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CONTACT:

Melanie Mowry Eters
Communications Director
(850) 488-4257

Judge Upholds Rule On Disability Waivers

TALLAHASSEE, FL - A judge has issued a final order in favor of new rules concerning the delivery of services to Floridians with developmental disabilities. Administrative Law Judge Eleanor Hunter ordered today that the rules established by the state Agency for Persons with Disabilities (APD) are "not invalid exercises of delegated legislative authority."

In 2007, the Florida Legislature required APD to establish four tiers for the state's Medicaid developmental disability waivers. The tiers are based on levels of need. Three of those levels will have annual caps on spending. The Advocacy Center for Persons with Disabilities had brought a lawsuit before the Division of Administrative Hearings to challenge APD's rules for implementation of the tiers. Today's ruling permits APD to proceed with implementation of the Legislature's requirements.

APD Interim Director Jim DeBeaugrine said, "Our agency works hard to comply with the law, and today's ruling supports that. Although most of our customers will not be affected by the tiers, we are sensitive to the fact that our customers have anxiety about possible service reductions. We are just as concerned as they are, and we are fully committed to assisting them through this transition. This is a somber task for us to perform, and we pledge to carry it out with fairness and caring for the people we serve."

APD will send letters to all of its customers notifying them of the official start date for the waiver tiers, which has not yet been determined. Customers who must reduce their services will be able to make choices in order to do so. APD will provide guidance - for readjusting services and identifying community and nongovernmental supports.

In creating the four "waiver tiers" for individuals who are receiving waiver services, the Legislature imposed annual limits on how much the state can spend for people in three of the waivers. The four tiers and their annual financial limits are:

- Tier One – No cap
- Tier Two – Cap of \$55,000
- Tier Three – Cap of \$35,000
- Tier Four – Cap of \$14,792

In addition, the Legislature established criteria for each of the four waiver tiers. The criteria cover the individual's needed level of service, along with other important characteristics and the person's current living situation. APD is currently determining which waiver tier is appropriate for individuals receiving Medicaid Waiver services from APD based on how their needs and characteristics match the established criteria. When the waiver tiers are implemented, each person will be assigned to, and enrolled in the tier that has been determined to be appropriate for them.

The services of most individuals will not be affected by their tier assignment. The state, however, may not be able to pay as much for services for some people, therefore requiring service reductions. The new waiver system does allow individuals who have a significant change in circumstance or condition that impacts their health, safety, or welfare to migrate from one waiver to another.

APD currently serves about 35,000 Floridians with developmental disabilities of mental retardation, autism, cerebral palsy, spina bifida, and Prader-Willi syndrome. For more information on the agency, call 1-866-APD-CARES or visit www.apdcares.org

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