

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>          </u>	

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1 Committee/Subcommittee hearing bill: Health & Human Services  
 2 Committee

3 Representative Plakon offered the following:

4  
 5 **Amendment**

6 Remove lines 98-232 and insert:

7 (b) When necessary to definitively identify individual  
 8 conditions or needs, the agency or its designee must ~~shall~~  
 9 provide a comprehensive assessment.

10 (c) If the agency requests additional documentation from  
 11 the applicant or provides or arranges for a comprehensive  
 12 assessment, the agency's eligibility determination must be  
 13 completed within 90 days after receipt of the signed application  
 14 ~~Only applicants whose domicile is in Florida are eligible for~~  
 15 ~~services.~~

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16        (2) In order to be eligible for services under this  
17 chapter, the agency must determine that the applicant has met  
18 all eligibility procedures and criteria found in rule, including  
19 having a developmental disability and being domiciled in this  
20 state. Information accumulated by other agencies, including  
21 professional reports and collateral data, shall be considered in  
22 this process when available.

23        ~~(2) In order to provide immediate services or crisis~~  
24 ~~intervention to applicants, the agency shall arrange for~~  
25 ~~emergency eligibility determination, with a full eligibility~~  
26 ~~review to be accomplished within 45 days of the emergency~~  
27 ~~eligibility determination.~~

28        (3) The agency, or its designee, shall notify each  
29 applicant, in writing, of its eligibility determination  
30 ~~decision~~. Any applicant or client determined by the agency to be  
31 ineligible for services has the right to appeal this  
32 determination decision pursuant to ss. 120.569 and 120.57.

33        (4) Before admission to an intermediate care facility for  
34 individuals with intellectual disabilities and to ensure that  
35 the setting is the least restrictive to meet the individual's  
36 needs, the agency must authorize the admission pursuant to this  
37 subsection. As part of the authorization, the agency, or its  
38 designee, must conduct a comprehensive assessment that includes  
39 medical necessity, level of care, and level of reimbursement ~~The~~  
40 ~~agency shall assess the level of need and medical necessity for~~

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41 ~~prospective residents of intermediate care facilities for the~~  
42 ~~developmentally disabled. The agency may enter into an agreement~~  
43 ~~with the Department of Elderly Affairs for its Comprehensive~~  
44 ~~Assessment and Review for Long-Term-Care Services (CARES)~~  
45 ~~program to conduct assessments to determine the level of need~~  
46 ~~and medical necessity for long-term-care services under this~~  
47 ~~chapter. To the extent permissible under federal law, the~~  
48 ~~assessments shall be funded under Title XIX of the Social~~  
49 ~~Security Act.~~

50 (5) Except as provided in subsection (7), if a client  
51 seeking enrollment in the developmental disabilities home and  
52 community-based services Medicaid waiver program meets the level  
53 of care requirement for an intermediate care facility for  
54 individuals with intellectual disabilities pursuant to 42 C.F.R.  
55 ss. 435.217(b) (1) and 440.150, the agency must shall assign the  
56 client to an appropriate enrollment category based on the  
57 criteria outlined below and must provide priority to clients  
58 waiting for waiver services in the following order:

59 (a) Category 1, which includes clients deemed to be in  
60 crisis as described in rule, must shall be given first priority  
61 in moving from the preenrollment categories ~~waiting list~~ to the  
62 waiver.

63 (b) Category 2, which includes clients in the  
64 preenrollment categories ~~individuals on the waiting list~~ who  
65 are:

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66 1. From the child welfare system with an open case in the  
67 Department of Children and Families' statewide automated child  
68 welfare information system and who are either:

69 a. Transitioning out of the child welfare system into  
70 permanency at the finalization of an adoption, a reunification  
71 with family members, a permanent placement with a relative, or a  
72 guardianship with a nonrelative; or

73 b. At least 18 years but not yet 22 years of age and who  
74 need both waiver services and extended foster care services; or

75 2. At least 18 years but not yet 22 years of age and who  
76 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the  
77 extended foster care system.

78  
79 For individuals who are at least 18 years but not yet 22  
80 years of age and who are eligible under sub-subparagraph 1.b.,  
81 the agency must ~~shall~~ provide waiver services, including  
82 residential habilitation, and the community-based care lead  
83 agency must ~~shall~~ fund room and board at the rate established in  
84 s. 409.145(3) and provide case management and related services  
85 as defined in s. 409.986(3)(e). Individuals may receive both  
86 waiver services and services under s. 39.6251. Services may not  
87 duplicate services available through the Medicaid state plan.

