

A. EXECUTIVE SUMMARY

The Home and Community-Based Services iBudget Florida waiver appropriation for Fiscal Year (FY) 2019-20 is \$1.2 billion. Due to the changing service needs of waiver clients, the Agency for Persons with Disabilities (APD) projects waiver expenditures to be \$1.4 billion for the fiscal year. In addition, the waiver expenditures for the previous fiscal year exceeded appropriations by \$107.3 million (\$41.2 million General Revenue, \$66.1 million Trust Fund).

Section 393.0661, F.S., and proviso language in the 2019 General Appropriations Act (GAA) require APD to submit a plan to manage Medicaid waiver spending within the legislative appropriation, if at any time the projected cost of services exceeds the amount appropriated. Section 393.0661(8), F.S., states that the Agency for Health Care Administration (AHCA), in consultation with APD, can take the following actions necessary to comply with the availability of moneys and any limitations or directions provided in the GAA:

- adjust fees
- adjust reimbursement rates
- adjust lengths of stay
- adjust number of visits
- adjust number of services
- limit enrollment
- make other adjustment

However, any plan must account for the federal Medicaid requirement that services be based upon medical necessity and that the services “must be sufficient in amount, duration, and scope to reasonably achieve its purpose.”

The 2019 Implementing bill directed APD in conjunction with AHCA to develop a plan to redesign the waiver program and submit the plan to the President of the Senate and the Speaker of the House of Representatives. The plan was submitted on September 30, 2019. “The implementation of a redesigned program is subject to legislative approval.”

B. BACKGROUND

The state entered into a Home and Community-Based Services (HCBS) waiver agreement in the early 1980s with the Federal Centers for Medicare and Medicaid Services (CMS) to provide community options in lieu of building more institutional placements for individuals with developmental disabilities. As part of the waiver, Florida agreed to provide 26 services to eligible Floridians. While the waiver is not an entitlement program, the waiver agreement requires the state to continually provide medically necessary services to all individuals on the waiver.

The purpose of the Florida waiver as defined in the approved waiver agreement is “to promote and maintain the health of eligible recipients with developmental disabilities; to minimize the effects of illness and disabilities through the provision of needed supports and services to delay or prevent institutionalization; and to foster the principles of self-determination as a foundation for supports and services. The intent of the waiver is to provide an array of services from which eligible recipients may choose, which allow them to live as independently as possible in their own home or in the community and to achieve productive lives as close to normal as possible as opposed to residing in an Intermediate Care Facility for the Developmentally Disabled (ICF/DD) or other institutional settings.” The Florida waiver uses an individualized budgeting (iBudget) approach to enhance opportunities for self-determination by individuals. The services provided are intended to:

- Promote and maintain the health and safety of eligible individuals with developmental disabilities residing in their communities.
- Provide medically necessary supports and services to delay or prevent institutionalization.

Each individual’s iBudget amount is determined by an allocation methodology which utilizes an algorithm and a determination of additional funding per section 393.0662(1)(b), F.S., to meet the individual’s medically necessary service needs. Over time, the service needs of individuals change as their life situations change. These life changes include but are not limited to: caregiver no longer able to provide care, child aging out of the Medicaid State Plan, and behaviors that pose a danger to self or others. If the new service needs cannot be met within an individual’s existing iBudget amount and the significant additional needs (SANs) are medically necessary and the requirements of section 393.0662(1)(b), F.S., are met, the individual’s iBudget amount must be increased in order to provide the necessary service per the provisions found in 42 U.S.C. § 1396a(a)(10), 42 U.S.C. § 1396a(a)(17) and 42 U.S.C. § 440.230(d), states are prohibited from denying coverage of "medically necessary" services that fall under a category covered in their Medicaid Plans.

Currently, the iBudget waiver provides services to more than 34,500 Floridians with developmental disabilities and another 21,300 individuals are on the waiting list for waiver services. Florida is a leader in the nation in helping individuals live with their families. Over 70 percent of the individuals served on the waiver continue to live in their communities with their families or independently which reduces the need for more costly services in out-of-home living arrangements such as group homes.

Since the full implementation of the iBudget waiver in FY 2013-14, there have been increases in waiver expenditures beyond those increases mandated by the Legislature for rate increases and waiting list enrollments. These increases have been largely due to SANs for the necessary services for existing waiver individuals and waiver enrollment of individuals in crisis, as well as individuals entering extended foster care.

C. APD ACTIONS TAKEN FOR THE WAIVER PROGRAM

1. Waiver Enrollment

For FY 2018-19, APD only enrolled individuals from the waiting list who met the crisis or foster care definitions contained in section 393.065 (5), F.S., or who are required by sections 393.065(6), certain military dependents, and (7), individuals with Phelan-McDermid syndrome.

APD has adopted the same policy for FY 2019-20.

2. Review of Section 393.0662 and the Algorithm and Methodology

APD has operated the iBudget according to the requirements of section 393.0662, F.S. All individuals were transitioned to the iBudget waiver by July 1, 2013, with an algorithm and methodology that determined their final iBudget amount.

