Prepaid Services Savings Program
for Parents of Children with Developmental Disabilities

Study Group Final Report 2010

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Study Group
Final Report

2010
Tallahassee, Florida

Gabbie Poole, the individual who is
the inspiration for this proposal,
is pictured on the cover.

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the Agency for Persons with Disabilities,
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CHAPTER 1
History

As Michele Poole wrote out a check one day for deposit into her daughter "Little Michele's" prepaid college tuition plan, she wondered why there wasn't a better way to plan for the future of Little Michele's twin sister, Gabbie. Gabbie and Little Michele were adopted. Although Little Michele became a thriving teenager, Gabbie was the victim of Shaken Baby Syndrome. She would live the rest of her life unable to communicate many of her needs and would continue to require intense medical and functional supports.

Ms. Poole had planned for Gabbie's care after her own death by investing in a special needs trust, but knew the funds most likely would not be used for many years after Gabbie finished school. She worried about Gabbie remaining on a long waiting list for services. Ms. Poole, an Arc of Florida board member, voiced her thoughts and concerns to Deborah Linton, Executive Director of The Arc of Florida.

On behalf of The Arc of Florida members, Linton wrote a concept paper that outlined how Florida might allow parents of children with developmental disabilities to participate in financially contributing to their children's support needs after they finished school. The plan was to develop something very similar to the popular Florida Prepaid College Tuition Plan to meet the needs of students with developmental disabilities exiting the school system.

The Arc of Florida, with support from the Agency for Persons with Disabilities, recognized a unique opportunity to present a private sector solution that would allow parents to proactively plan for their children's future. Together, with Arc of Florida Lobbyist Dixie Sansom, they pursued support for legislation in the 2009 Legislative Session. They gained the support of Representative Clay Ford and Senator Thad Altman, who filed bills for the proposal during the 2009 Legislative Session. As a result of Representative Ford's and Senator Altman's efforts, SB 1660 (2009-56 LOF) was passed and signed by the Governor. The bill amended Ch. 393, Florida Statutes, to:

> (1) The Prepaid Services for Parents of Children with Developmental Disabilities Study Group is created to evaluate the establishment of a prepaid service plan for children with disabilities modeled after the Florida prepaid college program. The prepaid service plan would allow funds to be paid into a plan on behalf of a child to provide a voucher for purchasing additional services from a

qualified, willing provider upon the child's exit from an exceptional student program. These services would provide support to help the parent retain the benefits to the child of the exceptional student program and to help the child in transitioning to the workforce if possible.

(2) The study group shall consist of the following:
(a) A member of the House of Representatives appointed by the Speaker of the House of Representatives.
(b) A member of the Senate appointed by the President of the Senate.
(c) The director of the Agency for Persons with Disabilities, or designee.
(d) The director of the Division of Vocational Rehabilitation, or designee.
(e) The executive director of the State Board of Administration, or designee.
(f) The Commissioner of Education, or designee.
(g) The executive director of The Arc of Florida, or designee.
(h) An Arc of Florida family board member appointed by the executive director of The Arc of Florida.
(i) The chairperson of the Family Care Council Florida, or his or her designee.
(j) A parent representative from the Family Care Council Florida appointed by the chairperson of the Family Care Council Florida.
(The full text of SB 1660 is available in Appendix III.)

Members of the study group included Senator Durell Peaden; Representative Kelly Skidmore; Michele Poole and Deborah Linton, The Arc of Florida; Patty Houghland and Betty Kay Clements, Family Care Council of Florida; Bill Palmer, Division of Vocational Rehabilitation; Jim DeBeaugrine, Agency for Persons with Disabilities; Bambi Lockman, Florida Department of Education; and Tracy Stewart, a parent from the State Board of Administration with a financial background and working knowledge of the Florida Prepaid Tuition Plan.

The study group was tasked with evaluating and developing findings, making recommendations, and submitting a report to the President of the Senate and the Speaker of the House of Representatives regarding the following:

- Services for which a voucher could be used;
- Financial requirements for such a system;
- Qualifications of service providers; and
- Steps necessary to qualify prepaid service plan funds for a federal waiver match program or other federal funding and the possibilities of such a waiver match or other federal funding.

CHAPTER 2
Activities

The Prepaid Services for Parents of Children with Developmental Disabilities Study Group was required to convene its first meeting by September 1, 2009. The study group began meeting earlier than required on the following dates (See Appendix I for meeting minutes):

- July 22, 2009;
- September 9, 2009;
- October 7, 2009;
- November 4, 2009;
- December 18, 2009; and
- January 12, 2010.

Agency for Persons with Disabilities Director Jim DeBeaugrine and The Arc of Florida Family Board Member Michele Poole were appointed to co-chair the study group. All meetings of the study group were open to public participation. There were six meetings in which persons other than study group members participated.

It was determined that the study group would draft proposed legislation implementing a prepaid service plan for children with developmental disabilities. In order to accomplish this, a bill drafting subcommittee was established consisting of the following members:

- Bill Palmer,
- Deborah Linton,
- Tracy Stewart, and
- Bambi Lockman.

The bill drafting subcommittee met on the following dates:

- October 28, 2009,
- November 23, 2009, and
- November 30, 2009.

The bill drafting subcommittee produced a draft legislative proposal that was presented to and approved by the study group. Senator Peaden agreed to sponsor the legislation during the 2010 Legislative Session. Representative Clay Ford agreed to sponsor the companion bill for the House.

The study group also approved the drafting of a Memorial to Congress to assist with obtaining federal support and qualifying for federal matching dollars. (The Memorial to Congress can be found in Appendix II.)

CHAPTER 3

Proposed Legislation

A bill to be entitled

An act establishing the Prepaid Developmental Disabilities Savings Program; creating s. 393.507, F.S.; providing legislative finding; providing legislative intent; providing definitions; defining board membership, powers, and duties; creating the Developmental Disabilities Prepaid Program; creating the Florida Developmental Disabilities Prepaid Account Trust Fund; providing a date for enrollment to commence; providing an effective date.

Be it enacted by the Legislature of the State of Florida:

Section 1. Section 393.507, Florida Statutes, is created to read:

393.507 Prepaid Developmental Disabilities Savings Program

(1) Legislative findings and declaration of intent

(a) Developmental disabilities transition planning and opportunity. --The Legislature recognizes the opportunity to provide increased access to services at the discretion of the families, for those who have children with developmental disabilities. The years after a student with a developmental disability ages out of the education system are critical for learning and transition. Access to services, regardless of income, insurance or Medicaid eligibility, shall be made accessible to families with the creation of the Prepaid Developmental Disabilities Savings Program.

(b) Legislative intent. --It is the intent of the Legislature that a Prepaid Developmental Disabilities Savings Program consisting of a prepaid contract plan and an investment plan, be established through which many of the costs associated with children with developmental disabilities aging out of the school system may be paid and saved for in advance. It is also the intent of the legislature that the prepaid contract plan be interchangeable with the Prepaid College program, providing students with developmental disabilities who are able to attend college the ability to use the Prepaid College program and receive the same value and contract pricing as their typically developing peers. It is further the intent of the Legislature that the investment plan for children with developmental disabilities be established as a supplement and alternative to the contract plan to allow benefactors to place funds in a designated savings trust fund from which future needs of the beneficiary can be met. Finally, the Legislature intends that the Prepaid Developmental Disabilities Savings Program be conducted in a manner to maximize program efficiency and effectiveness.

(2) **Definitions.** --For the purposes of this section, the term:

(a) "Board" means the Florida Prepaid College Board.

(b) "Trust fund" means the Prepaid Savings Account Trust Fund for Developmental Disabilities.

(c) "Prepaid College program" means the Program established pursuant to s. 1009.98, Florida Statute.

(d) “Prepaid contract plan” means the plan under the Prepaid Developmental Disabilities Savings Program that provides the opportunity for a purchaser to enter into a guaranteed value contract at a price based on current Prepaid College program fees to provide future college or other eligible services for a qualified beneficiary.

(e) “Investment plan” means the plan under the Prepaid Developmental Disabilities Savings Program that provides the opportunity for a benefactor to deposit funds on behalf of a qualified beneficiary into a non-guaranteed account in a self-directed manner, among the specific fund options provided by the board.

(f) "Purchaser" means resident parent, or grandparent who makes or is obligated to make advance payments for services in accordance with a prepaid contract plan or a non-resident, non-custodial parent who makes or is obligated to make advance payments for services in accordance with a prepaid contract plan for their resident child.

(g) "Qualified beneficiary" means a person with a developmental disability who is a resident of the state of Florida under the age of 22 at the time a purchaser enters into an advance payment contract or at the time a benefactor funds an investment plan on their behalf.

(h) "Benefactor" means any person making a deposit, payment, contribution, gift, or other expenditure into the investment plan of a qualified beneficiary.

(i) Eligible services shall include:

1. Specific Services - Such services may include~~s~~ respite care, provision of rehabilitation and habilitation services, assistive technology, personal assistance services, counseling, support for families headed by aging caregivers, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

2. Health Related Services - Such services may include medical, dental, mental health, and other human and social services to enhance the well being of the individual, as well as durable and consumable medical supplies.

3. Housing related services - Services that may result in individuals with developmental disabilities having access to and use of housing and housing supports and services in their communities, including assistance related to renting, owning, or modifying an apartment or home.

4. Educational related services - Services such as attendance in a training or educational setting, technology and/or personnel related services which assist in obtaining and maximizing the educational experience.

5. Employment related services - services necessary to assist the individual in meeting essential job functions through technology, personnel related costs and/or transportation expenses.

(j) "Internal Revenue Code" means the Internal Revenue Code of 1986, as defined in s. 220.03(1),Florida Statutes and regulations adopted pursuant thereto.

(k) "Savings program" means the Prepaid Developmental Disabilities Savings Program.

(l) Prepaid Savings Account Trust Fund for Developmental Disabilities” means the fund into which moneys belonging to the savings program are deposited and held.

