

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

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BILL: SB 380

INTRODUCER: Senator Bradley

SUBJECT: Persons with Developmental Disabilities

DATE: February 16, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	<b>Pre-meeting</b>
2.			AHS	
3.			AP	

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**I. Summary:**

SB 380 allows the dependent of an active duty military member, who has a developmental disability, to receive Medicaid home and community-based services upon the military member's transfer to Florida, if the dependent was receiving such services in another state prior to the transfer and meets the state eligibility requirements. The bill also allows a dependent of a Florida National Guard member or U.S. military reservist who is based in Florida to receive home and community-based services, upon meeting the state eligibility requirements.

**II. Present Situation:**

**Home and Community Based Waiver Services**

Medicaid provides medical coverage to low-income individuals and families. It is administered by the state, according to federal requirements, and funded jointly by the state and the federal government. The Agency for Health Care Administration administers the Medicaid program and the Department of Children and Families (DCF) determines eligibility. The federal government allows states to operate waivers to the Medicaid state plan that provide flexibility to operate certain programs without regard to federal requirements that would otherwise apply. One such waiver Florida has opted to administer is the 1915(c) waiver, which authorizes states to provide home and community-based services as an alternative to institutional care in nursing homes, intermediate care facilities, and hospitals. The Agency for Persons with Disabilities (APD) manages one of the state's 1915(c) waiver programs, known as the Home and Community-Based Services (HCBS) Waiver, which provides Medicaid home and community-based care to persons with developmental disabilities. Services provided through the HCBS waiver program enable children and adults to live in a family setting in their own home or in a licensed residential setting, thereby avoiding institutionalization.

The APD is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.<sup>1</sup> Developmentally disabled individuals apply for admission to the HCBS waiver program through the APD. Applicants undergo an assessment by the APD and the DCF to determine eligibility for the HCBS waiver program.

An individual is eligible for services under the HCBS waiver program if their domicile is in Florida, they have a developmental disability, and are three years of age or older. Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services. As of February 12, 2015, there are 30,983 individuals currently receiving benefits from the HCBS waiver and an additional 20,824 disabled persons on the waiting list for services in Florida.<sup>2</sup> The Legislature appropriated \$941,032,259 for Fiscal Year 2014-2015 to provide services through the HCBS waiver program.<sup>3</sup> Florida received a match from Federal funds in the amount of \$560,478,813.<sup>4</sup>

An application must be submitted in writing to the APD either by mail or by hand to be considered for a Medicaid waiver. The agency will return a decision on eligibility within 45 days for children under 6 and within 60 days for all other applicants.<sup>5</sup> Applications for those in crisis will be considered for eligibility within 45 days.<sup>6</sup> All applicants must undergo a comprehensive assessment to determine eligibility. If an applicant is determined to be ineligible for services, the applicant may appeal the decision to the APD.<sup>7</sup>

Clients who are determined to be eligible for the waiver program are either awarded a slot in the program or placed on a waiting list. As part of the wait list prioritization process, clients are assigned to a category as prescribed by section 393.065(5), F.S., and further refined in Section 9 of Chapter 2014-53, Laws of Florida. There are seven categories listed below in decreasing order of priority.

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Children from the child welfare system at the time of:
  - Finalization of an adoption with placement in a family home;
  - Reunification with family members with placement in a family home; or
  - Permanent placement with a relative in a family home.
- Category 3 – Includes, but not limited to, clients:
  - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
  - Who are at substantial risk of incarceration or court commitment without supports;

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<sup>1</sup> Section 393.063(9), F.S.

<sup>2</sup> Agency for Persons with Disabilities, Allocation Budget Control (ABC) System (data retrieved on February 12, 2015).

<sup>3</sup> Chapter 2014-51, Laws of Fla. (line 268)

<sup>4</sup> Id.

<sup>5</sup> Section 393.065, F.S.

<sup>6</sup> Id.