As the new algorithm is applied to individuals on the waiver, those whose current iBudget amount is more than the new algorithm amount may elect to submit a SANs request if they have a continued need for services that exceeds the new algorithm amount.

Typically, the algorithm is not rerun every year for individuals because doing so would require reevaluation of each individual's services that were previously determined to be medically necessary.

3. Improvements to the Significant Additional Need (SANs) Review Process

APD has strengthened the review process by defining specific rules that support the review determinations and by increased training and oversight of the individuals who conduct the SANs reviews. The SANs criteria are described in section 393.0662 (1)(b), F.S.

APD is centralizing the SANs review process to promote consistent application of the SANs criteria by conducting peer reviews to increase interrater reliability. Centralization will improve communication between SANs reviewers and provide more clinical oversight of service approvals. In addition, Regional staff will increase their monitoring of existing waiver client services to verify that they are still medically necessary

APD is also improving the Waiver Support Coordinator (WSC) SANs processes. APD is developing talking points for WSCs to use when developing services plans with

individuals to promote accessing non-waiver resource and maximizing resources within current budget allocations. APD is providing refresher training for WSCs on SAN documentation requirements and on maximizing all available resources prior to considering a SAN request.

The requirements and process for conducting these SAN reviews, as well as the medically necessary criteria for each service, are defined in detail in the APD Rules 65G-4.0213 through 4.0218, Florida Administrative Code (F.A.C.), and in the Developmental Disabilities iBudget Coverage and Limitations Handbook that is an AHCA rule. These two sets of rules define the iBudget waiver program in order to meet the federal and state requirements for home and community-based services. If APD recommends and the Legislature makes changes in the iBudget waiver program statutorily, APD and AHCA would need to amend the rules to conform to the statutory changes and they may need to request federal approval.

APD processed approximately 6,905 SANs requests in FY 2018-19.

The final determination of the SANs review for those processed during FY 2018-19 is as follows:

- Fifty percent (50%) of the reviews resulted in approval of the requested services because the medical necessity criteria were met.
- Fifty percent (50%) of the reviews resulted in a partial or full denial of the requested services because the medical necessity criteria were not met.

The amount of partially or fully denied requested services was approximately \$47 million.

4. Analysis of Increased Service Needs for Individuals on the Waiver Program

APD has conducted a thorough analysis of the increase in medically necessary service needs of current waiver recipients and individuals enrolled through crisis. The increased service needs are due to the following cost drivers:

- a) Aging out of Medicaid State Plan – At age 21, individuals with developmental disabilities lose critical services previously provided by the Medicaid State Plan that they need to live in their communities. Upon losing the services, the iBudget waiver program begins providing those services, such as personal care assistance, behavior services, and private duty nursing services. Without such funding, these individuals would face the possibility of institutionalization.
- b) Aging out of the School System – Individuals with developmental disabilities are eligible for public school services until the age of 22. At age 22, these individuals need services that provide a meaningful day activity that help them to live more independently in the community and to learn job skills. These services also allow parents to continue working.
- c) Danger to Self or Others – Some individuals with developmental disabilities develop behaviors that pose a danger of self-injury or harm to others. These individuals require behavioral services and/or specialized group home settings to keep them safe and to teach them alternative behaviors.
- d) Caregiver Unable to Provide Care – Individuals living in the family home or in their own homes are often dependent upon a caregiver, usually a family member, to assist them in their daily activities. Often there comes a time when the caregiver is no longer able to meet the needs of the individual because of caregiver health issues or because the needs of the individual have increased beyond the capacity of the caregiver. At such a point, the individual requires services such as personal support services, behavior services, and/or residential group care.
- e) Physical Needs / Medical Needs – Individuals who have developmental disabilities experience a decline in health and ability over time which necessitate additional services to maintain their health and safety.

5. Analysis of Service Utilization

The services reviewed include Personal Supports, Companion, Residential Habilitation, Behavior Services, Training Services provided in the Adult Day Training facilities, Transportation, Nursing/Special Medical Care, Supported Living Coaching, Respite, etc. The following chart shows the expenditures by service for individuals on the waiver. Reduction or elimination of any of these services could have a negative impact on the health and safety of individuals living in their communities. On average, institutional care is approximately \$135,000 per person each year while the average expenditure on the waiver is approximately \$35,700 per person annually.