(m) " Investment fund" means the fund within the trust fund into which moneys belonging to the Investment plan are deposited and held.

(n) “Prepaid Contract fund" means the fund within the trust fund into which moneys belonging to the prepaid contract fund are deposited and held.

(o) “Eligible disabilities” are those defined in s. 393.063 (9), Florida Statutes and only for the purposes of the Florida Prepaid Developmental Disabilities Savings Program the term developmental disability shall also mean a severe, chronic disability that:

1. Is attributable to a mental or physical impairment or a combination of those impairments;
2. Occurs before the individual reaches age 18;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major life activity; Self care, receptive and expressive language, Learning, Mobility, Self-direction, Capacity for independent living, or Economic self-sufficiency.
5. Reflects the individual’s need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
6. Before the age of ten, an infant or child may be considered to have a developmental disability if his or her disabilities are likely to meet the above criteria without intervention.

(3) Board membership; powers and duties.--Pursuant to the provisions of s. 1009.971, Florida Statutes, the Director of The Agency for Persons With Disabilities and one member appointed by the Governor of the State of Florida shall serve as members of the Florida Prepaid College Board for the sole purpose of meetings conducted relating to the implementation, management, and execution of the Florida Prepaid Developmental Disabilities Savings Program.

(a) **Comprehensive asset allocation plans** - The Florida Prepaid College Board shall establish separate comprehensive asset allocation plans for the prepaid contract fund and for the investment fund, each subject to the approval of the State Board of Administration. Each comprehensive asset allocation plan shall specify the investment policies to be utilized by the board in its administration of each respective fund. The board may place assets of each fund in investment products pursuant to the comprehensive asset allocation plan for each respective fund and in such proportions as may be designated or approved under the plan for each respective program. Such products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons authorized by applicable federal and state authorities. A purchaser may not direct the investment of his or her contribution to the prepaid contract plan. A benefactor or designated beneficiary may not direct the investment of any contributions to the investment plan other than the specific fund options provided by the board, if any. Board members and employees of the board are not prohibited from purchasing advance payment contracts or entering into participation agreements by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.

(b) **Annual report** - On or before March 31 of each year, the Florida Prepaid College Board shall prepare or cause to be prepared separate reports setting forth in appropriate detail an accounting of the prepaid contract plan and the investment plan which include a description of the financial condition of each respective program at the close of the fiscal year. The board shall submit copies of the reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the House and Senate and shall make the report for the prepaid contract plan available to each purchaser and the report for the investment plan available to each benefactor and designated beneficiary. The accounts of the fund for the prepaid contract plan and the investment plan shall be subject to annual audits by the Auditor General.

(4) Florida Developmental Disabilities Prepaid Savings Account Trust Fund.

(a) There is created the Florida Developmental Disabilities Prepaid Savings Account Trust Fund. The trust fund shall be segregated into two separate funds, the prepaid contract fund and the investment fund.

(b) The prepaid contract fund shall include, but not be limited to, moneys acquired from other governmental or private sources for the prepaid program, moneys remitted in accordance with advance payment contracts or any available state appropriations. Dividends, interest, and gains accruing to the prepaid fund shall increase the total funds available for the prepaid contract plan. If dividends, interest, and gains for the prepaid contract fund exceed the amount necessary for program administration and disbursements, the board may designate an additional percentage of the prepaid contract fund to serve as a contingency fund.

(c) The investment fund shall consist of appropriations, moneys acquired from other governmental or private sources for the investment plan, and moneys remitted in accordance with participation agreements. The amounts on deposit in the investment fund shall remain therein and shall be available solely for carrying out the purposes of the investment plan.

(d) Any balance contained within the trust fund, and within each fund in the trust fund, at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of each respective program and the direct-support organization established pursuant to s.1009.983, Florida Statutes. Moneys contained within the trust fund shall be exempt from the investment requirements pursuant to s. 17.57, Florida Statutes. All funds deposited in the prepaid contract fund may be invested pursuant to s. 215.47, Florida Statutes. Any funds of a direct-support organization created pursuant to s. 1009.983, Florida Statutes shall be exempt from the provisions of this section.

(e) The assets of the prepaid contract fund and the investment fund shall be maintained, invested, and expended solely for the purposes of the prepaid contract plan and the investment plan, respectively, and shall not be loaned, transferred, or otherwise used by the state for any purpose other than the purposes of s. 393.507, Florida Statute.

(f) All services purchased with funds from the Florida Developmental Disabilities Prepaid Savings Account Trust Fund shall be purchased from providers who have been certified, licensed, or otherwise approved by the State of Florida.

(5) Florida Prepaid Developmental Disabilities Savings Program.

(a) There is created the Prepaid Developmental Disabilities Savings Program, to be administered and managed in conjunction with the Florida Prepaid College Program by the Florida Prepaid College Board.

(b) The Prepaid Developmental Disabilities Savings Program is intended to provide a medium through which the cost of transitional and support services for individuals with developmental disabilities may be paid in advance.

(c) The Prepaid Developmental Disabilities Savings Program shall provide education and training opportunities and any other eligible services for individuals with developmental disabilities to advance their goals and become contributing members of society.

(e) The Program shall be supported by the Direct Service Organization of the Florida Prepaid College

Program, pursuant to the provisions of 1009.983, and the Board may administer the program utilizing the same provisions established in s. 1009.98, Florida Statutes.

(f) Contracts for advance payment plans offered under the Prepaid Developmental Disabilities Savings Program shall inform the purchaser of the potential impact on eligibility for Medicaid or other state or federally funded programs.

(6) Savings program.-- The Florida Prepaid College Board is authorized to create, establish, and administer the Florida Prepaid Developmental Disabilities Savings Program to promote and enhance the affordability of services for individuals with developmental disabilities in the state and to enable persons to contribute funds that are combined and invested to pay the subsequent expenses for a designated beneficiary. Such payments shall be combined and invested in a manner that yields, at a minimum, sufficient interest to generate the difference between the prepaid amount and the accrued amount at the time of actual disbursement, not to exceed the redemption value of the advance payment contract. The contract pricing and redemption value for the prepaid contract plan shall be equal to the pricing options and redemption values available under the Prepaid College program. Individuals with developmental disabilities who attend college may use the benefits of the prepaid contract plan, which will provide equal value to that of the Prepaid College program option. Individuals with developmental disabilities who begin receiving services pursuant to this section shall be charged no fees in excess of the terms delineated in the advance payment contract. Individuals with a Prepaid College program contract may convert the agreement to a prepaid contract plan under the Savings Program in the event the beneficiary meets eligibility for the Prepaid Developmental Disabilities Savings Program. The board may not implement the savings program until it has obtained:

(a) A written opinion from a qualified member of the United States Patent Bar indicating that the implementation of the savings program or the operation of the savings program will not knowingly infringe upon any patent or copyright specifically related to the financing of expenses;

(b) A written opinion of qualified counsel specializing in federal securities law that the savings program and the offering of participation in the savings program does not violate federal securities law; and

(c) A written opinion from the board's litigation counsel indicating that the implementation or operation of the savings program will not adversely impact any pending litigation against the Florida Prepaid College Board.

(d) The benefactor retains ownership of all amounts on deposit in his or her account with the savings program. Earnings derived from investment of the contributions shall be considered to be held in trust in the same manner as contributions, except as applied for purposes of the designated beneficiary and for purposes of maintaining and administering the program as provided in this section.

(e) All amounts attributable to penalties shall be used for purposes of the savings program or as required by the Internal Revenue Code, and other amounts received other than contributions shall be properties of the savings program. Proceeds from penalties shall remain with the program and may be used for any costs or purposes of the savings program or used as required by the Internal Revenue Code.

(f) The assets of the savings program shall be continuously invested and reinvested in a manner consistent with the purposes of the program, expended on expenses incurred by the operation and management of the Florida Prepaid Developmental Disabilities Savings Program, or refunded to the purchaser under the conditions provided in the participation agreement. The board is not required to invest directly in obligations of the state or any political subdivision of the state or in any investment or other fund administered by the state.

(7) Enrollment in the Prepaid Developmental Disabilities Savings Program shall commence no later than July 1, 2011.

(8) The Prepaid Services for Parents of Children with Developmental Disabilities Study Group shall continue until enrollment in the Prepaid Developmental Disabilities Savings Program has commenced, at which time the group is abolished.

(a) The study group shall consist of the following:

1 A member of the House of Representatives appointed by the Speaker of the House of Representatives.

2 A member of the Senate appointed by the President of the Senate.

3 The director of the Agency for Persons with Disabilities, or designee.

4 The director of the Division of Vocational Rehabilitation, or designee.

5 The executive director of the State Board of Administration, or designee.

6 The Commissioner of Education, or designee.

7 The executive director of The Arc of Florida, or designee.

8 An Arc of Florida family board member appointed by the executive director of The Arc of Florida.

9 The chairperson of the Family Care Council Florida, or his or her designee.

10 A parent representative from the Family Care Council Florida appointed by the chairperson of the Family Care Council Florida.

(b) Members shall serve without compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 122.061, Florida Statutes.

(c) The Agency for Persons with Disabilities shall provide administrative support for the study group.

(d) The group shall continue to evaluate and make recommendations to the Board on issues regarding enrollment and implementation of the Savings Program, including pricing options and policies for the prepaid contract plan and fund options and policies for the investment plan.

(9) Any section of this act, if found to be invalid shall in now affect other sections contained in this act.

Disclaimer. Nothing in the Florida Prepaid Developmental Disabilities Savings Program shall be construed as a promise or guarantee that a qualified beneficiary or a designated beneficiary will become Medicaid eligible, receive permanent services, be enrolled in the Medicaid Waiver program or receive any other state or Federal assistance.

Section 2. This act shall take effect upon becoming law.

"...the years after a student with a developmental disability ages out of the education system are critical for learning and transition."

CHAPTER 4

Conclusions and Recommendations

The Prepaid Services for Parents of Children with Developmental Disabilities Study Group recognizes that the years after a student with a developmental disability ages out of the education system are critical for learning and transition. The study group also recognizes the need to allow families the opportunity to provide increased access to services regardless of income, insurance, or Medicaid eligibility.

