

Amendment No.

CHAMBER ACTION

Senate

House

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1 The Conference Committee on HB 5303 offered the following:

2  
3 **Conference Committee Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsections (1) and (3) of section 393.0661,  
6 Florida Statutes, are amended to read:

7 393.0661 Home and community-based services delivery  
8 system; comprehensive redesign.—The Legislature finds that the  
9 home and community-based services delivery system for persons  
10 with developmental disabilities and the availability of  
11 appropriated funds are two of the critical elements in making  
12 services available. Therefore, it is the intent of the  
13 Legislature that the Agency for Persons with Disabilities shall  
14 develop and implement a comprehensive redesign of the system.

15 (1) The redesign of the home and community-based services  
16 system shall include, at a minimum, all actions necessary to  
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17 achieve an appropriate rate structure, client choice within a  
18 specified service package, appropriate assessment strategies, an  
19 efficient billing process that contains reconciliation and  
20 monitoring components, and a redefined role for support  
21 coordinators that avoids potential conflicts of interest, and  
22 ensures that family/client budgets are linked to levels of need.

23 (a) The agency shall use an assessment instrument that the  
24 agency deems to be is reliable and valid, including, but not  
25 limited to, the Department of Children and Family Services'  
26 Individual Cost Guidelines or the agency's Questionnaire for  
27 Situational Information. The agency may contract with an  
28 external vendor or may use support coordinators to complete  
29 client assessments if it develops sufficient safeguards and  
30 training to ensure ongoing inter-rater reliability.

31 (b) The agency, with the concurrence of the Agency for  
32 Health Care Administration, may contract for the determination  
33 of medical necessity and establishment of individual budgets.

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 eligible clients  
37 through the developmental disabilities and family and supported  
38 living waivers. The agency shall assign all clients receiving  
39 services through the developmental disabilities waiver to a tier  
40 based on the Department of Children and Family Services'  
41 Individual Cost Guidelines, the agency's Questionnaire for  
42 Situational Information, or another such assessment instrument  
43 deemed to be valid and reliable by the agency; a valid

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44 ~~assessment instrument,~~ client characteristics, including, but  
45 not limited to, age; and other appropriate assessment methods.

46 (a) Tier one is limited to clients who have service needs  
47 that cannot be met in tier two, three, or four for intensive  
48 medical or adaptive needs and that are essential for avoiding  
49 institutionalization, or who possess behavioral problems that  
50 are exceptional in intensity, duration, or frequency and present  
51 a substantial risk of harm to themselves or others. Total annual  
52 expenditures under tier one may not exceed \$150,000 per client  
53 each year, provided that expenditures for clients in tier one  
54 with a documented medical necessity requiring intensive  
55 behavioral residential habilitation services, intensive  
56 behavioral residential habilitation services with medical needs,  
57 or special medical home care, as provided in the Developmental  
58 Disabilities Waiver Services Coverage and Limitations Handbook,  
59 are not subject to the \$150,000 limit on annual expenditures.

60 (b) Tier two is limited to clients whose service needs  
61 include a licensed residential facility and who are authorized  
62 to receive a moderate level of support for standard residential  
63 habilitation services or a minimal level of support for behavior  
64 focus residential habilitation services, or clients in supported  
65 living who receive more than 6 hours a day of in-home support  
66 services. Total annual expenditures under tier two may not  
67 exceed \$53,625 ~~\$55,000~~ per client each year.

68 (c) Tier three includes, but is not limited to, clients  
69 requiring residential placements, clients in independent or  
70 supported living situations, and clients who live in their

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71 family home. Total annual expenditures under tier three may not  
72 exceed \$34,125 ~~\$35,000~~ per client each year.

73 (d) Tier four includes individuals who were enrolled in ~~is~~  
74 the family and supported living waiver on July 1, 2007, who  
75 shall be assigned to this tier without the assessments required  
76 by this section. Tier four also ~~and~~ includes, but is not limited  
77 to, clients in independent or supported living situations and  
78 clients who live in their family home. Total annual expenditures  
79 under tier four may not exceed \$14,422 ~~\$14,792~~ per client each  
80 year.

81 (e) The Agency for Health Care Administration shall also  
82 seek federal approval to provide a consumer-directed option for  
83 persons with developmental disabilities which corresponds to the  
84 funding levels in each of the waiver tiers. The agency shall  
85 implement the four-tiered waiver system beginning with tiers  
86 one, three, and four and followed by tier two. The agency and  
87 the Agency for Health Care Administration may adopt rules  
88 necessary to administer this subsection.

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

92 1. Supported living coaching services may not exceed 20  
93 hours per month for persons who also receive in-home support  
94 services.

95 2. Limited support coordination services is the only type  
96 of support coordination service that may be provided to persons  
97 under the age of 18 who live in the family home.

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98           3. Personal care assistance services are limited to 180  
99 hours per calendar month and may not include rate modifiers.  
100 Additional hours may be authorized for persons who have  
101 intensive physical, medical, or adaptive needs if such hours are  
102 essential for avoiding institutionalization.

103           4. Residential habilitation services are limited to 8  
104 hours per day. Additional hours may be authorized for persons  
105 who have intensive medical or adaptive needs and if such hours  
106 are essential for avoiding institutionalization, or for persons  
107 who possess behavioral problems that are exceptional in  
108 intensity, duration, or frequency and present a substantial risk  
109 of harming themselves or others. This restriction shall be in  
110 effect until the four-tiered waiver system is fully implemented.

111           5. Chore services, nonresidential support services, and  
112 homemaker services are eliminated. The agency shall expand the  
113 definition of in-home support services to allow the service  
114 provider to include activities previously provided in these  
115 eliminated services.

116           6. Massage therapy, medication review, and psychological  
117 assessment services are eliminated.

118           7. The agency shall conduct supplemental cost plan reviews  
119 to verify the medical necessity of authorized services for plans  
120 that have increased by more than 8 percent during either of the  
121 2 preceding fiscal years.

122           8. The agency shall implement a consolidated residential  
123 habilitation rate structure to increase savings to the state  
124 through a more cost-effective payment method and establish

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125 uniform rates for intensive behavioral residential habilitation  
126 services.

127 9. Pending federal approval, the agency may extend current  
128 support plans for clients receiving services under Medicaid  
129 waivers for 1 year beginning July 1, 2007, or from the date  
130 approved, whichever is later. Clients who have a substantial  
131 change in circumstances which threatens their health and safety  
132 may be reassessed during this year in order to determine the  
133 necessity for a change in their support plan.

134 10. The agency shall develop a plan to eliminate  
135 redundancies and duplications between in-home support services,  
136 companion services, personal care services, and supported living  
137 coaching by limiting or consolidating such services.

138 11. The agency shall develop a plan to reduce the  
139 intensity and frequency of supported employment services to  
140 clients in stable employment situations who have a documented  
141 history of at least 3 years' employment with the same company or  
142 in the same industry.

143 Section 2. Section 393.0662, Florida Statutes, is created  
144 to read:

145 393.0662 Individual budgets for delivery of home and  
146 community-based services; iBudget system established.-The  
147 Legislature finds that improved financial management of the  
148 existing home and community-based Medicaid waiver program is  
149 necessary to avoid deficits that impede the provision of  
150 services to individuals who are on the waiting list for  
151 enrollment in the program. The Legislature further finds that  
152 clients and their families should have greater flexibility to

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153 choose the services that best allow them to live in their  
154 community within the limits of an established budget. Therefore,  
155 the Legislature intends that the agency, in consultation with  
156 the Agency for Health Care Administration, develop and implement  
157 a comprehensive redesign of the service delivery system using  
158 individual budgets as the basis for allocating the funds  
159 appropriated for the home and community-based services Medicaid  
160 waiver program among eligible enrolled clients. The service  
161 delivery system that uses individual budgets shall be called the  
162 iBudget system.

