours
118 are essential for avoiding institutionalization, or for persons
119 who possess behavioral problems that are exceptional in
120 intensity, duration, or frequency and present a substantial risk
121 of harming themselves or others. This restriction shall be in
122 effect until the four-tiered waiver system is fully implemented.

123 5. Chore services, nonresidential support services, and
124 homemaker services shall be eliminated. The agency shall expand
125 the definition of in-home support services to enable the
126 provider of the service to include activities previously
127 provided in these eliminated services.

128 6. Massage therapy, medication review, and psychological
129 assessment services shall be eliminated.

130 7. The agency shall conduct supplemental cost plan reviews
131 to verify the medical necessity of authorized services for plans
132 that have increased by more than 8 percent during either of the
133 2 preceding fiscal years.

134 8. The agency shall implement a consolidated residential
135 habilitation rate structure to increase savings to the state
136 through a more cost-effective payment method and establish
137 uniform rates for intensive behavioral residential habilitation
138 services.

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139 9. Pending federal approval, the agency is authorized to
140 extend current support plans for clients receiving services
141 under Medicaid waivers for 1 year beginning July 1, 2007, or
142 from the date approved, whichever is later. Clients who have a
143 substantial change in circumstances which threatens their health
144 and safety may be reassessed during this year in order to
145 determine the necessity for a change in their support plan.

146 10. The agency shall eliminate redundancies and
147 duplications between in-home support services, companion
148 services, personal care services, and supported living coaching
149 by limiting or consolidating the services.

150 11. The agency shall reduce the intensity and frequency of
151 supported employment services to individuals in stable
152 employment situations who have a documented history of at least
153 3 years' employment with the same company or in the same
154 industry.

155 Section 3. Effective upon this act becoming a law,
156 subsection (6) of section 393.0661, Florida Statutes, is amended
157 to read:

158 393.0661 Home and community-based services delivery
159 system; comprehensive redesign.--The Legislature finds that the
160 home and community-based services delivery system for persons
161 with developmental disabilities and the availability of
162 appropriated funds are two of the critical elements in making
163 services available. Therefore, it is the intent of the
164 Legislature that the Agency for Persons with Disabilities shall
165 develop and implement a comprehensive redesign of the system.

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166 (6) Effective January 1, 2009, and except as otherwise
167 provided in this section, an individual served by the home and
168 community-based services waiver or the family and supported
169 living waiver funded through the Agency for Persons with
170 Disabilities shall have his or her cost plan adjusted to reflect
171 the amount of expenditures for the previous state fiscal year
172 plus 5 percent if such amount is less than the individual's
173 existing cost plan. The Agency for Persons with Disabilities
174 shall use actual paid claims for services provided during the
175 previous fiscal year that are submitted by October 31 to
176 calculate the revised cost plan amount. If an individual was not
177 served for the entire previous state fiscal year or there was
178 any single change in the cost plan amount of more than 5 percent
179 during the previous state fiscal year, the agency shall set the
180 cost plan amount at an estimated annualized expenditure amount
181 plus 5 percent. The agency shall estimate the annualized
182 expenditure amount by calculating the average of monthly
183 expenditures, beginning in the fourth month after the individual
184 enrolled or the cost plan was changed by more than 5 percent and
185 ending with August 31, ~~2008~~, and multiplying the average by 12.
186 In the event that at least 3 months of actual expenditure data
187 are not available to estimate annualized expenditures, the
188 agency may not rebase a cost plan pursuant to this subsection.
189 ~~This subsection expires June 30, 2009, unless reenacted by the~~
190 ~~Legislature before that date.~~

191 Section 4. Except as otherwise expressly provided in this
192 act, this act shall take effect July 1, 2009.