

65GER09-7 Tier Waivers.

(1) The Agency for Persons with Disabilities will assign clients of home and community-based waiver services for persons with developmental disabilities to one of the four Tier Waivers created by Section 393.0661, F.S. The Agency will determine the Tier Waiver for which each client is eligible and assign the client to that waiver based on the developmental disabilities waiver criteria and limitations contained in the following provisions: Sections 409.906(13) and 393.0661, F.S.; and Rules 59G-13.080 and 59G-13.083, F.A.C. These criteria include:

(a) The client's needs in functional, medical, and behavioral areas, as reflected in the client's approved cost plan.

(b) The client's cost plan is developed through Agency evaluation of client characteristics, the Agency approved assessment process, support planning information, and the Agency's prior service authorization process.

(c) The services listed below in paragraph (5), when authorized in an approved cost plan, shall be key indicators of a tier assignment because they directly reflect the level of medical, adaptive or behavioral needs of a client.

(d) The client needs considered in tier assignments are only those services approved through the prior service authorization process to be medically necessary;

(e) The client's current living setting; and

(f) The availability of supports and services from other sources, including Medicaid state plan and other federal, state and local programs as well as natural and community supports.

(2) As part of the assessment process, the Individual Cost Guidelines (ICG) and the Questionnaire for Situational Information 4.0 (QSI) are hereby adopted by the Agency as valid and reliable assessment instruments. The ICG and the QSI are available at: <http://apd.myflorida.com/waiver/qsi-version-4.pdf>, or <http://apd.myflorida.com/waiver/>. The ICG is only valid through December 31, 2009. The QSI is valid in all other instances.

(3) The services described by the Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007 (available at: [http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/CL_08_070701_Waiver_DevSev_ver1%203%20\(2\).pdf](http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/CL_08_070701_Waiver_DevSev_ver1%203%20(2).pdf) or <http://apd.myflorida.com/waiver/> (hereinafter referred to as the “DD Handbook”), adopted by Rule 59G-13.083, F.A.C. and incorporated herein by reference, are available to clients of the Developmental Disabilities Waiver (hereinafter called “the Tier One Waiver”), the Developmental Disabilities Tier Two Waiver (hereinafter called “the Tier Two Waiver”), and Developmental Disabilities Tier Three Waiver (hereinafter called “the Tier Three Waiver”). The following services described in the DD Handbook are available to clients assigned to the Tier Four Waiver (presently known as The Family and Supported Living Waiver):

- (a) Adult Day Training;
- (b) Behavior Analysis;
- (c) Behavior Assistance;
- (d) Consumable Medical Supplies;
- (e) Durable Medical Equipment;

(f) Environmental Accessibility Adaptations;

(g) In-Home Support Service;

(h) Personal Emergency Response System;

(i) Respite Care;

(j) Support Coordination;

(k) Supported Employment;

(l) Supported Living Coaching; and

(m) Transportation.

(4) For all Tiers the client must utilize all available State Plan Medicaid services including, but not limited to, personal care assistance, therapies, medical services, and nursing services, that duplicate the waiver services proposed for the client. A client shall not be provided waiver services that duplicate available State Plan Medicaid Services including, but not limited to, personal care assistance, therapies, medical services, and nursing services.

(5) The Agency will review a client's tier eligibility when a client has a significant change in circumstance or condition that impacts on the client's health, safety, or welfare or when a change in the client's plan of care is required to avoid institutionalization. The information identifying and documenting a significant change in circumstance or condition that necessitates additional or different services must be submitted by the client's Waiver Support Coordinator to the appropriate Agency Area office for determination.

(6) The following services, if approved through the Agency's prior authorization process, will be used as the basis for making a tier assignment or determining whether a tier change is required:

(a) Personal Care Assistance;

(b) Behavior Analysis;

(c) Behavior Assistance;

(d) Supported Living Coaching;

(e) In-home Supports;

(f) Skilled, Residential or Private Duty Nursing Services;

(g) Intensive Behavioral Residential Habilitation Services;

(h) Behavior Focus Residential Habilitation Services at the moderate or above level of support;

(i) Behavior Focus Residential Habilitation Services at the minimal level of support;

(j) Standard Residential Habilitation at the extensive 1, or higher, level of support;

(k) Standard Residential Habilitation at the moderate level of support;

(l) Live-in Residential Habilitation;

(m) Special Medical Home Care;

(n) Occupational Therapy;

(o) Physical Therapy;

(p) Speech Therapy;

(q) Respiratory Therapy;

(r) Specialized Mental Health Services; or

(s) ADT at the 1:1 ratio.