163 (1) The agency shall establish an individual budget,  
164 referred to as an iBudget, for each individual served by the  
165 home and community-based services Medicaid waiver program. The  
166 funds appropriated to the agency shall be allocated through the  
167 iBudget system to eligible, Medicaid-enrolled clients. The  
168 iBudget system shall be designed to provide for: enhanced client  
169 choice within a specified service package; appropriate  
170 assessment strategies; an efficient consumer budgeting and  
171 billing process that includes reconciliation and monitoring  
172 components; a redefined role for support coordinators that  
173 avoids potential conflicts of interest; a flexible and  
174 streamlined service review process; and a methodology and  
175 process that ensures the equitable allocation of available funds  
176 to each client based on the client's level of need, as  
177 determined by the variables in the allocation algorithm.

178 (a) In developing each client's iBudget, the agency shall  
179 use an allocation algorithm and methodology. The algorithm shall  
180 use variables that have been determined by the agency to have a

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181 statistically validated relationship to the client's level of  
182 need for services provided through the home and community-based  
183 services Medicaid waiver program. The algorithm and methodology  
184 may consider individual characteristics, including, but not  
185 limited to, a client's age and living situation, information  
186 from a formal assessment instrument that the agency determines  
187 is valid and reliable, and information from other assessment  
188 processes.

189 (b) The allocation methodology shall provide the algorithm  
190 that determines the amount of funds allocated to a client's  
191 iBudget. The agency may approve an increase in the amount of  
192 funds allocated, as determined by the algorithm, based on the  
193 client having one or more of the following needs that cannot be  
194 accommodated within the funding as determined by the algorithm  
195 and having no other resources, supports, or services available  
196 to meet the need:

197 1. An extraordinary need that would place the health and  
198 safety of the client, the client's caregiver, or the public in  
199 immediate, serious jeopardy unless the increase is approved. An  
200 extraordinary need may include, but is not limited to:

201 a. A documented history of significant, potentially life-  
202 threatening behaviors, such as recent attempts at suicide,  
203 arson, nonconsensual sexual behavior, or self-injurious behavior  
204 requiring medical attention;

205 b. A complex medical condition that requires active  
206 intervention by a licensed nurse on an ongoing basis that cannot  
207 be taught or delegated to a nonlicensed person;

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208 c. A chronic co-morbid condition. As used in this  
209 subparagraph, the term "co-morbid condition" means a medical  
210 condition existing simultaneously but independently with another  
211 medical condition in a patient; or

212 d. A need for total physical assistance with activities  
213 such as eating, bathing, toileting, grooming, and personal  
214 hygiene.

215  
216 However, the presence of an extraordinary need alone does not  
217 warrant an increase in the amount of funds allocated to a  
218 client's iBudget as determined by the algorithm.

219 2. A significant need for one-time or temporary support or  
220 services that, if not provided, would place the health and  
221 safety of the client, the client's caregiver, or the public in  
222 serious jeopardy, unless the increase is approved. A significant  
223 need may include, but is not limited to, the provision of  
224 environmental modifications, durable medical equipment, services  
225 to address the temporary loss of support from a caregiver, or  
226 special services or treatment for a serious temporary condition  
227 when the service or treatment is expected to ameliorate the  
228 underlying condition. As used in this subparagraph, the term  
229 "temporary" means a period of fewer than 12 continuous months.  
230 However, the presence of such significant need for one-time or  
231 temporary supports or services alone does not warrant an  
232 increase in the amount of funds allocated to a client's iBudget  
233 as determined by the algorithm.

234 3. A significant increase in the need for services after  
235 the beginning of the service plan year that would place the

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236 health and safety of the client, the client's caregiver, or the  
237 public in serious jeopardy because of substantial changes in the  
238 client's circumstances, including, but not limited to, permanent  
239 or long-term loss or incapacity of a caregiver, loss of services  
240 authorized under the state Medicaid plan due to a change in age,  
241 or a significant change in medical or functional status which  
242 requires the provision of additional services on a permanent or  
243 long-term basis that cannot be accommodated within the client's  
244 current iBudget. As used in this subparagraph, the term "long-  
245 term" means a period of 12 or more continuous months. However,  
246 such significant increase in need for services of a permanent or  
247 long-term nature alone does not warrant an increase in the  
248 amount of funds allocated to a client's iBudget as determined by  
249 the algorithm.