In order to provide the opportunity for families to assist in providing individuals with developmental disabilities access to services necessary to enhance their lives, the study group makes the following recommendations:

Recommendation #1

It is recommended that proposed legislation be filed for action in the 2010 Legislative Session that establishes the Florida Developmental Disabilities Prepaid Savings Account Trust Fund consisting of the prepaid contract fund and the investment fund.

Recommendation #2

It is recommended that proposed legislation authorize the following services for purchase using funds deposited in the Florida Developmental Disabilities Prepaid Savings Account Trust Fund:

- Respite care,
- Rehabilitation and habilitation services,
- Assistive technology,
- Personal assistance services,
- Counseling,
- Support for families headed by aging caregivers,
- Vehicular and home modifications,
- Assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities,
- Medical,
- Dental,

- Mental health,
- Other human and social services to enhance the well-being of the individual,
- Durable and consumable medical supplies,
- Services that may result in individuals with developmental disabilities having access to and use of housing and housing supports and services in their communities, including assistance related to renting, owning, or modifying an apartment or home,
- Services such as attendance in a training or educational setting, technology and/or personnel related services which assist in obtaining and maximizing the educational experience, and
- Services necessary to assist the individual in meeting essential job functions through technology, personnel related costs and/or transportation expenses.

Recommendation #3

It is recommended that the proposed legislation provide direction regarding the financial requirements for such a system as follows:

A. Funding for the prepaid contract fund consists of moneys acquired from governmental or private sources for the prepaid program; moneys remitted in accordance with advance payment contracts or any available state appropriations.

B. Dividends, interest, and gains accruing to the prepaid contract fund shall increase the total funds available for the prepaid contract plan. If dividends, interest, and gains for the prepaid contract fund exceed the amount necessary for program administration and disbursements, the board may designate an additional percentage of the prepaid contract fund to serve as a contingency fund.

C. Funding for the investment fund shall consist of appropriations, moneys acquired from other governmental or private sources for the investment plan, and moneys remitted in accordance with participation agreements. The amounts on deposit in the investment fund shall remain in the fund and shall be available solely for carrying out the purposes of the investment plan.

D. Any balance contained within each fund in the trust fund at the end of a fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of each respective program and the direct-support organization. Moneys contained within the trust fund are exempt from the investment requirements pursuant to s. 17.57, Florida Statutes. All funds deposited in the prepaid contract fund may be invested pursuant to s. 215.47, Florida Statutes.

E. The assets of the prepaid contract fund and the investment fund shall be maintained, invested, and expended solely for the purposes of the prepaid contract plan and the investment plan and shall not be loaned, transferred, or otherwise used by the state for any purpose.

Recommendation #4

It is recommended that all services purchased with funds from the Florida Developmental Disabilities Prepaid Savings Account Trust Fund be purchased from providers who have been certified, licensed, or have met the standards for the service to be provided as required by the State of Florida.

Recommendation #5

It is recommended that the Agency for Persons with Disabilities and the Agency for Healthcare Administration identify a workgroup to create the program summary and benefits that can be submitted to the federal government to determine the appropriate mechanism for obtaining federal match. Additionally, the workgroup would identify the specific requirements for eligibility of federal match dollars to include service definitions, provider qualifications, and the administrative management of the federal match dollars.

Recommendation #6

It is recommended that enrollment in the Prepaid Developmental Disabilities Savings Program commence no later than July 1, 2011.

APPENDIX I
Meeting Minutes

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Wednesday, July 22, 2009
1:00 – 4:00 p.m.
Summary of Minutes

Members
Senator Peaden absent
House Member (vacant)
Jim DeBeaugrine
Bill Palmer Pam Hinterlong
Tracey Stewart
Bambi Lockman
Debra Linton
Michele Poole
Betty Kay on call
Patty Houghland

Also joined – nonmembers
April Katine Florida DD Council
Dixie Sansom Sansom Group
Michele Polland DOE
Suzanne Sewell Florida ARF

Agency for Persons with Disabilities Staff
Kimberly Copley

Meeting began at 1:10 p.m.

Ms. Copley started the kick-off meeting with introductions of all of the study group members. Ms. Linton nominated Michele Poole to chair of the study group. The motion was seconded and passed.

A presentation by Ms. Linton about the policy idea behind the DD Prepaid Services Study Group followed. Work began with address questions regarding implementation, starting the discussion with potential benefits.

Ms. Poole shared her thoughts about college and employment not being an option for everyone. She stressed the need for a broad interpretation of benefits, including: supported employment and supported higher education Poole asked the group to keep options as open as possible and to consider three issues in their discussion: Health, Safety, and Welfare.

The group agreed the Prepaid Services Program would address only developmental disabilities. They agreed to identify a focus and clarify the definition of developmental disabilities for eligibility. The group agreed on flexibility, to allow for all disabilities in future discussions. They agreed to address the following benefits: Behavioral, Medical, Education, and Employment.

The group discussed the idea of how a prepaid services account would fit with IDA and individual match requirements, the feasibility of matching funds, and whether this type of account would affect social security benefits. The group also addressed the question of using the prepaid accounts account for seed money to start a business. The consensus was “yes”, but the program would need to separate medical vs. employment services, and look at match requirements on the federal level. The group also decided to explore the possibility of special needs trusts.

Discussion about an age range for participation and time limits followed. The group identified transitional years after high school as most important. Discussion focused on the four-to-six years after aging out of the education system. Discussion also included flexibility, such as starting at age 22.

The group discussed the money in the accounts. It wanted any leftover money refunded to families. Families also would get some earnings after paying taxes on investment. The group questioned the need for a Waiver Support Coordinator. Consensus was to let the families spend the funds they deposited into the program as they wished. The group discussed a related issue, allowing parents or guardians to keep the pre-paid accounts in their name depending on situation, specific disability, and needs. The group then asked for clarification on federal law governing special needs trusts to determine if a family would need to leave an account in the parents name to protect the benefits for the child. The group also asked for a current list of APD provided services.

The group discussed how to determine eligibility for services and the criteria used by Vocational Rehabilitation. In regards to employment, if a service or item can be justified, VR can authorize the service or product. VR takes an individualized approach that depends on the type of employment received by the individual.

Mr. DeBeaugrine noted that to avoid specific review and regulation of potential benefits, parents could cash their Florida Prepaid account to spend on these types of services instead of higher education. Ms. Stewart noted that the State Board of Administration is able to invest money at a low cost and proposed returning a minimum flat amount in pursuing such option. Ms. Linton advised the group to consult providers because such a program would lock in rates years in advance.

Ms. Stewart continued discussion by comparing the prepaid education benefits with current benefits and options for individuals with developmental disabilities, including rate setting and prices. Mr. DeBeaugrine noted the opportunity to explore how the provider community could come together to agree upon services and the minimum amount of services to guarantee. Ms. Lockman noted the need to address whether the group wanted to pursue a voucher vs. scholarship concept.

Ms. Stewart mentioned the possibility of an alternative framework, an insurance-like plan with the state. She discussed offering a voucher for services in which participants would pay certain amount, in return for a voucher to redeem in the future for a yet to be determined number of service hours. The group noted the need to decide about possible buy-in levels and an option for several different tiers of plans. Rates would need to be actuarially established.

The issue of where to house funds and possible tax implications was raised by Ms. Stewart. She emphasized the need to keep tax implications as low as possible. The group noted that it had already decided not to require the use of funds for specific services.

The group asked if it is was feasible, legal, or practical for parents to take a pay-out in the form of voucher for a specific service to get all money invested, plus interest. They asked for a current list of state services sent to members for consideration. The group also noted the need to invite a tax attorney to help address such technical questions.

Discussion then turned to costs associated with a prepaid services account. The group requested someone from the Prepaid College Board to come in for a question and answer session at its September meeting. The group wants to use the existing prepaid education model where and whenever possible. It also wants to consider the expansion to other disabilities, greater pool of investors, etc.

The group next discussed the issue of government subsidy. They agreed none was needed, unless the State decided to share the risk. The group would need to consider federal tax issues, if there was a government subsidy.

The group decided it needed more information about current waiver rates to discussion on rate setting. Mr. DeBeaugrine explained the supports waiver, applying to the federal government for a narrowly defined set of services, and eligibility for matching federal Medicaid dollars. He said a Medicaid attorney could answer questions about the feasibility of a state trust fund. The advantage would be more money in the potential pool and 45/55 federal matching dollars. It may be the only way to take advantage of a Medicaid match.

The group briefly looked at the possibility of lottery money and decided it was not an option for support or investment.

Ms. Poole asked the group about the possibility of contracting out the prepaid services program and applicable administrative fees. The group agreed that fees would depend on the mix of investments. Investing with the State Board of Administration would lower costs. Poole asked the group to consider whether the SBA would be willing to manage such a contract. The group agreed that they needed to know what the SBA would the idea.
Ms. Stewart said that she would discuss the idea with her SBA colleagues and report to the study group. She also will invite someone from the SBA willing to address the kind of actuarial analysis needed, how much it would cost, and how long it would take to complete.

Discussion returned to eligibility criteria. The group decided it did not want anything to contradict with the Governor's Commission on Disabilities. It decided to use the American Disability Association's guidelines as a starting point for discussion.

Ms. Poole discussed the idea of including recommendations for children in the foster care system with developmental disabilities. The group suggested adding a benefit similar to Florida's current adoption campaign. Mr. DeBeaugrine suggested that the group look into the possibility of private foundation endorsements and sponsorships as a starting and marketing point.

Ms. Linton asked about having Mr. DeBeaugrine serve as a co-chair. Ms. Stewart made a motion to elect Mr. DeBeaugrine as co-chair. Ms. Lockman seconded the motion. The motion passed. Ms. Poole and Mr. DeBeaugrine will co-chair the study group.

The meeting concluded with a reminder to send ideas, articles, or other information to Kimberly Copley for the study group's consideration. Ms. Poole thanked the group and closed the meeting.