(7) In determining tier level assignment for clients with behavioral needs, the Agency may consider less costly services not listed in paragraph (6) for those clients who choose less costly services to address a documented behavioral need.

Rulemaking Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS.

65GER09-8 Tier One Waiver.

(1) The Tier One Waiver is limited to clients that the Agency has determined meet at least one of the following criteria:

(a) The client's needs for medical or adaptive services are intense and cannot be met in Tiers Two, Three, and Four and are essential for avoiding institutionalization, or

(b) The client possesses behavioral problems that are exceptional in intensity, duration, or frequency with resulting service needs that cannot be met in Tiers Two, Three, and Four, and the client presents a substantial risk of harm to themselves or others.

(2) Tier One shall include, but is not limited to clients who are authorized by the Agency to receive the following services which are defined in the DD Handbook:

(a) 180 hours or more per month of intensive Personal Care Assistance;

(b) Supported Living Coaching and In-home Supports, in combination with any of the following additional services: Physical Therapy, Occupational Therapy, Respiratory Therapy or Behavior Analysis;

(c) Behavior analysis and Behavior Assistance services of sixty or more hours per month, if living in the family home; or

(d) Four or more hours per day of continuous Nursing Services.

(3) Clients living in a licensed residential facility receiving any of the following services, defined in Rule 59G-13.084, shall be assigned to the Tier One Waiver:

(a) Intensive Behavioral Residential Habilitation services;

(b) Behavior Focus Residential Habilitation services at the moderate or above level of support; or

(c) Standard Residential Habilitation at the extensive 1, or higher, level of support; or

(d) Special Medical Home Care, as defined in the DD Handbook.

(4) Needs for services described in subsections (2) and (3) that can be met through the Tier Two, Tier Three, or Tier Four Waivers are not “services” or “service needs” that support assignment to the Tier One Waiver.

Rulemaking Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS.

65GER09-9 Tier Two Waiver.

The total budget in a cost plan year for each Tier Two Waiver client shall not exceed \$55,000. The Tier Two Waiver is limited to clients who meet the following criteria:

(1) The client’s service needs include placement in a licensed residential facility and authorization for a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services as defined in the DD Handbook; or

(2) The client is in supported living and is authorized to receive more than six hours a day of in-home support services. Supported living and in-home support services are defined in the DD Handbook.

Rulemaking Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS.

65GER09-10 Tier Three Waiver.

The total budget in a cost plan year for each Tier Three Waiver client shall not exceed \$35,000. A client must meet at least one of the following criteria for assignment to the Tier Three Waiver:

(1) The client resides in a licensed residential facility and is not eligible for the Tier One Waiver or the Tier Two Waiver; or

(2) The client resides in their own home, is authorized by the Agency to receive in-home support services and is not eligible for the Tier One Waiver or the Tier Two Waiver and the need for these services cannot be met in Tier Four; or

(3) The client is authorized by the Agency to receive personal care assistance services at the standard or moderate level of support as defined in the DD Handbook.

(4) The client is authorized by the Agency to receive Skilled or Private Duty Nursing Services and is not eligible for the Tier One Waiver or the Tier Two Waiver; or

(5) The client is authorized by the Agency to receive services of a behavior analyst and/or a behavior assistant and the need for these services cannot be met in Tier Four.

(6) The client is authorized by the agency to receive at least one of the following services:

(a) Occupational Therapy;

(b) Physical Therapy;

(c) Speech Therapy; or

(d) Respiratory Therapy.

(7) All services described in this rule are defined in the DD Handbook.

Rulemaking Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS.

65GER09-11 Tier Four Waiver.

(1) The total budget in a cost plan year for each Tier Four Waiver client shall not exceed \$14,792 per year.

(2) Clients who are not eligible for assignment to the Tier One Waiver, the Tier Two Waiver, or the Tier Three Waiver shall be assigned to the Tier Four Waiver:

Rulemaking Authority 393.0661(3) FS. Law Implemented 393.0661(3) FS.