250  
251 The agency shall reserve portions of the appropriation for the  
252 home and community-based services Medicaid waiver program for  
253 adjustments required pursuant to this paragraph and may use the  
254 services of an independent actuary in determining the amount of  
255 the portions to be reserved.

256 (c) A client's iBudget shall be the total of the amount  
257 determined by the algorithm and any additional funding provided  
258 pursuant to paragraph (b). A client's annual expenditures for  
259 home and community-based services Medicaid waiver services may  
260 not exceed the limits of his or her iBudget. The total of all  
261 clients' projected annual iBudget expenditures may not exceed  
262 the agency's appropriation for waiver services.

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263       (2) The Agency for Health Care Administration, in  
264 consultation with the agency, shall seek federal approval to  
265 amend current waivers, request a new waiver, and amend contracts  
266 as necessary to implement the iBudget system to serve eligible,  
267 enrolled clients through the home and community-based services  
268 Medicaid waiver program and the Consumer-Directed Care Plus  
269 Program.

270       (3) The agency shall transition all eligible, enrolled  
271 clients to the iBudget system. The agency may gradually phase in  
272 the iBudget system.

273       (a) While the agency phases in the iBudget system, the  
274 agency may continue to serve eligible, enrolled clients under  
275 the four-tiered waiver system established under s. 393.065 while  
276 those clients await transitioning to the iBudget system.

277       (b) The agency shall design the phase-in process to ensure  
278 that a client does not experience more than one-half of any  
279 expected overall increase or decrease to his or her existing  
280 annualized cost plan during the first year that the client is  
281 provided an iBudget due solely to the transition to the iBudget  
282 system.

283       (4) A client must use all available services authorized  
284 under the state Medicaid plan, school-based services, private  
285 insurance and other benefits, and any other resources that may  
286 be available to the client before using funds from his or her  
287 iBudget to pay for support and services.

288       (5) The service limitations in s. 393.0661(3)(f)1., 2.,  
289 and 3. do not apply to the iBudget system.

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290       (6) Rates for any or all services established under rules  
291 of the Agency for Health Care Administration shall be designated  
292 as the maximum rather than a fixed amount for individuals who  
293 receive an iBudget, except for services specifically identified  
294 in those rules that the agency determines are not appropriate  
295 for negotiation, which may include, but are not limited to,  
296 residential habilitation services.

297       (7) The agency shall ensure that clients and caregivers  
298 have access to training and education to inform them about the  
299 iBudget system and enhance their ability for self-direction.  
300 Such training shall be offered in a variety of formats and at a  
301 minimum shall address the policies and processes of the iBudget  
302 system; the roles and responsibilities of consumers, caregivers,  
303 waiver support coordinators, providers, and the agency;  
304 information available to help the client make decisions  
305 regarding the iBudget system; and examples of support and  
306 resources available in the community.

307       (8) The agency shall collect data to evaluate the  
308 implementation and outcomes of the iBudget system.

309       (9) The agency and the Agency for Health Care  
310 Administration may adopt rules specifying the allocation  
311 algorithm and methodology; criteria and processes for clients to  
312 access reserved funds for extraordinary needs, temporarily or  
313 permanently changed needs, and one-time needs; and processes and  
314 requirements for selection and review of services, development  
315 of support and cost plans, and management of the iBudget system  
316 as needed to administer this section.

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317 Section 3. Subsection (1) of section 393.125, Florida  
318 Statutes, is amended to read:

319 393.125 Hearing rights.—

320 (1) REVIEW OF AGENCY DECISIONS.—

321 (a) For Medicaid programs administered by the agency, any  
322 developmental services applicant or client, or his or her  
323 parent, guardian advocate, or authorized representative, may  
324 request a hearing in accordance with federal law and rules  
325 applicable to Medicaid cases and has the right to request an  
326 administrative hearing pursuant to ss. 120.569 and 120.57. These  
327 hearings shall be provided by the Department of Children and  
328 Family Services pursuant to s. 409.285 and shall follow  
329 procedures consistent with federal law and rules applicable to  
330 Medicaid cases.