Meeting concluded at 3:38.

Minutes taken by Kimberly Copley

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Wednesday, September 9, 2009
Agency for Persons with Disabilities
4030 Esplanade Way, Room 301
Tallahassee, FL 32399
1:00 – 4:00 p.m.
Summary of Minutes

Members
Jim DeBeaugrine, Co-Chair
Michele Poole, Co-Chair
Senator Peaden
Representative Skidmore on call
Bill Palmer
Tracey Stewart
Bambi Lockman Representative on her behalf: Michele Polland
Deborah Linton
Betty Kay Clements on call
Patty Houghland

Agency for Persons with Disabilities Staff
Kimberly Copley
Logan McFaddin

Others in attendance
Dixie Sansom
April Katine
Phil Blank
Frank Carrol
Pam Hinterlong

Meeting began at 1:15 p.m.

Meeting was called to order by Michele Poole. She motioned to edit the first meeting minutes from Ms. Linton nominating Michele Polland to Michele Poole to serve as chair of the Study Group.

Jim DeBeaugrine seconded the motion.

Mr. Blank, Attorney with Blank & Meenan in Tallahassee and co-founder of the Florida College Prepaid Program gave a presentation. He explained the Florida Prepaid plan as it exists in two parts, including the guarantee behind it – provisions in Florida Statutes that if program ever becomes financially infeasible, legislature assures that there will be some mechanism that covers tuition and housing of all students currently enrolled and within five years of matriculation.

Mr. Blank continued to discuss the second plan, an investment plan that has no guarantees. He noted that only first plan is a guaranteed benefit. The College Prepaid website includes a lengthy disclosure statement. This plan is exempt from federal securities regulation, but not exempt from full disclosure requirements.

Mr. Blank further shared that a purchaser buys into plan, and a financial advisor oversees money management. He noted that the plan provides for benchmarks to measure managers. Money is transferred to managers, and as money accumulates on tax-free basis. He state that the Federal government cannot tax revenues of state. Concept began in Michigan. Beneficiary of plan presents an ID to one or more state universities or colleges, and money transferred from board to college.

Mr. Blank further explained a history of the Florida plan began, as modeled after a similar concept in Michigan. He noted the tax implications of a similar program. He discussed the securities implications, including a “No Action Letter” for the Prepaid Program as it currently exists from Securities & Exchange Commission – because was a specific product, not a security. He asked the Study Group to consider whether or not there would be “critical mass” to take on such a project, and the importance of investment buy-in amount.

Mr. DeBeaugrine asked for an idea of how much in terms of assets is in current Florida Prepaid and what amount would be a threshold for this group.

Mr. Blank responded that it would be of interest – moneys managed by board are fixed income securities, such as bonds, and that the Group may want to contact such money managers.

Ms. Stewart noted that one in ten children in Florida is currently enrolled in the Florida Prepaid Program. She added that in the investment program there are currently 28,000 enrolled.

Senator Peaden asked if the Foundation was set up in advance or after the Prepaid program started.

Mr. Blank responded that the Foundation came later.

Ms. Stewart added that it is important to take into consideration which entity is going to take the risk – the State Board, Federal Medicaid, etc.

Ms. Stewart noted implications of price risk vs. investment risk and working with providers to lock in a rate.

Senator Peaden added locking in a rate based on investment theories and locking in a product as an idea.

There was discussion among Study Group members regarding the need to ensure that the provider community works together to ensure a viable product after years of money being invested.

Senator Peaden asked about offering a dually organized program like the current College Prepaid account would be financially feasible and what kind of actuarial analysis would be necessary.

Mr. Blank responded that the State Board of Administration gives the best investments at the lowest costs.

Ms. Stewart noted that eligibility criteria would need to be determined before any actuarial analysis could be done.

Mr. Blank reiterated the need to clarify the benefits end of this policy idea. He noted that the College Prepaid program offers peace of mind for parents. He noted that the current Prepaid College plan has been very conservative with investments.

Ms. Stewart noted that after discussions with State Board of Administration (SBA) leadership, the SBA would need to have some sort of third party administrator where the checks would be cut when funds are redeemed for their value after investment. She noted that if the provider community does not agree upon a set rate, the State may end up eating the difference.

Ms. Stewart added that in Prepaid College documents – in death or disability, the plan will match college rate and give to beneficiary. She also added using this program as not just for transitional college years, but to model like current Federal ABLE legislation to use beyond transition years.

Ms. Linton asked if situations where parents may not want to use money immediately, or is flexibility an option.

Mr. DeBeaugrine asked Ms. Copley to work with Tracey Stewart to draft a few bill proposals for the next meetings. Bill Palmer, Deborah Linton, and Senator Peaden all shared their interest in helping with the bill drafting process.

Mr. DeBeaugrine noted having a bill proposal over a report may be a better fit.

The group discussed future meeting dates.

Consensus on Bill title: Prepaid Developmental Disabilities Savings Plan

The group emphasized the need to not necessarily guarantee a package of services but a certain return.

Representative Skidmore added that it would be similar to buying into the State's health insurance or retirement plan.

Ms. Poole asked what start up cost would be.

Ms. Stewart responded that current College Prepaid may be a good place to start to model the guarantee on current rate of return. Administrative costs would come into play on the variable side.

Mr. DeBeaugrine noted the need to piggy back on work that has already been done, adding a few more dollars for SBA to manage. He stressed the ability to be self-funded, especially in pushing during tight budget session.

Ms. Stewart noted the need to decide upon age requirements.

The group further discussed Investment point, and identified a need to ask Prepaid Board to do individual accounting. There was further conversation on duration – average time to maturity is nine years at State Board of Administration.

Ms. Stewart noted that most money is invested in fixed income securities with lower risk and lower return.

Mr. DeBeaugrine discussed a governance issue about laying out a separate developmental disability board to manage the funds. He advised selecting a hybrid board that would be small. He reiterated that they do not want to set up another bureaucracy so they would not require their own staff. He suggested including two directors of SBA, a few officials.

Mr. Palmer noted the need to determine what types of services would be provided and how would it interfere with or complement services provided by APD, DVR, AHCA, and so forth.

The group discussed the need to plan for unintended consequences, such as a family being under obligation to spend any Prepaid Services account money before or after being eligible for other services such as APD, DVR, ACHA, etc.

Ms. Houghland noted the need to edit how as an asset of a family it would be deemed eligible, and not have any bearing on APD services. She added that with State Plan Medicaid would need to be consulted and researched.

Ms. Linton moved to adjourn.

Ms. Houghland seconded.

Meeting concluded at 2:50 p.m.

Minutes taken by Kimberly Copley

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Wednesday, October 7, 2009
1:00 – 4:00 p.m.
229 Senate Office Building
Tallahassee, FL
Summary of Minutes

Members
Jim DeBeaugrine, Co-Chair
Michele Poole, Co-Chair
Senator Peaden arrived at 2:15 p.m.
Representative Skidmore
Bill Palmer
Tracey Stewart
Bambi Lockman Representative on her behalf: Michele Polland
Deborah Linton
Betty Kay Clements on call
Patty Houghland on call

Others
Dixie Sansom
Suzanne Sewell

Agency for Persons with Disabilities Staff
Kimberly Copley
Deleah Sims
Mike Dunn
Logan McFaddin

Meeting began at 1:08 p.m.

Ms. Poole called the meeting to order at 1:08 p.m.

Ms. Poole discussed the adopting the minutes from the previous meeting. Ms. Poole requested corrections – Michele spelled with one L.

Additional edits to minutes from 9/9/09 meeting:
Ms. Stewart – page 1 – Mr. Blank continued… first plan is not a security. Only the first plan is a guaranteed benefit.
Page 2 – third paragraph – instead of SSA –Securities & Exchange Commission
Jim – same paragraph – change to “similar program”
Betty Kay – Betty Kay Clements
Frank Carrol – add to representatives
VR – Pam Hinterlong, Doris Dunfey – add to representatives
Identify Phil Blank – attorney founding College Prepaid
Correct – add others to work on draft, Bill Palmer, Deborah Linton, Senator Peaden

Michele Poole – list where meeting held, add list of all members appointed to serve, non-proxies
List members – in order of chair
Page 2 – 7th paragraph – 1 in 10 children (not kids)
Mention – Sen. Peaden suggested bill draft
Use full sentences (Rep. Skidmore)

Mr. DeBeaugrine suggested revising the minutes and redraft with edits and resend to members of the Study Group.

Moved by Mr. DeBeaugrine.

Seconded by Bill Palmer.

Jim suggested having Ms. Stewart and Ms. Copley give an overview of what appears in the bill. In order to get into posture to vote out a recommended draft at next meeting he suggested members make revisions in the form of an amendment.

Ms. Stewart outlined the bill drafting process, which included creating statutes that mirrored Prepaid College statutes. She continued issues with tax implications and language that backs the College Program falls under Federal 529 law – and ensure that the prepaid accounts would not be put in a position that funds would be taxed like a day-traders accounts. She explained financial issues in depth. She added that Phil Blank, Attorney with Blank & Meenan who presented at the 9/9/09 meeting was further consulted for tax implications.

Ms. Linton added that there were others that expressed interest in working on the draft.

Mr. DeBeaugrine suggested setting up a subcommittee for bill drafting with members, so long as noticed properly that could work collectively.

Ms. Stewart further discussed Mr. Blank's original historic information regarding Michigan's prepaid fund, and IRS wanting state to tax the funds. She continued that each individual in plan would be responsible for taxes each year on gains. She stated the possibility of having the plan be a 529 and maintain its protection. She shared that Mr. Blank stated that if it is money is state purview and used for state goals, would be appropriate to justify as non-federally taxable. She shared that Mr. Blank suggested having College Prepaid board administer program for parents of children with developmental disabilities rather than created a separate board.

Ms. Linton asked that statute cross-referenced from College Prepaid statues be made available to group.

