

1 A bill to be entitled
 2 An act relating to developmental disability treatment
 3 services; amending s. 393.065, F.S.; requiring the
 4 Agency for Persons with Disabilities to make certain
 5 eligibility determinations within specified time
 6 periods; providing eligibility requirements for
 7 applicants; requiring the agency to authorize
 8 admission into an intermediate care facility;
 9 providing requirements for such authorization;
 10 deleting a provision requiring the agency to perform
 11 specified assessments to determine level of need and
 12 medical necessity for intermediate care facilities;
 13 revising requirements for a client waiting for waiver
 14 services; providing requirements for the home and
 15 community-based services Medicaid waiver program;
 16 providing an effective date.

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

19
 20 Section 1. Subsections (6), (7), (8), (9), (10), and (11)
 21 of section 393.065, Florida Statutes, are renumbered as
 22 subsections (8), (9), (10), (12), (13), and (14), respectively,
 23 subsections (1) through (5) are amended, and new subsections
 24 (2), (6), (7), and (11) are added to that section, to read:
 25 393.065 Application and eligibility determination.—

26 (1) Application for services shall be made in writing to
27 the agency, in the region ~~service area~~ in which the applicant
28 resides. The agency shall review each application and make an
29 ~~applicant for eligibility determination~~ within 45 days after the
30 ~~date the application is signed for children under 6 years of age~~
31 ~~and~~ within 60 days after receipt of the date the application is
32 signed application for all other applicants. If an applicant is
33 requesting enrollment in the home and community-based services
34 Medicaid waiver program for individuals with developmental
35 disabilities deemed to be in crisis, as described in paragraph
36 (5)(a), at the time of the application, the agency shall
37 complete an eligibility determination within 45 days after
38 receipt of the signed application.

39 (a) If the agency determines additional documentation is
40 necessary to make a proper determination on an applicant's
41 eligibility, the agency may request the additional documentation
42 from the applicant.

43 (b) When necessary to definitively identify individual
44 conditions or needs, the agency shall provide a comprehensive
45 assessment.

46 (c) If the agency requests additional documentation from
47 the applicant or provides a comprehensive assessment, the
48 agency's eligibility determination must be completed within 90
49 days after receipt of the signed application ~~Only applicants~~
50 ~~whose domicile is in Florida are eligible for services.~~

51 (2) In order to be eligible for services under this
52 chapter, the agency must determine that the applicant has met
53 all eligibility procedures and criteria found in rule, including
54 that the applicant has a developmental disability and is
55 domiciled in this state. Information accumulated by other
56 agencies, including professional reports and collateral data,
57 shall be considered in this process when available.

58 ~~(2) In order to provide immediate services or crisis~~
59 ~~intervention to applicants, the agency shall arrange for~~
60 ~~emergency eligibility determination, with a full eligibility~~
61 ~~review to be accomplished within 45 days of the emergency~~
62 ~~eligibility determination.~~

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

68 (4) The agency must authorize admission into an
69 intermediate care facility for a developmentally disabled
70 individual. As a part of authorization, the agency, or its
71 designee, shall conduct an assessment to include medical
72 necessity and level of reimbursement ~~shall assess the level of~~
73 ~~need and medical necessity for prospective residents of~~
74 ~~intermediate care facilities for the developmentally disabled.~~
75 ~~The agency may enter into an agreement with the Department of~~

76 ~~Elderly Affairs for its Comprehensive Assessment and Review for~~
 77 ~~Long-Term-Care Services (CARES) program to conduct assessments~~
 78 ~~to determine the level of need and medical necessity for long-~~
 79 ~~term-care services under this chapter. To the extent permissible~~
 80 ~~under federal law, the assessments shall be funded under Title~~
 81 ~~XIX of the Social Security Act.~~

82 (5) The agency shall assign any client that meets the
 83 level of care requirements for an intermediate care facility for
 84 individuals with intellectual disabilities pursuant to 42 C.F.R.
 85 s. 435.217(b)(1) and 42 C.F.R. s. 440.150 to a waiting list and
 86 provide priority to clients waiting for waiver services in the
 87 following order:

88 (a) Category 1, which includes clients deemed to be in
 89 crisis as described in rule, shall be given first priority in
 90 moving from the waiting list to the waiver.