<sup>7</sup> Id.

- Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
- Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available;
- Category 5 – Includes, but not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.

A wait list is utilized by the APD for those who qualify under categories 3-7. Clients may be removed from the waitlist or denied a waiver should the parent or guardian fail to maintain accurate contact information, fail to meet eligibility requirements, or become domiciled outside the state. There is currently no special consideration for military families relocating to Florida in Florida Statutes.

During the 2014 Regular Session, the Legislature passed HB 5003 to allow an individual who meets eligibility requirements to receive home and community based services in this state if the individual's parent or legal guardian is an active-duty military service member and, at the time of the service member's transfer to Florida, the individual was receiving home and community-based services in another state. This statutory change is in place for one year and expires July 1, 2015. As of February 12, 2015, the APD has processed six requests for enrollment from military families under this temporary statutory provision. Out of the six requests for enrollment, four military families have enrolled and two families are in the process of enrollment.<sup>8</sup> Military families are encouraged to apply for the waiver program prior to relocating to Florida, but cannot be eligible to receive services until they are a Florida resident.<sup>9</sup>

### **Military Family Relocations**

According to the Military One Source 2013 Demographic Report, Florida has the seventh largest population of active duty service men and women at 60,234 and the third largest population of reserve forces at 36,745, which includes the 12,000 members of the Florida National Guard<sup>10 11</sup> Florida is home to 20 major military bases and three of the nation's seven unified combatant

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<sup>8</sup> E-mail correspondence with APD staff. February 12, 2015. (On file with Military and Veterans Affairs, Space, and Domestic Security staff.)

<sup>9</sup> E-mail correspondence with APD staff. February 11, 2015. (On file with Military and Veterans Affairs, Space, and Domestic Security staff.)

<sup>10</sup> Military One Source, *2013 Demographic Report*, <http://www.militaryonesource.mil/12038/MOS/Reports/2013-Demographics-Report.pdf> (last visited February 13, 2015).

<sup>11</sup> Department of Military Affairs, <http://dma.myflorida.com/about-us/> (last visited February 13, 2015).

commands.<sup>12</sup> For military families transferring to Florida, the state offers temporary professional licensure for military spouses, participates in the Interstate Compact on Educational Opportunity for Military Children, and recognizes a military driving permit or valid driver's license issued by another state in lieu of requiring a new Florida license. These initiatives provide support to military families transitioning to Florida.

Active-duty military service members with developmentally disabled children or dependents who receive military orders to move are called upon to physically relocate and reestablish care for their disabled family member. When such military members are reassigned to an installation in another state, they generally have to start the entire Medicaid waiver process again and reestablish eligibility based on that state's criteria.<sup>13</sup>

### III. Effect of Proposed Changes:

SB 380 amends s. 393.065, F.S., to require the Agency for Persons with Disabilities to allow an applicant who meets eligibility requirements to receive home and community-based services in this state if:

- The applicant's parent or legal guardian is a military service member on active duty and, at the time of the service member's transfer to this state, the applicant was receiving home and community-based care services in another state; or
- The applicant's parent or legal guardian is a member of the Florida National Guard or a member of the United States Reserve Forces and is based in this state.

This bill provides an effective date of July 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

<sup>12</sup> Florida Defense Alliance, <http://www.enterpriseflorida.com/floridadefense/> (last visited February 13, 2015).

<sup>13</sup> USA4Military Families, *Issue 6: Allow service members to retain their earned priority for receiving Medicaid home and community care waivers*, [http://www.usa4militaryfamilies.dod.mil/MOS/f?p=USA4:ISSUE:0:::P2\\_ISSUE,P2\\_STATE:6,FL#](http://www.usa4militaryfamilies.dod.mil/MOS/f?p=USA4:ISSUE:0:::P2_ISSUE,P2_STATE:6,FL#) (last visited February 13, 2015).

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 393.065 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.