Ms. Stewart continued that current Prepaid College language has a clause that allows the Board to make other plans as it deems appropriate. She discussed the possibility of asking the College Prepaid Board to administer DD Prepaid Savings program. She stressed that it was important to clearly state that is intent of the legislature that is a state goal to strengthen argument to leave out IRS.

Representative Skidmore asked about makeup of existing Board, and if anyone who cycles out that is a parent.

Ms. Stewart responded with the reference in F.S. 1009 who serves on the Prepaid College Board. She added that it may not be good sense to put a consumer on the board as the board would be discussing highly technical financial issues.

Ms. Poole disagreed, adding that having a representative from a family member may avoid personal issues being missed.

Ms. Stewart responded with information from Mr. Blank – not to replicate what's already been done and cross-reference, and not be overly prescriptive regarding technical details.

Ms. Linton added that AHCA may not be one of the appropriate representatives to serve on the Board.

Ms. Linton requested items on Page 7 of the bill draft for eligible Developmental Disability – asked about which syndromes were selected.

Ms. Stewart responded that it was a list in hopes of adding to diagnoses listed in 393 to be more inclusive for program eligibility.

Ms. Linton requested adding other diagnoses.

Ms. Poole reiterated that the current draft is a starting point.

Ms. Stewart noted potentially replacing with language stating "any developmental disability diagnosed by a physician."

Ms. Linton suggested using the AAIDD definition.

Mr. Palmer discussed having broader definition than discussed, possibly adding "including but not limited to" as language.

Mr. DeBeaugrine noted that such language can create controversy in a legal challenge, "including but not limited to" can be a liability.

Ms. Poole noted the need to add traumatic and brain injury.

Ms. Poole asked question regarding intent on page 5 of the bill draft, language for services provided, language regarding "physician's prescription" and working to not limit holistic and alternative therapies

Ms. Stewart added information that Mr. Blank stated: in order to bolster strength that is a state account, not investment, he suggests that to extent possible send therapy bills into Board, and fund pay directly to provider. Florida managing money as goal of state - money is paid directly to providers when possible that state dollars, not private investment accounts. She added that College Prepaid has a third party check writing company to sends funds to colleges and universities – and need for clarification from Tom Wallace.

Ms. Houghland added that if one was not privy to mission of Study Group–one may conclude that Group is trying to duplicate program or find another way to pay for program, and may mistake for Medicaid Waiver program. She added that there must be some way to list services or how money needs to be sent.

Rep. Skidmore asked a question regarding language being inconsistent to reader.

Ms. Linton added that considering broader definition, and all other programs as they administer services. She suggested using the Federal definition from the ADA Act.

Ms. Stewart added just listing services, eliminate descriptions and include ages to start withdrawal, or other issues.

Rep. Skidmore asked about different plan options and short term vs. long term needs.

Ms. Poole agreed and asked about providing an investment schedule.

Ms. Stewart discussed identifying issue of actuarial analysis. She shared that Prepaid College Plan has a 10 year for fun usage limit. She mentioned designing the program that one buys in for same amount as College Plan.

Rep. Skidmore asked a follow up question regarding terms of overall goal, and would it be possible to create an additional option under existing Prepaid College Plan for parents of children with disabilities.

Ms. Stewart added that was a thought process and the Group could create a plan.

Ms. Polland asked what would be the range as current amounts for College Prepaid.

Ms. Stewart responded that it would depend on how the bill was drafted, if buy in currently, different methods of payment, can pay in lump sum or divided amounts over 5 years (4.54 interest rate) and the group can set it as they want.

A few individuals joined the meeting at 2:02:

Suzanne Sewell – Florida ARF
Logan McFaddin – Agency for Persons with Disabilities
April Katine – Florida Developmental Disabilities Council

There was consensus among the Study Group to keep the actuarial table as simple as possible.

Bill drafting subcommittee membership and information was discussed.

Mr. DeBeaugrine suggested creating the subcommittee to go back and continue work, but added the burden of noticing to continue.
Members: Deborah Linton, Tracy Stewart, Bambi Lockman, Bill Palmer. Mr. Palmer shared that he may be sending his representative, Pam Hinterlong.

The Study Group requested that all members and interested be parties be notified of the bill drafting sub committee meeting.

Mr. DeBeaugrine reiterated that the bill drafting subcommittee must be members of Study Group only, but they may solicit input from outside as appropriate in open forums.

Ms. Poole welcomed Senator Peaden to the meeting at 2:15 p.m.

Mr. Palmer reiterated language from 2009 Senate Bill 1278 proviso language mission being to help parent with aging out and transition to workforce is possible – refocus to original language of intent.

Ms. Poole asked the Study Group to consider names for bill/

The group discussed upcoming meeting dates, Bill drafting subcommittee to meet on 10/20 at 10:00 a.m. at the Agency for Persons with Disabilities. Full group set to meet on 114/09 at a time that is conducive to the elected members' schedules. There was discussion about noticing the meeting for the full day and specifying time after checking with legislator schedules.

Ms. Stewart moved to adjourn.

Ms. Linton seconded.

Meeting concluded at 2:28.

Minutes taken by Kimberly Copley

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Wednesday, November 4, 2009
3:00 – 4:30 p.m.
229 Senate Office Building
Tallahassee, FL
Summary of Minutes

Members
Jim DeBeaugrine, Co-Chair
Michele Poole, Co-Chair absent
Senator Peaden absent
Representative Skidmore
Bill Palmer
Tracey Stewart
Bambi Lockman absent
Deborah Linton
Betty Kay Clements absent
Patty Houghland via conference call

Others
April Katine – Florida DD Council
Dixie Sansom – Sansom Group
Virginia Hardcastle – DCF Medicaid
Beth Kidder – AHCA Medicaid
Mike McCauley – on call (SBA)
Alisa Snow – Snow Strategies
Ray Walker – Rep. Ford's office

Agency for Persons with Disabilities Staff
Kimberly Copley
Deleah Sims
Logan McFaddin
Tamara Demko

Meeting began at 3:08 p.m.

April Katine – attended 10/7/09 meeting

Mr. DeBeaugrine welcomes the group back to the meeting.

Ms. Copley called roll. Mr. DeBeaugrine announced the presence of a quorum.

Ms. Snow gave remarks during public comment. She explained that she works as the Executive Director representing pediatric therapy providers. She further discussed the implications of a Prepaid Plan and provider rates, and asked that they not be patterned after Medicaid rates. She additionally expressed concern regarding the credentials for service providers and how to differentiate between different providers.

Mr. DeBeaugrine welcomed Medicaid representatives to the Study Group to answer questions.

Ms. Kidder and Ms. Hardcastle

Mr. DeBeaugrine – availability of a prepaid plan would push an individual over the income threshold and render them ineligible for the Medicaid benefit.

Response – asset limit. When looking at Prepaid plan – who is owner, and can they access the funds. If they can access the funds, then a resource to the owner. Could potentially impact eligibility of resources depending on owner of Prepaid Plan needs to be evaluated.

Ms. Stewart explained that for the most part, this idea would be targeted to individuals with DD, but make definition wider than just 393 definition. She added that the Group has attempted to expand to Federal definition and people not just on Wavier program, but also may have Medicaid benefits. Keep assets in parent’s name and in parent’s control. Need to keep program in parent’s name that assets would not be considered individual receiving Medicaid waiver services.

DCF – if looking at Family of 1 – receiving HCBS waiver, Medicaid would look at resources of the individual, in this case, individual with disability. Would be a voucher system – would go to vendor of services. Not likely an issue for HCBS waiver, but with Medicaid – other categories – “family” or “aged” “disabled” – look at age of child, other factors. Need to look at caretaker. Resource limit could be problematic. If looking at Medicaid for SSI related groups, would review HCBS waiver $2K limit – but not if Family of 1, not an accountable resource to them. May also have implications for grandparent if they need institutional care.

Ms. Stewart – asked regarding family on Medicaid, grandparent not on Medicaid, buys plan for grandchild – would that be counted in resources.

Response – count to person who owns resources. Understanding – no direct disbursement to individual.

Mr. DeBeaugrine – parent or family member who owns account – if they die, son/daughter inherits, if account passed on to child, asset could be an issue.

Ms. Stewart – family receiving Med Waiver services, could be an issue. Made point that families on Medicaid assistance may be unlikely to afford a prepaid plan. Need to advocate to parents that it would be in enrollment packet.

Ms. Kidder - If access to resource to withdraw.

Ms. Hardcastle – parent always own prepaid plan?

Response – yes. Unless in scenario where parent passes away.

Mr. DeBeaugrine – write into statute that intake packet has list of professionals or advocate information.

Rep. Skidmore – can include such language into statutory drafting. Include notices and example.

Mr. DeBeaugrine – require disclaimer and language.

Stewart moved – language to provide disclaimer to seek advice

Ms. Linton second

Ms. Kidder – another component – if child beneficiary of this type of plan, would this be considered before Medicaid, answer is yes, like any insurance benefit. Both for Medicaid State Plan or Waiver. Policy that would be purchased for child.

Ms. Stewart – provide info and updates on what services to be provided. Conclusion as a group that purchasing services is not practical – more of a savings plan and would be directed. Explained two types of 529 College Prepaid plan, parents save like a mutual fund and money is invested by state and return. No specific goods or services contracted.

Ms. Kidder – when set up a 529 plan, is tagged to child, for purposes of education, can only be used for those purposes. What would restrictions be on how paid out and under what circumstances could it be cashed out?

Ms. Stewart – if child is taking money and used for something other than education – must take a penalty. Some tax implications still exist that are very serious. Section 529 that governs prepaid plans gives tax deductibility, don’t pay taxes on gains or at distribution. If child dies or becomes disabled, get redemption value of account.

Ms. Kidder – what direction is the Study Group going?

Ms. Stewart – need to consult IRS. Where restrictions come in – what is tax deductible.

Ms. Kidder – summarize that intent is no penalty for withdrawal and using for benefit of services of the child.

Ms. Stewart – what is opinion that in that type of account, monetary investment, remains as asset of parents?