HCBS Waiver Service Utilization - Fiscal Years 2013-14 through 2018-19

Service Groupings	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19	% Change in service expenditure from previous FY				
							FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18	FY 2018-19
CDC+Allowance	\$60,127,933	\$70,022,989	\$73,855,533	\$91,188,155	\$104,077,140	\$119,996,974	16.46%	5.47%	23.47%	14.13%	15.30%
Behavior Analysis	\$17,407,695	\$17,566,946	\$18,164,545	\$19,206,897	\$18,469,225	\$18,912,326	0.91%	3.40%	5.74%	-3.84%	2.40%
Behavior Assistance	\$6,520,669	\$5,604,951	\$4,849,156	\$3,921,033	\$3,260,384	\$3,019,699	-14.04%	-13.48%	-19.14%	-16.85%	-7.38%
Diet & Dental Care	\$2,832,771	\$4,473,398	\$5,482,776	\$5,918,820	\$6,339,799	\$4,515,923	57.92%	22.56%	7.95%	7.11%	-28.77%
Employment	\$4,997,647	\$5,214,817	\$5,355,648	\$5,328,625	\$5,268,850	\$5,231,315	4.35%	2.70%	-0.50%	-1.12%	-0.71%
Home & Environ Access	\$291,904	\$698,170	\$1,003,858	\$1,023,666	\$1,265,449	\$1,600,105	139.18%	43.78%	1.97%	23.62%	26.45%
In-Home Svcs/Companion	\$194,431,296	\$212,202,363	\$240,362,765	\$285,061,074	\$298,378,305	\$323,667,703	9.14%	13.27%	18.60%	4.67%	8.48%
Med/Personal Equip	\$468,466	\$813,564	\$818,518	\$995,584	\$1,166,970	\$894,054	73.67%	0.61%	21.63%	17.21%	-23.39%
Medical Supplies	\$10,803,972	\$13,486,089	\$13,594,154	\$13,416,901	\$13,977,898	\$14,640,850	24.83%	0.80%	-1.30%	4.18%	4.74%
Nursing/Spl Med Care	\$25,433,045	\$31,149,136	\$34,397,595	\$36,465,073	\$41,102,727	\$44,272,847	22.48%	10.43%	6.01%	12.72%	7.71%
Residential Habilitation Behavior Focus	\$3,124,556	\$1,396,235	\$1,728,745	\$1,933,480	\$1,880,307	\$2,140,892	-55.31%	23.81%	11.84%	-2.75%	13.86%
Residential Habilitation Intensive Behavior	\$62,193,444	\$63,380,469	\$64,889,343	\$70,690,840	\$73,111,244	\$78,896,311	1.91%	2.38%	8.94%	3.42%	7.91%
Residential Habilitation Standard or ALF	\$299,254,141	\$320,673,959	\$331,552,691	\$351,186,593	\$362,566,856	\$385,586,696	7.16%	3.39%	5.92%	3.24%	6.35%
Respite	\$10,929,706	\$14,008,877	\$15,148,962	\$17,348,457	\$15,950,818	\$14,986,089	28.17%	8.14%	14.52%	-8.06%	-6.05%
Support Coach	\$23,849,936	\$24,582,151	\$25,273,296	\$25,625,334	\$24,734,003	\$24,815,319	3.07%	2.81%	1.39%	-3.48%	0.33%
Support Coordination	\$39,812,514	\$41,711,633	\$49,966,714	\$53,972,968	\$54,287,625	\$55,251,330	4.77%	19.79%	8.02%	0.58%	1.78%
Therapeutic Svcs	\$8,577,464	\$9,035,605	\$9,842,243	\$10,575,400	\$10,762,084	\$10,488,599	5.34%	8.93%	7.45%	1.77%	-2.54%
Training - Facility	\$65,168,816	\$70,724,217	\$74,326,400	\$82,896,178	\$85,282,238	\$91,295,225	8.52%	5.09%	11.53%	2.88%	7.05%
Training Off Site	\$568,191	\$795,598	\$953,580	\$1,171,456	\$1,231,009	\$1,309,653	40.02%	19.86%	22.85%	5.08%	6.39%
Transportation	\$22,379,096	\$25,503,245	\$28,559,423	\$30,779,097	\$31,338,518	\$34,496,640	13.96%	11.98%	7.77%	1.82%	10.08%
Grand Total	\$859,173,264	\$933,044,410	\$1,000,125,946	\$1,108,705,629	\$1,154,451,450	\$1,236,018,550	8.60%	7.19%	10.86%	4.13%	7.07%

E. APD OPTIONS AND RECOMMENDATIONS

APD is projecting a shortfall in FY 2019-20. This shortfall is due to the increased service needs of clients as described in this document. Section 393.0661(8), F.S., states that AHCA, in consultation with APD, can take the following actions necessary to comply with the availability of moneys and any limitations or directions provided in the GAA:

- adjust fees
- adjust reimbursement rates
- adjust lengths of stay
- adjust number of visits
- adjust number of services
- limit enrollment
- make other adjustment

The above actions could lead to individuals not receiving the medically necessary services they require. If waiver individuals are unable to receive the services they need to live in the community, then they will likely seek institutional care. Institutional care is not desirable because it is more costly than waiver services in most cases and does not allow individuals to reside in their communities. **The average cost of an individual being served on the waiver is approximately \$35,700 per year as compared to approximately \$135,000 in an institutional setting.** Also, state actions resulting in reduced access to services may lead to litigation.