91 (b) Category 2, which includes individuals on the waiting
 92 list who are:

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

96 a. Transitioning out of the child welfare system at the
 97 finalization of an adoption, a reunification with family
 98 members, a permanent placement with a relative, or a
 99 guardianship with a nonrelative; or

100 b. At least 18 years but not yet 22 years of age and who

101 need both waiver services and extended foster care services; or
 102 2. At least 18 years but not yet 22 years of age and who
 103 withdrew consent pursuant to s. 39.6251(5) (c) to remain in the
 104 extended foster care system.

105
 106 For individuals who are at least 18 years but not yet 22 years
 107 of age and who are eligible under sub-subparagraph 1.b., the
 108 agency shall provide waiver services, including residential
 109 habilitation, and the community-based care lead agency shall
 110 fund room and board at the rate established in s. 409.145(3) and
 111 provide case management and related services as defined in s.
 112 409.986(3) (e). Individuals may receive both waiver services and
 113 services under s. 39.6251. Services may not duplicate services
 114 available through the Medicaid state plan.

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

117 1. Whose caregiver has a documented condition that is
 118 expected to render the caregiver unable to provide care within
 119 the next 12 months and for whom a caregiver is required but no
 120 alternate caregiver is available;

121 2. At substantial risk of incarceration or court
 122 commitment without supports;

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

126 4. Who are identified as ready for discharge within the
127 next year from a state mental health hospital or skilled nursing
128 facility and who require a caregiver but for whom no caregiver
129 is available or whose caregiver is unable to provide the care
130 needed.

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

135 (e) Category 5, which includes, but is not required to be
136 limited to, clients who are expected to graduate within the next
137 12 months from secondary school and need support to obtain a
138 meaningful day activity, maintain competitive employment, or
139 pursue an accredited program of postsecondary education to which
140 they have been accepted.

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

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

147 (6) Within categories 3, 4, 5, and 6, ~~and 7~~, the agency
148 shall maintain a waiting list of clients placed in the order of
149 the date that the client is determined eligible for waiver
150 services.

151 (7) The agency shall maintain a registration list of
 152 clients who meet the level of care requirement for an
 153 intermediate care facility for individuals with intellectual
 154 disabilities pursuant to 42 C.F.R. s. 435.217(b) (1) and 42
 155 C.F.R. s. 440.150 and who is:

156 (a) An individual under the age of 21 who is requesting
 157 and not receiving waiver services and who is not assigned to
 158 categories 1, 2, 3, 4, or 5; or

159 (b) An adult who resides in an institutional setting,
 160 including, but not limited to, a penal institution, intermediate
 161 care facility for the developmentally disabled, mental health
 162 hospital, nursing home, or forensic facility run by the agency
 163 pursuant to chapter 916.

164 (11) Only a client may be eligible for the home and
 165 community-based services Medicaid waiver program. To receive
 166 services under the home and community-based services Medicaid
 167 waiver program, there must be available funding pursuant to s.
 168 393.0662, or through a legislative appropriation, and the client
 169 must meet all of the following:

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

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

175 (c) The level of care requirements for an intermediate

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176 | care facility for individuals with developmental disabilities
177 | pursuant to 42 C.F.R. s. 435.217(b)(1) and 42 C.F.R. s. 440.150.

178 | (d) The requirements provided in the approved federal
179 | waiver authorized under s. 1915(c) of the Social Security Act
180 | and 42 C.F.R. s. 441.302.

181 | Section 2. This act shall take effect July 1, 2023.