Ms. Kidder – need to consult further with others. Any other states?

Mr. DeBeaugrine – Waiver program supports use of non-waiver supports. As move toward iBudget concept, more flexibility toward what use of money looks like. Could it be treated more like a generic natural support?

Ms. Kidder – could come in support and care planning.

Ms. Linton – question regarding prior service authorization and doesn't want to make a negative for a family to get the plan.

Mr. DeBeaugrine asked that if APD goes to an iBudget approach – would seriously redefine PSA process.

Ms. Stewart – asked if this would apply equally to benefits to this plan than if purchasing benefits out of their income.

Ms. Snow mentioned that for Early Steps – Fed law – family first, Medicaid, and then Early Steps is payor of last resort.

Rep. Skidmore – look at shelf life of what study group is trying to do vs. College Prepaid plan. College Prepaid has time limits. This approach is contrary – safety net of value to go beyond any specific life event.

Ms. Kidder – what services have been deemed eligible.

Response – Ms. Linton – outlined info in bill used from Federal bill.

Ms. Stewart – would like benefit to be as flexible as possible.

Ms. Kidder – if want to cover an enhancement to what's available, spend money on things not otherwise covered.

Ms. Linton – frequency on limits and intensity.

Ms. Kidder – would like to give more thought and review information further. Would like to get back to Study Group. She offered her input for further deliberations.

Mr. DeBeaugrine – approval of the minutes.
Suggestion - where documenting time for late arrivers – strike from record.

Ms. Stewart – Page 4 of minutes for 10/7 "10 year limit for FUND not fun"
Interest rate – 4.54 – was rate used when choosing payment system instead of lump sum. Strike sentence with rate
Page b4 – strike those who joined at 2:02, Page 5 – time stamp.

Motion to approve with amendments – Ms. Linton
Bill Palmer – second

10/28 to consider at next time it convenes to approve

Mr. DeBeaugrine moved into bill drafting. He commended the work of the subcommittee.

Ms. Linton –services changes and edits reviewed. Clarify savings and prepaid plan. Eligible services. Suggested making reversions to inclusion services to be more specific. Participant eligibility – make clear that definitions in 393 apply and only for purposes of this section the other groups would also be covered.

Ms. Houghland – someone needs to work on two plans, melds together. Need to separate out more.
Ms. Stewart – can better explain in plan documents that better separates out the provisions of the prepaid and the savings plan. Disclaimer that clear education on both plans be included.

Ms. Stewart discussed tax implications after further consulting Tom Wallace, Chair of the College Prepaid Board. Structure of how to set up, discussed input from Mr. Blank's presentation. Corollary to 529 in this regard does not exist. ABLE account would be enabling legislation. Mr. Wallace explained that argument for state goal is only partially true – by saying that is a state goal, is tax-deferred, year by year don't pay taxes on gains, but when take funds out, do pay taxes. Could be very problematic for what trying to accomplish. Without some Federally enabling legislation, no authority to say that on end of account is not taxable. In Michigan's case – (earl 529 plans) when money was paid out, was paid to student. Someone must claim income. Need to go to IRS and to Treasury, may have contacts to 529 section. Could explore having consultant, lobbyist, but budget is limited. Back to square one.

Create a bill to study for Feds to work with infrastructure to study and evaluate the whole idea. Need ABLE account authority.

Mr. DeBeaugrine – have a Senator that wants to sponsor this bill and will not be around in a year. In this process, may be good to go ahead and take advantage of the momentum and not wait a year, and get this done. Draft bill that gives discretion to whomever structures nuts and bolts. May be more of an issue for those who implement.

Ms. Stewart – even if it ends up not being a tax benefit, still professionally managed at a good return on investment. Ultimately looking for tax free distribution. Mr. Wallace also reiterated, why not put on 529 now. Should be more slated toward keeping these individuals under 529 window. He further expressed concern

Mr. DeBeaugrine – extend until 4:45.
Ms. Linton – motion
Ms. Stewart – second

Rep. Skidmore – need framework, have expert to do the logistics.

Ms. Stewart – further info about conversation with TW. SBA housing, but SBA doesn't do individual accounts, and College Prepaid is set up better to model. Need to further consult Prepaid Board.

Mr. DeBeaugrine – talk to him further. Acknowledge Ms. Copley is leaving APD. APD volunteered to support Study Group – but wound up being an extra assignment.

Ms. Linton – need to do more clean up on drafting. Need to remeet as a bill drafting staff.

Mr. Palmer – reason to believe that Prepaid option has less barriers or more?

Ms. Stewart – possibly more.

Ms. Linton – keep APD director on board, and one other appointment from the Governor's office. Consensus

Next meeting of group – December 9 full group. Have a draft ready to submit to member.

Deadline for bill drafting – January, can make changes until Friday prior to session beginning.

Bill drafting – Monday 23th November
Also another meeting – 30th for bill drafting

Ms. Linton was asked by Mr. DeBeaugrine to chair the subcommittee.

Ms. Stewart adjourn
Ms. Linton second

Meeting concluded at 4:47 p.m.

Minutes taken by Kimberly Copley

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Friday, December 18, 2009
2:00 – 4:30 p.m.
Agency for Persons with Disabilities
4030 Esplanade Way, Conf. Room 301
Tallahassee, FL
Summary of Minutes

Members
Jim DeBeaugrine, Co-Chair
Michele Poole, Co-Chair via conference call
Senator Peaden absent
Representative Skidmore absent
Bill Palmer absent
Tracey Stewart
Bambi Lockman absent
Deborah Linton
Betty Kay Clements absent
Patty Houghland via conference call

Others
Dixie Sansom via conference call
Pam Hinterlong via conference call

Agency for Persons with Disabilities Staff
Mike Dunn
Deleah Sims

Meeting began at 2:05 p.m.

Mr. DeBeaugrine welcomed the group and called roll. There were not enough members present for a quorum, so the group must meet again to take any action.

Mr. DeBeaugrine suggested the group use their time reviewing its statutory responsibilities and the required report due by January 29, 2010:

1) ARC will take the lead on drafting the history of the legislation and a description of the requirements to attach to a proposed bill for the report;
2) Ms. Sims and Mr. Dunn will provide the summary of activities of the study group, e.g. how many times the group met, formed committees, etc.

Mr. DeBeaugrine discussed the possibility of having two additional meetings, one to discuss proposed changes and the other meeting as a backup, if there was a lack of participants for quorum. All members agreed with the recommendations.

The group then focused on the contents of the report. A suggestion to draft a summary page of their proposed legislation was made, and to make the summary available to parents. Mr. DeBeaugrine agreed to have a brief explanation of the bill to give to families.

Ms. Stewart discussed the possibility of extending the study group to insure a smooth transition for passage of the proposed bill. Mr. DeBeaugrine explained that if the study group was going to recommend extending the group, more language was necessary in the proposed bill. There was not a quorum to take a vote.

Mr. DeBeaugrine offered to get counsel to add the extension to the bill draft, if there was consensus. Ms. Houghland suggested adding the extension to the draft bill, with the option of striking it later if necessary. Ms. Poole, Ms. Sansom, and Ms. Hinterlong all agree with Ms. Houghland. Ms. Linton agreed but suggested limiting the extension to a year. Mr. DeBeaugrine asked Ms. Stewart to draft language and submit it to Mr. Dunn for distribution to the members.

Mr. DeBeaugrine asked if there was anything else not in bill draft to add.

Ms. Stewart discussed the option to adding definitions of Prepaid Contract Plan and the Savings Plan. The group agreed to adding definitions to the draft bill. They will send to Mr. Dunn final edits by December 28, 2009.

The members turned their attention to the contents of the draft bill. Mr. DeBeaugrine asked the members present if they were comfortable with the draft language. The general response was “yes”, with a few minor changes.

Mr. DeBeaugrine suggested that striking lines 172-174 on page 8. All members agree to the suggestion. Mr. DeBeaugrine also made a recommendation to strike lines 195-197 on page 9.

Mr. DeBeaugrine asked if someone would speak with Senator Peaden and Representative Skidmore to request legislative staff look into the issue on taxation. Ms. Sansom agreed to speak with Sen. Peaden and Rep. Skidmore on the issue.

Ms. Stewart raised the issue involving the Asset Allocation Plan and the benefits of mimicking the language from Prepaid College. Stewart had already sent draft language to Dunn. Mr. DeBeaugrine agreed to include the language the next draft report, and for Mr. Dunn to send to members for review before the next meeting.

Ms. Linton suggested striking the bullets on page 4, line item 85. Mr. DeBeaugrine agreed. She also suggested a change to page 5, 4B - Prepaid Contract Fund, “shall” instead of “may consist of monies.”

Mr. DeBeaugrine asked to change lines 97-98 into people first language, for Dunn to make note of the changes, and for Dunn to resend the document to the group on Monday morning.

Recapping the tasks:
- Ms. Linton will provide Mr. Dunn background information, the purpose for the legislation, an overview of the legislation, and include the requirement of a report.
- Mr. Dunn will work with Ms. Sims on the summary of activities.
- Ms. Linton and Ms. Stewart will send to Dunn the language to extend the group.
- The required report will incorporate the draft bill.
- Mr. Dunn and Mr. DeBeaugrine provide the membership listing.

Mr. DeBeaugrine suggested drafting a memorial to Congress. He tasked Dunn with finding an existing memorial to use as a template and drafting language for the next meeting. Mr. DeBeaugrine also suggested adding the meeting minutes as appendices to the report. The suggestion was favorable, and another general reminder to send all changes to Mr. Dunn by December 28, 2009, made.

There was discussion about the meeting dates for January. Mr. DeBeaugrine suggested working around the Senator and Representative's calendars, and for group members to send to Dunn times/dates when they are not available.

The meeting concluded with a roll call of the members absent the meeting for a quorum. Mr. DeBeaugrine thanked everyone and meeting was adjourned at 3:13 p.m.

Audio transcript provided by Deleah Sims.

