

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Health and Human Services Appropriations Committee

BILL: CS/SB 1124

INTRODUCER: Committee on Health and Human Services Appropriations and Senator Peaden

SUBJECT: Agency for Persons with Disabilities

DATE: March 28, 2007                      REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------|----------------|-----------|--------|
| 1. | Fabricant | Peters         | HA        | Fav/CS |
| 2. | _____     | _____          | _____     | _____  |
| 3. | _____     | _____          | _____     | _____  |
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**I. Summary:**

This bill requires the Agency for Persons with Disabilities (APD), in consultation with the Agency for Health Care Administration (AHCA), to develop a three-tiered waiver system to serve clients with developmental disabilities. Each tier of the waiver system will have requirements and limitations. APD is instructed to seek federal approval to implement changes to the waiver system.

If there is a forecasted budget deficit, APD must work with AHCA to implement a plan to remain within appropriation.

This bill amends section 393.0661 of the Florida Statutes.

**II. Present Situation:**

The Agency for Persons with Disabilities has the responsibility to provide services to persons with developmental disabilities. A developmental disability is a disorder or syndrome attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and constitutes a substantial handicap expected to continue indefinitely. An individual is eligible for services if he/she has a developmental disability, and is three years of age or older. Children who are between the ages of three and five years of age and are at high risk of having a developmental disability are also eligible for services.

Services provided by the agency include community services and supports as well as a limited institutional program. The agency determines eligibility, assesses service needs, and provides funding for purchasing the supports and services identified in assessments. The range of services

and supports available to an individual include employment and training services, environmental adaptive equipment, personal or family supports, residential habilitation, support coordination, and therapeutic supports. There are medical requirements specific to a particular service or support in addition to the general eligibility criteria for services from APD. The majority of services are provided through one of two federal Medicaid waivers.

The developmental disabilities Home and Community Based Services (HCBS) waiver program is a Medicaid funded program and the largest source of funding for APD services. Services provided through the HCBS waiver program enable clients to live in a family setting in their own home or in a licensed residential setting and avoid institutionalization. There is no expenditure cap for the HCBS waiver. Clients receiving services through the HCBS waiver are also eligible for all services in the Medicaid state plan. There were approximately 25,000 clients enrolled in FY 2006-2007.

The Family and Supported Living (FSL) waiver makes services available to clients who live with their family or in their own home. Annual expenditures per client are capped at \$14,792, and fewer services are available under this waiver. Clients are also eligible for all services in the Medicaid state plan. There were approximately 6,000 clients enrolled in FY 2006-2007.

There are over 14,200 citizens on the waitlist for waiver services. In recent years, APD has instituted a number of fiscal and management controls to reduce costs and the waitlist for services. These include a standardized rate structure, prior service authorization, pre-payment billing review, and support coordination. In spite of these controls, the Office of Economic and Demographic Research and APD forecast total deficits in the HCBS waiver category for FY 2007-2008 from \$140 million (APD March 12, 2007) to \$190 million (EDR 12/06/2006). The general revenue portion of these deficits varies from \$63 million to \$85 million.

If a budget deficit is forecasted, APD is required to submit a plan to the Governor, House and Senate to remain within the appropriation.

AHCA is authorized to adopt emergency rules related to adopting rate methodologies. This section of the statutes is non-operational since there are no rate methodologies.

### **III. Effect of Proposed Changes:**

APD, in consultation with AHCA, must develop and implement standards for a three-tiered waiver system to serve clients with developmental disabilities.

Tier one will be limited to clients who:

- 1) Have service needs that exceed \$30,000 for intensive medical or adaptive needs and that are essential to avoid institutionalization; or
- 2) Possess behavioral concerns that are exceptional in intensity, duration, or frequency, and present a substantial risk of harm to themselves or others. Services will not be capped, but must be medically necessary. This tier is similar to the current HCBS waiver.

Tier two will be limited to clients receiving services under the HCBS waiver. The residential rehabilitation services per client will be capped at 8 hours per day and personal care services will be capped at 150 hours per calendar month. The total annual expenditure per client will be capped at \$30,000. All clients receiving services through the HCBS Waiver on March 1, 2007 will be moved to tier two except clients who:

- 1) Have service needs that exceed \$30,000 for intensive medical or adaptive needs and that are essential to avoid institutionalization; or
- 2) Possess behavioral concerns that are exceptional in intensity, duration, or frequency, and present a substantial risk of harm to themselves or others.

Tier three will be the current FSL waiver with a total annual expenditure cap of \$14,792 per client.

APD is required to work with AHCA to carry out the provisions of this bill including implementing limitations or restrictions to the waiver. APD is authorized to adopt rules to administer the waivers.

Deletes an obsolete provision.

APD is required to work with AHCA to implement a deficit reduction plan.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Capping the residential rehabilitation services at eight hours a day will affect approximately 1,600 clients who currently receive more than eight hours a day.

Capping the personal care assistance services at 150 hours per month will affect approximately 668 clients who currently receive more than 150 hours per month.

With these new caps, the new waiver with an expenditure cap of \$30,000 will serve approximately 18,000 to 19,000 clients who currently receive services through the HCBS waiver. This number could vary due to the number of clients who will be exempt because of their intense medical or adaptive needs. The number of clients receiving services through tier one would be approximately 4,000.

**C. Government Sector Impact:**

Capping the residential rehabilitation at eight hours per day and personal care services is estimated to reduce waiver expenditures by approximately \$126.4 million total funds and \$54.5 million general revenue funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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