

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5111 PCB HUSA 09-03 Agency for Persons with Disabilities

SPONSOR(S): Human Services Appropriations Committee, Zapata

TIED BILLS: **IDEN./SIM. BILLS:** SB 1660

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Human Services Appropriations Committee	6 Y, 0 N	Massengale	Massengale
1)	Full Appropriations Council on General Government & Health Care		Massengale	Leznoff
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill makes statutory changes to conform to the funding decisions included in the House proposed General Appropriations Act for Fiscal Year 2009-2010. The bill amends several provisions contained in chapter 393, Florida Statutes, relating to client services and trust accounts in developmental disabilities centers for clients served by the Agency for Persons with Disabilities.

- The bill amends section 393.23, Florida Statutes, to provide flexibility to expenditures from trust accounts in developmental disabilities centers.
- The bill amends section 393.0661(3)(a) and (d), Florida Statutes, to permanently eliminate an expansion of Tier 4 to include all available waiver services.
- The bill amends section 393.0661(3)(f), Florida Statutes, directing the agency to eliminate medication review as a paid service in the waiver. In future, medication reviews will be performed by agency area office nurses.
- The bill eliminates redundancies and duplications between in-home support services, companion services, personal care services and supported living coaching by eliminating or consolidating the services
- The bill also reduces the intensity and frequency of supported employment services to individuals in stable employment situations who have a documented history of at least three years' employment with the same company or in the same industry.
- The bill amends section 393.0661(6), Florida Statutes, to permanently cost plan limit utilization growth to no more than 5 percent.

No specific reduction was made in the Home and Community Based Services Waiver for the limit on cost plan growth, consolidation of day activities and limit on supported employment service as the impact was indeterminate. It is expected, however, that there will be significant savings, which will help to reduce the projected deficit of \$19.1 million.

The House proposed Fiscal Year 2009-2010 General Appropriations Act reduces the home and community based services waiver category, effective October 1, 2009, by \$301,907 (\$97,697 is from the General Revenue Fund). There will be annualized reduction of \$402,543 (\$130,263 from the General Revenue Fund).

The bill provides an effective date of July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Trust Accounts in Developmental Disabilities Centers

Section 393.23, Florida Statutes, authorizes a trust account supported by receipts from donations, operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects and other like activities operated in developmental disabilities centers. The receipts must be deposited in any bank, credit union or savings and loan association authorized by the State Treasury. Moneys in the trust account must be expended for the benefit, education and welfare of clients in accordance with requirements and guidelines established by the Chief Financial Officer. However, donations to the center must be expended in accordance with the intentions of the donor.

Currently, proposed expenditures not meeting the all three requirements, that is, for the benefit, education and welfare of the clients, are not released by the Chief Financial Officer. The bill amends section 393.23, Florida Statutes, by changing the word and to or so that proposed expenditures meeting any of the criteria apply rather than all three.

Tier-Waiver System

The Agency for Persons with Disabilities (APD) and the Agency for Health Care Administration (AHCA) were directed by the 2007 Legislature to implement a four-tiered waiver system to serve clients with development disabilities in the developmental disabilities and family and supported living waivers. APD assigns all clients receiving services through the developmental disabilities waiver to a tier based on a valid assessment instrument, client characteristics, and other assessment methods. AHCA received federal approval to implement all four tiers of the waiver system and APD is currently in the process of implementing the new program.

Tier 1 is for clients who have intensive medical or adaptive needs or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others. Total annual expenditures are not capped.

Tier 2 is for clients whose service needs include a licensed residential facility and who are authorized to receive a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services or clients in supported living who receive greater than 6 hours a day of in-home support services. Total annual expenditures may not exceed \$55,000.

Tier 3 is for clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures may not exceed \$35,000 per client.

Tier 4 services include adult day training, coaching, personal care assistance, environmental modifications, behavioral services, respite, transportation, supported employment, and in-home supports. Total annual expenditures are capped at \$14,792.

Where appropriate, all services that are covered under the current development disabilities waiver are available to all clients in all tiers, except Tier 4 until July 1, 2009, at which time clients would be able to receive all available services. Because an appropriation to support the expansion of services within this tier is not included in the House proposed Fiscal Year 2009-2010 General Appropriations Act, the bill amends section 393.0661(3)(a) and (d), Florida Statutes, to permanently eliminate this expansion.

In addition, the bill amends section 393.0661(3)(f), Florida Statutes, directing the agency to eliminate medication review as a paid service in the waiver. In future, medication reviews will be performed by agency area office nurses.

The bill eliminates redundancies and duplications between in-home support services, companion services, personal care services and supported living coaching by eliminating or consolidating the services

The bill also reduces the intensity and frequency of supported employment services to individuals in stable employment situations who have a documented history of at least three years' employment with the same company or in the same industry.

The House proposed Fiscal Year 2009-2010 General Appropriations Act reduces the home and community based services waiver category, effective October 1, 2009, by \$301,907 (\$97,697 is from the General Revenue Fund). There will be annualized reduction of \$402,543 (\$130,263 from the General Revenue Fund).

Cost Plans for Medicaid Waiver Programs

The 2007 Legislature directed the agency in section 393.0661 (3)(f)(9), Florida Statutes, to extend support plans for clients receiving services under the Medicaid waivers for one year beginning July 1, 2007 or from the date when federal approval was received. A support plan is plan that includes the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized. The plan includes provisions for the most appropriate level of care for the client. The cost plan is a plan of services that reflects the individual and total cost of services covered by a Medicaid waiver program for an enrolled person with a developmental disability. These plans are required to be updated annually and can be adjusted more frequently when an individual's needs change or when additional services are requested.

The 2008 Legislature directed the agency to adjust a client's cost plan to reflect the amount of expenditures for the previous fiscal year plus 5 percent and provides a mechanism for adjustment if the client was not served the entire fiscal year. This provision was intended to control the growth in utilization of waiver services by limiting the increase to the previous year's spend plus 5 percent if the calculated amount is less than the individual's existing cost plan. The projected savings was roughly \$20 million. This provision will expire June 30, 2009, unless re-enacted by the Legislature.

Because an appropriation to support any utilization increase beyond 5 percent is not included in the House proposed 2009-10 General Appropriations Act, the bill amends section 393.0661(6), Florida Statutes, to permanently limit utilization growth to no more than 5 percent.

B. SECTION DIRECTORY:

Section 1. Amends s. 393.23, F.S., relating to developmental disabilities centers and trust accounts.

Section 2. Amends s. 393.0661(3), F.S., relating to home and community-based services delivery system.

Section 3. Amends s. 393.0661(6), F.S., relating to home and community-based services delivery system

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

	<u>FY 2009-10</u>	<u>FY 2010-11</u>
Home and Community Based Services Waiver		
General Revenue	(\$97,697)	(\$32,566)
Operations and Maintenance Trust Fund	(\$204,210)	(\$68,070)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Waiver service provider could see a reduction in payments from the limitation and consolidations of services.

D. FISCAL COMMENTS:

No specific reduction was made in the Home and Community Based Services Waiver for the limit on cost plan growth, consolidation of day activities and limit on supported employment service as the impact was indeterminate. It is expected, however, that there will be significant savings, which will help to reduce the projected deficit of \$19.1 million.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Agency for Persons with Disabilities has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES