

**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.)

Prepared By: The Professional Staff of the Budget Committee

**BILL:** SPB 7178

**INTRODUCER:** For consideration by the Budget Committee

**SUBJECT:** Agency for Persons with Disabilities

**DATE:** March 29, 2011

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bradford	Meyer, C.	BC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill prohibits the Agency for Persons with Disabilities (APD) from expending funds for Medicaid Waiver services above the amount of funds appropriated in the General Appropriations Act.

There is a potential impact to service providers and residential providers if rates have to be reduced to curtail deficit spending. Some clients on the waiver may have to be placed in institutions if providers are not able to maintain service levels at an increased cost to the state. These increased costs to the public sector and the state are indeterminate.

There is a positive fiscal impact to the state projected to be over \$50 million annually from the General Revenue Fund by not incurring additional costs related to ongoing deficits.

**II. Present Situation:**

Historically the APD has overspent their appropriations in the Home and Community Based Services Waiver within the Home and Community Services Program. The Department of Elder Affairs and Department of Children and Families both have similar waiver programs and have implemented procedures to maintain expenditures with their appropriations.

Each month, the Agency for Persons with Disabilities (APD) serves approximately 30,000 people across Florida who have autism, mental retardation, spina bifida, cerebral palsy, or Prader-Willi syndrome, or who are children aged 3 to 5 at high risk of being diagnosed with a

developmental disability. The great majority of APD's services are provided through four Medicaid waivers administered by the agency.

The agency has long had problems keeping waiver spending in line with its appropriation. In Fiscal Year 2005-2006, APD was required<sup>1</sup> to provide quarterly reports to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee, and the chair of the House Fiscal Council regarding the financial status of the home and community based services waivers. In addition, APD was notified that:

If at any time, based upon an analysis by the agency, the cost of waiver services are expected to exceed the appropriated amount, based on the current rates as implemented November 1, 2003, the agency shall implement any adjustment necessary . . . , to stay within the appropriation. . . . [The agency is to] continue to design and implement edits in the Florida Medicaid Management Information System, institute other system controls, and work to establish billing controls and claims reconciliation processes needed to properly manage the developmental services waivers.<sup>2</sup>

In October 2008, in a presentation on its 2009-2010 Legislative Budget Request, the agency reported "significant progress" in managing the waivers. In early 2007, the projected deficit was over \$150 million; as of June 30, 2008, the deficit was "virtually eliminated."<sup>3</sup>

Despite that projection, by March 2009, the agency requested \$26 million to cover the remaining Medicaid waiver deficit.<sup>4</sup> In February 2010, APD's budget recommendation included a request for \$100 million to eliminate the projected deficit in the Medicaid waiver.<sup>5</sup>

In its most latest quarterly report, the agency's Fiscal Year 2010-11 Waiver Budget Forecast projects a \$35.9 million deficit (after accounting for \$76 million in anticipated savings associated with certain policy changes).<sup>6</sup> The most recent deficit calculated in March is nearing \$169.3, of which \$59.6 million is General Revenue, because some of the assumptions made by the agency did not occur.

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<sup>1</sup> Chapter 2005-70 and Chapter 2005-71, L.O.F. The next year, the Legislature codified the requirement for quarterly reports in s. 393.0611(8), F.S.

<sup>2</sup> To implement Specific Appropriations 604 through 614, Chapter 2005-70, L.O.F.

<sup>3</sup> Legislative Budget Request Fiscal Year 2009-10, Agency for Persons with Disabilities, presentation by Jim DeBeaugrine, October 31, 2009. Available at <http://www.apd.myflorida.com/publications/reports/docs/lbr-presentation-10-30-2008.pdf> (last visited March 29, 2011).

<sup>4</sup> Message from the Director, *The Champion Stakeholder Newsletter*, March 2009. Available at <http://apd.myflorida.com/champion/2009/march/> (last visited March 29, 2011).

<sup>5</sup> Message from the Director, *The Champion Stakeholder Newsletter*, February 2010. Available at <http://apd.myflorida.com/champion/2010/february/> (last visited March 29, 2011).

<sup>6</sup> Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs, Second Quarter Fiscal Year 2010/2011 (October, November, and December 2010). Submitted February 2011. Available at <http://www.apd.myflorida.com/publications/reports/docs/2010-2011-quarterly-report-2.pdf> (February, 2011).

**III. Effect of Proposed Changes:**

Section 1. Prohibits the Agency for Persons with Disabilities (APD) from expending funds for Medicaid services above the amount of funds appropriated. In order to accomplish this the agency is to work with AHCA, program support coordinators and residential providers to manage individual cost plans and enrollment. A quarterly surplus-deficit report is to be provided to the Governor's Office and the Legislature that outlines the status of waiver expenditures. If a deficit is projected a corrective action plan is to be submitted with the quarterly report outlining what actions the agency plans to take to bring the expenditures within appropriations.

**Other Potential Implications:****IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

**D. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Depending on the corrective action plans developed by the APD there is a potential impact to service providers and residential providers if rates have to be reduced to curtail deficit spending. Some clients on the waiver may have to be placed in institutions if providers are not able to maintain service levels. Another impact may be an increased number of individuals requesting waiver services staying on the waiting list if enrollment is restricted.

**C. Government Sector Impact:**

In past years the deficit has been reduced by paying for services through a combination of surplus trust fund cash, agency realignment of funds from other operating categories, and additional General Revenue appropriations. Even with the attempt to reduce the deficit an amount has been carried forward into the next fiscal year resulting in a reduced amount of funds to provide services to individuals. Potential savings to the state may vary but will be substantial.

Deficits in each of the last fiscal 4 years (these amounts include deficits carried over from previous years):

<u>Fiscal Year</u>	<u>General Revenue</u>	<u>Trust Fund</u>	<u>Total</u>
2006-2007	\$ (13,098,672)	\$ (18,671,088)	\$ (31,769,760)
2008-2009	\$ (8,670,493)	\$ (18,123,366)	\$ (26,793,859)
2009-2010	\$ (25,693,662)	\$ (53,705,787)	\$ (79,399,449)
2010-2011	\$ (59,557,011)	\$ (109,735,230)	\$ (169,292,241)

**I. Technical Deficiencies:**

None.

**II. Related Issues:**

None.

**III. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
 (Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.