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

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90 1. Whose caregiver has a documented condition that is  
91 expected to render the caregiver unable to provide care within  
92 the next 12 months and for whom a caregiver is required but no  
93 alternate caregiver is available;

94 2. At substantial risk of incarceration or court  
95 commitment without supports;

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

99 4. Who are identified as ready for discharge within the  
100 next year from a state mental health hospital or skilled nursing  
101 facility and who require a caregiver but for whom no caregiver  
102 is available or whose caregiver is unable to provide the care  
103 needed.

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

108 (e) Category 5, which includes, but is not required to be  
109 limited to, clients who are expected to graduate within the next  
110 12 months from secondary school and need support to obtain a  
111 meaningful day activity, maintain competitive employment, or  
112 pursue an accredited program of postsecondary education to which  
113 they have been accepted.

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

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

120  
121 Within categories 3, 4, 5, 6, and 7, the agency shall maintain a  
122 waiting list of clients placed in the order of the date that the  
123 client is determined eligible for waiver services.

124 (6) The agency must ~~shall~~ allow an individual who meets  
125 the eligibility requirements of subsection (2) ~~subsection (1)~~ to  
126 receive home and community-based services in this state if the  
127 individual's parent or legal guardian is an active-duty military  
128 servicemember and if, at the time of the servicemember's  
129 transfer to this state, the individual was receiving home and  
130 community-based services in another state.

131 (7) The agency must ~~shall~~ allow an individual with a  
132 diagnosis of Phelan-McDermid syndrome who meets the eligibility  
133 requirements of subsection (2) ~~subsection (1)~~ to receive home  
134 and community-based services.

135 (8) Only a client may be eligible for services under the  
136 developmental disabilities home and community-based services  
137 Medicaid waiver program. For a client to receive services under  
138 the developmental disabilities home and community-based services

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139 Medicaid waiver program, there must be available funding  
140 pursuant to s. 393.0662 or through a legislative appropriation  
141 and the client must meet all of the following:

142 (a) The eligibility criteria in subsection (2), which must  
143 be confirmed by the agency.

144 (b) Eligibility requirements for the Florida Medicaid  
145 program under Title XIX of the Social Security Act, as amended,  
146 or the Supplemental Security Income program.

147 (c) The level of care requirements for an intermediate  
148 care facility for individuals with developmental disabilities  
149 pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150.

150 (d) The requirements provided in the approved federal  
151 waiver authorized pursuant to s. 1915(c) of the Social Security  
152 Act and 42 C.F.R. s. 441.302.

153 (9)-(8) Agency action that selects individuals to receive  
154 waiver services pursuant to this section does not establish a  
155 right to a hearing or an administrative proceeding under chapter  
156 120 for individuals remaining in the preenrollment categories ~~on~~  
157 ~~the waiting list.~~

158 (10)-(9) The client, the client's guardian, or the client's  
159 family must ensure that accurate, up-to-date contact information  
160 is provided to the agency at all times. Notwithstanding s.  
161 393.0651, the agency must ~~shall~~ send an annual letter requesting  
162 updated information from the client, the client's guardian, or  
163 the client's family. The agency must ~~shall~~ remove from the

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164 preenrollment categories ~~waiting list~~ any individual who cannot  
165 be located using the contact information provided to the agency,  
166 fails to meet eligibility requirements, or becomes domiciled  
167 outside the state.

168 (11) (a) ~~(10) (a)~~ The agency must ~~shall~~ provide the following  
169 information to all applicants or their parents, legal guardians,  
170 or family members:

171 1. A brief overview of the vocational rehabilitation  
172 services offered through the Division of Vocational  
173 Rehabilitation of the Department of Education, including a  
174 hyperlink or website address that provides access to the  
175 application for such services;

176 2. A brief overview of the Florida ABLE program as  
177 established under s. 1009.986, including a hyperlink or website  
178 address that provides access to the application for establishing  
179 an ABLE account as defined in s. 1009.986(2);

180 3. A brief overview of the supplemental security income  
181 benefits and social security disability income benefits  
182 available under Title XVI of the Social Security Act, as  
183 amended, including a hyperlink or website address that provides  
184 access to the application for such benefits;

185 4. A statement indicating that the applicant's local  
186 public school district may provide specialized instructional  
187 services, including transition programs, for students with  
188 special education needs;

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189           5. A brief overview of programs and services funded  
 190 through the Florida Center for Students with Unique Abilities,  
 191 including contact information for each state-approved Florida  
 192 Postsecondary Comprehensive Transition Program;

193           6. A brief overview of decisionmaking options for  
 194 individuals with disabilities, guardianship under chapter 744,  
 195 and alternatives to guardianship as defined in s. 744.334(1),  
 196 which may include contact information for organizations that the  
 197 agency believes would be helpful in assisting with such  
 198 decisions;

199           7. A brief overview of the referral tools made available  
 200 through the agency, including a hyperlink or website address  
 201 that provides access to such tools; and

202           8. A statement indicating that some waiver providers may  
 203 serve private-pay individuals.