Developmental Disabilities Prepaid Services Study Group
In-Person Meeting
Tuesday, January 12, 2010
8:00 – 8:40 a.m.
229 Senate Office Building
Tallahassee, FL
Summary of Minutes

Members
Jim DeBeaugrine, Co-Chair
Michele Poole, Co-Chair via conference call
Senator Durell Peaden - absent
Representative Kelly Skidmore
Bill Palmer represented by Pam Hinterlong via conference call
Tracey Stewart absent
Bambi Lockman late
Deborah Linton
Betty Kay Clements via conference call
Patty Houghland via conference call

Others in attendance
Dixie Sansom – Sansom Group
Jeff Saulich – APD staff
Celeste Sanders – APD staff

Celeste Sanders opened the meeting at approximately 8:05 a.m. with a roll call. Noted Michele Poole, Betty Kay Clements and Patty Houghland's attendance via telephone. Noted Pam Hinterlong attended via telephone on behalf of Bill Palmer.

Jim DeBeaugrine chaired the meeting. He verified the number of attendees and determined there was a quorum. He advised Pam Hinterlong that she could not vote on any action on behalf of Bill Palmer. He welcomed the study group by acknowledging the work performed by its members and informed them of staffing changes that required a recording of the meeting for the minutes.

The first action item was approval of the minutes of the November 4, 2009 and December 18, 2009 meetings. The latter was not available due to the departure of Kim Copley and Mike Dunn. A suggestion was made to adopt the minutes for completion of the group's report. Rep. Skidmore made the motion to approve the November minutes and Patty Houghland seconded. The minutes were approved by unanimous vote.

Deborah Linton gave a brief summary of the group report, proposed bill, and memorial for Congress. Draft documents needed approval. DeBeaugrine suggested a group vote on all of them, as the proposed bill and memorial will be part of the final report. He then opened the floor for discussion.

Ms. Linton said the language in the bill the group drafted answered many of the questions asked in proviso. She recommended a few more changes:

1) Language, "as passed in bill 1660" should be included in the report;

2) Page 1 paragraph 4 should say "after Senate Bill 1660 sponsored by Senator Peaden". He wants to sponsor the bill developed by the study group; and

3) The appendix indexed and the pages numbered.

Mr. DeBeaugrine suggested a vote to make these changes to the report and to allow staff to do any other cleanup that arises in preparing for publication. Ms. Linton moved to adopt the suggestions and Betty Kay Clements seconded the motion. The member voted unanimously to:

1) include the amendment that says the bill was created by the study group. (7:20)

2) allow staff to make "technical corrections", such as numbering the pages.

Michele Poole requested changing the spelling of Gabby's name from "y" to "ie". Mr. DeBeaugrine said the change can be considered as a technical correction that the membership authorized staff to make.

(8:48) Patty Houghland had a question on recommendation #4: If I put money into the investment fund, does that mean that when withdrawn "I can't hire my neighbor to do the respite care I need?" Ms. Linton responded: no. However, people required to be background screened, physical therapists that have to be licensed, or anything families do through CDC that has to be approved by the state would still apply. Unless there is a state standard or requirement, Houghland could hire whoever she wanted. Houghland say this needs to be better clarified.

(12:00) There is a missing word in the sentence: "It is recommended that "the state"" (page 11, recommendation #5). Mr. DeBeaugrine said it could be fixed as a technical correction.

Dixie Sansom thinks the report needs to be more clear in page 1 paragraph 4, that the prepaid saving program is more than just a concept from ARC; it is ARC legislation/ARC initiative.

- Rep Skidmore questioned what the purpose would be in making the wording more explicit.
- Ms. Sansom responded she wanted to give credit where credit is due.
- Mr. DeBeaugrine suggested: "the ARC of Florida was instrumental in promoting this legislation."
- Ms. Sanders suggested: "The ARC of Florida, through the efforts of Dixie Sampson, with the support of the agency…"

(17:00) Mr. DeBeaugrine then suggested for 4th paragraph: "The ARC of Florida saw a unique opportunity for the private sector. The ARC of Florida, with support from the agency for persons with disabilities, recognized a unique opportunity to bring a private sector solution to the table which would allow parents to proactively plan for their child's future." The first sentence would be deleted. Ms.

Linton made a motion to accept Mr. DeBeaugrine's suggestion and was seconded by Rep. Skidmore. The motion was approved without objection.

Ms. Sanders noted that there is a placeholder for the December minutes in the appendix of the report, but the minutes needed approval. Mr. DeBeaugrine asked the group if there were any objections to incorporating the December minutes to the report. There were no objections. Mr. DeBeaugrine suggested adding the minutes to the technical tasks assigned to staff. Ms. Linton made a motion to accept the report with the minutes as stated and Ms. Houghland seconded the motion. Hearing no objections or comments the motion passed.

Mr. DeBeaugrine thanked everyone and recognized Tracey Stewart, and the ARC of Florida for the work put into drafting bill language. He asked for a roll-call vote to accept group's report with all the technical changes that staff will make for publication.

A roll-call vote was taken and the members responded as follows:

- Rep. Kelly Skidmore: yes
- Sen. Durell Peaden: (absent)
- Jim DeBeaugrine: yes
- Bill Palmer: (Pam Hinterlong could not vote)
- Tracey Stewart (absent)
- Bambi Lockman (missed vote)
- Deborah Linton: yes
- Michele Poole: yes
- Betty Kay Clemens: yes
- Patty Houghland: yes

Mr. DeBeaugrine told the group that there will be a brief cover letter that will state the group has completed its study, made recommendations and approved the documents contained in its report. The bill drafted by the group will be sent to Senator Peaden for sponsorship. Rep. Skidmore volunteered to sponsor the group's bill in the House and submit it to bill drafting. The backup meeting tentatively scheduled for January 14 was cancelled. A notice was sent to the members.

With a final thank you to everyone, the meeting was adjourned.

Audio transcript provided by Terin Barbas.

APPENDIX II

Memorial to Congress

A memorial to the Congress of the United States, urging Congress to support the opportunity to provide increased access to services for individuals with developmental disabilities.

WHEREAS, federal and state financial assistance is provided for services under the Medicaid program for individuals with developmental disabilities, and

WHEREAS, community-based services are a valuable cost-effective alternative to institutional care which benefit both the individual receiving such services and the federal and state programs that fund such services, and

WHEREAS, studies document that individuals with developmental disabilities who receive services in the their homes or other community settings in contrast to those who receive care in an institutional setting experience improved outcomes, quality of care, and quality of life, and

WHEREAS, publicly funded programs that cover community-based services for individuals with developmental disabilities are limited, and

WHEREAS, federal and state programs provide limited support for community-based services that serve as an alternative to institutional care, and

WHEREAS, the years after a student with a developmental disability ages out of the education system are critical for learning and transition, and

WHEREAS, the need to allow the opportunity to provide increased access to services at the discretion of the families is recognized, and

WHEREAS, access to services, regardless of income, insurance or Medicaid eligibility, is recognized, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida:

That the Congress of the United States is urged to:

(1) Support the "Achieving a Better Life Experience Act of 2009 or the ABLE Act of 2009" as reflected in H.R.1205 and S.493, addressing; and

(2) Support ABLE accounts for individuals with a disability to assist them in paying certain expenses of individuals with developmental disabilities, including expenses for education, housing, transportation, employment support, medical care, and certain life necessities.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

APPENDIX III
SB 1660

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An act relating to the Agency for Persons with Disabilities; amending s. 393.065, F.S.; requiring that the agency assign and provide priority to clients waiting for waiver services; classifying and specifying the order of priority; authorizing the agency and the Agency for Health Care Administration to adopt rules; amending s. 393.0661, F.S.; deleting a provision that permits all developmental waiver services to be available in all waiver tiers; deleting a provision that limits an increase in the number of waiver services until after a certain date; directing the agency to eliminate medication-review services; directing the agency to develop plans to eliminate redundancies in certain services and reduce the supported employment services for certain clients; deleting an upcoming reduction in the geographic differential for residential habilitation services in certain counties; revising criteria for rebasing a client’s cost plan; deleting the expiration date for a provision relating to the calculation of the amount of a waiver cost plan adjustment; deleting obsolete provisions; amending s. 393.23, F.S.; revising how moneys in trust accounts in developmental disability centers may be spent; creating the Prepaid Services for Parents of Children with Developmental Disabilities Study Group to evaluate the creation of a prepaid service plan for children with disabilities; providing for membership; providing for administrative

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support; providing for the duties of the study group; providing for per diem and travel expenses for members; requiring the study group to present a final report to the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Subsection (5) of section 393.065, Florida Section 1. Statutes, is amended, present subsection (6) of that section is renumbered as subsection (7) and amended, and a new subsection (6) is added to that section, to read:

Application and eligibility determination.— 393.065

(5)Except as otherwise directed by law, beginning July 1, 2010, the agency shall assign and provide priority to clients waiting for waiver services in the following order:

Category 1, which includes (a) ~~With the exception of~~ clients deemed to be in crisis ~~whom the agency shall serve~~ as described in rule.~~, the agency shall place at the top of its wait list for waiver services those~~

Category 2, which includes (b) children on the wait list who are from the child welfare system with an open case in the Department of Children and Family Services’ statewide automated child welfare information system.

Category 3, which includes, but is not required to be (c) limited to, clients:

Whose caregiver has a documented condition that is 1. expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no

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alternate caregiver is available;

At substantial risk of incarceration or court commitment 2. without supports;

Whose documented behaviors or physical needs place them 3. or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

Who are identified as ready for discharge within the 4. next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.

Category 4, which includes, but is not required to be (d) limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

Category 5, which includes, but is not required to be (e) limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.

Category 6, which includes clients 21 years of age or (f) older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

Category 7, which includes clients younger than 21 (g) years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

Within categories 3, 4, 5, 6, and 7, the agency shall maintain a wait list of clients placed in the order of the date that the client is determined eligible for waiver services.