331 (b) ~~(a)~~ Any other developmental services applicant or  
332 client, or his or her parent, guardian, guardian advocate, or  
333 authorized representative, who has any substantial interest  
334 determined by the agency, has the right to request an  
335 administrative hearing pursuant to ss. 120.569 and 120.57, which  
336 shall be conducted pursuant to s. 120.57(1), (2), or (3).

337 (c) ~~(b)~~ Notice of the right to an administrative hearing  
338 shall be given, both verbally and in writing, to the applicant  
339 or client, and his or her parent, guardian, guardian advocate,  
340 or authorized representative, at the same time that the agency  
341 gives the applicant or client notice of the agency's action. The  
342 notice shall be given, both verbally and in writing, in the  
343 language of the client or applicant and in English.

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344 (d)~~(e)~~ A request for a hearing under this section shall be  
345 made to the agency, in writing, within 30 days after ~~of~~ the  
346 applicant's or client's receipt of the notice.

347 Section 4. Services for Children with Developmental  
348 Disabilities Task Force.—The Services for Children with  
349 Developmental Disabilities Task Force is created to make  
350 recommendations and develop a plan for the creation of, and  
351 enrollment in, the Developmental Disabilities Savings Program.

352 (1) The task force shall consist of the following members:

353 (a) A member of the House of Representatives appointed by  
354 the Speaker of the House of Representatives.

355 (b) A member of the Senate appointed by the President of  
356 the Senate.

357 (c) The director of the Agency for Persons with  
358 Disabilities.

359 (d) The director of the Division of Vocational  
360 Rehabilitation.

361 (e) The executive director of the State Board of  
362 Administration.

363 (f) The Commissioner of Education.

364 (g) The executive director of The Arc of Florida.

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

367 (i) The chair of the Family Care Council Florida.

368 (j) A parent representative from the Family Care Council  
369 Florida appointed by the chair of the Family Care Council  
370 Florida.

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371       (2) The Agency for Persons with Disabilities shall provide  
372 administrative support to the task force.

373       (3) Members of the task force shall serve without  
374 compensation but are entitled to reimbursement for per diem and  
375 travel expenses as provided in s. 112.061, Florida Statutes.

376       (4) The task force shall submit its recommendations and  
377 plan to the President of the Senate and the Speaker of the House  
378 of Representatives when it has completed its task or April 2,  
379 2012, whichever occurs first.

380       (5) The task force shall continue until enrollment in the  
381 Developmental Disabilities Savings Program has commenced, at  
382 which time the task force is abolished or June 31, 2013,  
383 whichever occurs first.

384       Section 5. This act shall take effect July 1, 2010.

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**T I T L E   A M E N D M E N T**

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Remove the entire title and insert:

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A bill to be entitled

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An act relating to the Agency for Persons with

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Disabilities; amending s. 393.0661, F.S.; specifying

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assessment instruments to be used for the delivery of

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home and community-based Medicaid waiver program

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services; revising provisions relating to assignment of

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clients to waiver tiers; providing for tier one, tier

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two, tier three, and tier four annual expenditure caps;

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creating s. 393.0662, F.S.; establishing the iBudget

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399 program for the delivery of home and community-based  
400 services; providing for amendment of current contracts to  
401 implement the iBudget system; providing for the phasing  
402 in of the program; requiring clients to use certain  
403 resources before using funds from their iBudget;  
404 requiring the agency to provide training for clients and  
405 evaluate and adopt rules with respect to the iBudget  
406 system; amending s. 393.125, F.S.; providing for hearings  
407 on Medicaid programs administered by the agency; creating  
408 the Services for Children with Developmental Disabilities  
409 Task Force; requiring the task force to develop  
410 recommendations and a plan for the creation of, and  
411 enrollment in, the Developmental Disabilities Savings  
412 Program; providing for membership of the task force;  
413 requiring the Agency for Persons with Disabilities to  
414 provide administrative support to the task force;  
415 providing for per diem and travel expenses for task force  
416 members; requiring the task force to submit its plan and  
417 recommendations to the Legislature; providing for  
418 abolishment of the task force; providing an effective  
419 date.

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