204           (b) The agency must provide the information required in  
 205 paragraph (a) in writing to an applicant or his or her parent,  
 206 legal guardian, or family member along with a written disclosure  
 207 statement in substantially the following form:

208  
 209                                       DISCLOSURE STATEMENT

210  
 211           Each program and service has its own eligibility  
 212 requirements. By providing the information specified in section  
 213 393.065(11)(a) ~~393.065(10)(a)~~, Florida Statutes, the agency does

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214 not guarantee an applicant's eligibility for or enrollment in  
215 any program or service.

216 (c) The agency must ~~shall~~ also publish the information  
217 required in paragraph (a) and the disclosure statement in  
218 paragraph (b) on its website, and must ~~shall~~ provide that  
219 information and statement annually to each client applicant  
220 placed in the preenrollment categories ~~on the waiting list~~ or to  
221 the parent, legal guardian, or family member of such client  
222 applicant.

223 ~~(12)-(11)~~ The agency and the Agency for Health Care  
224 Administration may adopt rules specifying application  
225 procedures, criteria associated with the preenrollment ~~waiting~~  
226 ~~list~~ categories, procedures for administering the preenrollment  
227 categories ~~waiting list~~, including tools for prioritizing waiver  
228 enrollment within categories, and eligibility criteria as needed  
229 to administer this section.

230 Section 3. Section 393.0651, Florida Statutes, is amended  
231 to read:

232 393.0651 Family or individual support plan.—The agency  
233 shall provide directly or contract for the development of a  
234 family support plan for children ages 3 to 18 years of age and  
235 an individual support plan for each client. The client, if  
236 competent, the client's parent or guardian, or, when  
237 appropriate, the client advocate, shall be consulted in the  
238 development of the plan and shall receive a copy of the plan.

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239 Each plan must include the most appropriate, least restrictive,  
240 and most cost-beneficial environment for accomplishment of the  
241 objectives for client progress and a specification of all  
242 services authorized. The plan must include provisions for the  
243 most appropriate level of care for the client. Within the  
244 specification of needs and services for each client, when  
245 residential care is necessary, the agency shall move toward  
246 placement of clients in residential facilities based within the  
247 client's community. The ultimate goal of each plan, whenever  
248 possible, shall be to enable the client to live a dignified life  
249 in the least restrictive setting, be that in the home or in the  
250 community. ~~For children under 6 years of age, The family or~~  
251 individual support plan must shall be developed within 60 days  
252 after the agency determines the client eligible pursuant to s.  
253 393.065(3) the 45-day application period as specified in s.  
254 ~~393.065(1); for all applicants 6 years of age or older, the~~  
255 ~~family or individual support plan shall be developed within the~~  
256 ~~60-day period as specified in that subsection.~~

257 (1) The agency shall develop and specify by rule the core  
258 components of support plans.

259 (2) The family or individual support plan shall be  
260 integrated with the individual education plan (IEP) for all  
261 clients who are public school students entitled to a free  
262 appropriate public education under the Individuals with  
263 Disabilities Education Act, I.D.E.A., as amended. The family or

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264 individual support plan and IEP must ~~shall~~ be implemented to  
265 maximize the attainment of educational and habilitation goals.

266 (a) If the IEP for a student enrolled in a public school  
267 program indicates placement in a public or private residential  
268 program is necessary to provide special education and related  
269 services to a client, the local education agency must ~~shall~~  
270 provide for the costs of that service in accordance with the  
271 requirements of the Individuals with Disabilities Education Act,  
272 I.D.E.A., as amended. This does ~~shall~~ not preclude local  
273 education agencies and the agency from sharing the residential  
274 service costs of students who are clients and require  
275 residential placement.

276 (b) For clients who are entering or exiting the school  
277 system, an interdepartmental staffing team composed of  
278 representatives of the agency and the local school system shall  
279 develop a written transitional living and training plan with the  
280 participation of the client or with the parent or guardian of  
281 the client, or the client advocate, as appropriate.

282 (3) Each family or individual support plan shall be  
283 facilitated through case management designed solely to advance  
284 the individual needs of the client.

285 (4) In the development of the family or individual support  
286 plan, a client advocate may be appointed by the support planning  
287 team for a client who is a minor or for a client who is not  
288 capable of express and informed consent when:

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- 289           (a) The parent or guardian cannot be identified;  
290           (b) The whereabouts of the parent or guardian cannot be  
291 discovered; or  
292           (c) The state is the only legal representative of the  
293 client.  
294  
295 Such appointment may ~~shall~~ not be construed to extend the powers  
296 of the client advocate to include any of those powers delegated  
297 by law to a legal guardian.  
298  
299