The client, the client's guardian, or the client's (6) family must ensure that accurate, up-to-date contact information is provided to the agency at all times. The agency shall remove from the wait list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(7)~~(6)~~ The agency and the Agency for Health Care Administration may adopt rules specifying application procedures, criteria associated with wait-list categories, procedures for administering the wait list, and eligibility criteria as needed to administer this section.

Subsections (3), (4), (5), and (6) of section Section 2. 393.0661, Florida Statutes, are amended to read:

Home and community-based services delivery system; 393.0661 comprehensive redesign.—The Legislature finds that the home and community-based services delivery system for persons with developmental disabilities and the availability of appropriated funds are two of the critical elements in making services available. Therefore, it is the intent of the Legislature that the Agency for Persons with Disabilities shall develop and implement a comprehensive redesign of the system.

The Agency for Health Care Administration, in (3) consultation with the agency, shall seek federal approval and implement a four-tiered waiver system to serve eligible clients through ~~with developmental disabilities in~~ the developmental disabilities and family and supported living waivers. The agency shall assign all clients receiving services through the developmental disabilities waiver to a tier based on a valid assessment instrument, client characteristics, and other appropriate assessment methods. ~~All services covered under the current developmental disabilities waiver shall be available to all clients in all tiers where appropriate, except as otherwise provided in this subsection or in the General Appropriations Act.~~

Tier one (a) <u>is</u> ~~shall be~~ limited to clients who have service needs that cannot be met in tier two, three, or four for intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others.

Tier two (b) <u>is</u> ~~shall be~~ limited to 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<u>,</u> or clients in supported living who receive <u>more</u> ~~greater~~ than 6 hours a day of in-home support services. Total annual expenditures under tier two may not exceed $55,000 per client each year.

Tier three (c) <u>includes</u> ~~shall include~~, but is not limited to, clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures under tier three may not exceed $35,000 per client each year.

Tier four is the family and supported living waiver (d) <u>and</u> <u>includes</u>~~. Tier four shall include~~, but is not limited to, clients in independent or supported living situations and clients who live in their family home. ~~An increase to the number of services available to clients in this tier shall not take effect prior to July 1, 2009.~~ Total annual expenditures under tier four may not exceed $14,792 per client each year.

The Agency for Health Care Administration shall also (e) seek federal approval to provide a consumer-directed option for persons with developmental disabilities which corresponds to the funding levels in each of the waiver tiers. The agency shall implement the four-tiered waiver system beginning with tiers one, three, and four and followed by tier two. The agency and the Agency for Health Care Administration may adopt ~~any~~ rules necessary to administer this subsection.

The agency shall seek federal waivers and amend (f) contracts as necessary to make changes to services defined in federal waiver programs administered by the agency as follows:

Supported living coaching services 1. may ~~shall~~ not exceed 20 hours per month for persons who also receive in-home support services.

Limited support coordination services 2. is ~~shall be~~ the only type of support coordination service that may be provided to persons under the age of 18 who live in the family home.

Personal care assistance services 3. are ~~shall be~~ limited to ~~no more than~~ 180 hours per calendar month and may ~~shall~~ not include rate modifiers. Additional hours may be authorized for persons who have intensive physical, medical, or adaptive needs if such hours are essential for avoiding institutionalization.

Residential habilitation services 4. are ~~shall be~~ limited to 8 hours per day. Additional hours may be authorized for

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persons who have intensive medical or adaptive needs and if such hours are essential for avoiding institutionalization, or for persons who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harming themselves or others. This restriction shall be in effect until the four-tiered waiver system is fully implemented.

Chore services, nonresidential support services, and 5. homemaker services are ~~shall be~~ eliminated. The agency shall expand the definition of in-home support services to allow ~~enable~~ the service provider ~~of the service~~ to include activities previously provided in these eliminated services.

Massage therapy 6., medication review, and psychological assessment services are ~~shall be~~ eliminated.

The agency shall conduct supplemental cost plan reviews 7. to verify the medical necessity of authorized services for plans that have increased by more than 8 percent during either of the 2 preceding fiscal years.

The agency shall implement a consolidated residential 8. habilitation rate structure to increase savings to the state through a more cost-effective payment method and establish uniform rates for intensive behavioral residential habilitation services.

Pending federal approval, the agency 9. may ~~is authorized to~~ extend current support plans for clients receiving services under Medicaid waivers for 1 year beginning July 1, 2007, or from the date approved, whichever is later. Clients who have a substantial change in circumstances which threatens their health and safety may be reassessed during this year in order to determine the necessity for a change in their support plan.

The agency shall develop a plan to eliminate 10. redundancies and duplications between in-home support services, companion services, personal care services, and supported living coaching by limiting or consolidating such services.

The agency shall develop a plan to reduce the intensity 11. and frequency of supported employment services to clients in stable employment situations who have a documented history of at least 3 years’ employment with the same company or in the same industry.

(4)~~Effective July 1, 2008,~~ The geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services shall be 7.5 percent. ~~Effective July 1, 2009, the geographic differential for Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services shall be 4.5 percent.~~

(5)~~Effective July 1, 2008,~~ The geographic differential for Monroe County for residential habilitation services shall be 20 percent. ~~Effective July 1, 2009, the geographic differential for Monroe County for residential habilitation services shall be 15 percent. Effective July 1, 2010, the geographic differential for Monroe County for residential habilitation services shall be 10 percent.~~

Effective January 1, (6) 2010 ~~2009~~, and except as otherwise provided in this section, a client ~~an individual~~ served by the home and community-based services waiver or the family and supported living waiver funded through the agency ~~for Persons with Disabilities~~ shall have his or her cost plan adjusted to reflect the amount of expenditures for the previous state fiscal year plus 5 percent if such amount is less than the client’s

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~~individual's~~ existing cost plan. The agency ~~for Persons with Disabilities~~ shall use actual paid claims for services provided during the previous fiscal year that are submitted by October 31 to calculate the revised cost plan amount. If the client ~~an individual~~ was not served for the entire previous state fiscal year or there was any single change in the cost plan amount of more than 5 percent during the previous state fiscal year, the agency shall set the cost plan amount at an estimated annualized expenditure amount plus 5 percent. The agency shall estimate the annualized expenditure amount by calculating the average of monthly expenditures, beginning in the fourth month after the client ~~individual~~ enrolled, interrupted services are resumed, or the cost plan was changed by more than 5 percent and ending on ~~with~~ August 31, 2009 ~~2008~~, and multiplying the average by 12. In order to determine whether a client was not served for the entire year, the agency shall include any interruption of a waiver-funded service or services lasting at least 18 days. If ~~In the event that~~ at least 3 months of actual expenditure data are not available to estimate annualized expenditures, the agency may not rebase a cost plan pursuant to this subsection. The agency may not rebase the cost plan of any client who experiences a significant change in recipient condition or circumstance which results in a change of more than 5 percent to his or her cost plan between July 1 and the date that a rebased cost plan would take effect pursuant to this subsection. ~~This subsection expires June 30, 2009, unless reenacted by the Legislature before that date.~~

Subsection (1) of section 393.23, Florida Section 3. Statutes, is amended to read:

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393.23 Developmental disabilities centers; trust accounts. All receipts from the operation of canteens, vending machines, hobby shops, sheltered workshops, activity centers, farming projects, and other like activities operated in a developmental disabilities center, and moneys donated to the center, must be deposited in a trust account in any bank, credit union, or savings and loan association authorized by the State Treasury as a qualified depository to do business in this state, if the moneys are available on demand.

Moneys in the trust account must be expended for the (1) benefit, education, or ~~and~~ welfare of clients. However, if specified, moneys that are donated to the center must be expended in accordance with the intentions of the donor. Trust account money may not be used for the benefit of agency employees ~~of the agency~~ or to pay the wages of such employees. The welfare of ~~the~~ clients includes the expenditure of funds for the purchase of items for resale at canteens or vending machines, and for the establishment of, maintenance of, and operation of canteens, hobby shops, recreational or entertainment facilities, sheltered workshops, activity centers, farming projects, or other like facilities or programs established at the center for the benefit of clients.

Section 4. The Prepaid Services for Parents of Children (1) with Developmental Disabilities Study Group is created to evaluate the establishment of a prepaid service plan for children with disabilities modeled after the Florida prepaid college program. The prepaid service plan would allow funds to be paid into a plan on behalf of a child to provide a voucher for purchasing additional services from a qualified, willing provider upon the child's exit from an exceptional student program. These services would provide support to help the parent retain the benefits to the child of the exceptional student program and to help the child in transitioning to the workforce if possible.

The study group shall consist of the following: (2)

A member of the House of Representatives appointed by (a) the Speaker of the House of Representatives.

A member of the Senate appointed (b) by the President of the Senate.

The director of the Agency for Persons with (c) Disabilities, or designee.

The director of the Division of Vocational (d) Rehabilitation, or designee.

The executive director of the State Board of (e) Administration, or designee.

The Commissioner of Education, or designee. (f)

The executive director of The Arc of Florida, or (g) designee.

An Arc of Florida family board member appointed by the (h) executive director of The Arc of Florida.

The chairperson of the Family Care Council Florida, or (i) his or her designee.

A parent representative from the Family Care Council (j) Florida appointed by the chairperson of the Family Care Council Florida.

The Agency for Persons with Disabilities shall provide (3) administrative support for the study group.

The study group shall evaluate and develop findings and (4) recommendations regarding the following:

The services for which a voucher could be used. (a)

The financial requirements for such a system. (b)

The qualifications of service providers. (c)

The steps necessary to qualify prepaid service plan (d) funds for a federal waiver match program or other federal funding and the possibilities of such a waiver match or other federal funding.

Members of the study group shall serve without (5) compensation but are entitled to reimbursement for per diem and travel expenses as provided in s. 112.061, Florida Statutes.

The members of the study group shall be appointed by (6) July 30, 2009, and shall hold their first meeting by September 1, 2009. The final report of the study group shall be submitted to the President of the Senate and the Speaker of the House of Representatives by January 29, 2010. The group is abolished and this section is repealed upon submission of the group's final report.

This act shall take effect July 1, 2009. Section 5.