

Fiscal Year 2024-2025 Conforming Bill
Relating to the Adult Pathways Waiver

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1 A bill to be entitled
2 An act relating to the Adult Pathways Waiver;
3 amending s. 393.063, F.S., proving a definition;
4 creating s. 393.0664, F.S., providing program
5 implementation; providing authority to seek federal
6 approval; providing eligibility and enrollment
7 criteria; providing waiver benefits and covered
8 services; requiring program administration and
9 evaluation criteria; requiring reporting; providing
10 an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Subsections (11) through (46) are
15 renumbered, and new subsection (11) of section 393.063
16 Florida Statutes, is added to the section to read:

17 (11) "Developmental Disabilities Client" or "DD
18 client" means any individual found eligible by the
19 department for services under section 393.0662 of this
20 chapter.

21 ~~(124)~~ "Developmental disability" means a disorder or
22 syndrome that is attributable to intellectual disability,
23 cerebral palsy, autism, spina bifida, Down syndrome,
24 Phelan-McDermid syndrome, or Prader-Willi syndrome; that
25 manifests before the age of 18; and that constitutes a
26 substantial handicap that can reasonably be expected to
27 continue indefinitely.

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(132) "Direct service provider" means a person 18 years of age or older who has direct face-to-face contact with a client while providing services to the client or has access to a client's living areas or to a client's funds or personal property.

(143) "Domicile" means the place where a client legally resides and which is his or her permanent home. Domicile may be established as provided in s. 222.17. Domicile may not be established in Florida by a minor who has no parent domiciled in Florida, or by a minor who has no legal guardian domiciled in Florida, or by any alien not classified as a resident alien.

(154) "Down syndrome" means a disorder caused by the presence of an extra chromosome 21.

(165) "Express and informed consent" means consent voluntarily given in writing with sufficient knowledge and comprehension of the subject matter to enable the person giving consent to make a knowing decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(176) "Family care program" means the program established in s. 393.068.

(187) "Foster care facility" means a residential facility licensed under this chapter which provides a family living environment including supervision and care necessary to meet the physical, emotional, and social needs

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54 of its residents. The capacity of such a facility may not
55 be more than three residents.

56 (198) "Group home facility" means a residential
57 facility licensed under this chapter which provides a
58 family living environment including supervision and care
59 necessary to meet the physical, emotional, and social needs
60 of its residents. The capacity of such a facility shall be
61 at least 4 but not more than 15 residents.

62 (2019) "Guardian" has the same meaning as in s.
63 744.102.

64 (210) "Guardian advocate" means a person appointed by
65 a written order of the court to represent a person with
66 developmental disabilities under s. 393.12.

67 (221) "Habilitation" means the process by which a
68 client is assisted in acquiring and maintaining those life
69 skills that enable the client to cope more effectively with
70 the demands of his or her condition and environment and to
71 raise the level of his or her physical, mental, and social
72 efficiency. It includes, but is not limited to, programs of
73 formal structured education and treatment.

74 (232) "High-risk child" means, for the purposes of
75 this chapter, a child from 3 to 5 years of age with one or
76 more of the following characteristics:

77 (a) A developmental delay in cognition, language, or
78 physical development.

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(b) A child surviving a catastrophic infectious or traumatic illness known to be associated with developmental delay, when funds are specifically appropriated.

(c) A child with a parent or guardian with developmental disabilities who requires assistance in meeting the child's developmental needs.

(d) A child who has a physical or genetic anomaly associated with developmental disability.

~~(243)~~ "Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term:

(a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

(b) "Significantly subaverage general intellectual functioning" means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

For purposes of the application of the criminal laws and procedural rules of this state to matters relating to pretrial, trial, sentencing, and any matters relating to the imposition and execution of the death penalty, the terms "intellectual disability" or "intellectually

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disabled" are interchangeable with and have the same meaning as the terms "mental retardation" or "retardation" and "mentally retarded" as defined in this section before July 1, 2013.

(254) "Intermediate care facility for the developmentally disabled" means a residential facility licensed and certified under part VIII of chapter 400.

(265) "Licensee" means an individual, a corporation, a partnership, a firm, an association, a governmental entity, or other entity that is issued a permit, registration, certificate, or license by the agency. The licensee is legally responsible for all aspects of the provider operation.

(276) "Medical/dental services" means medically necessary services that are provided or ordered for a client by a person licensed under chapter 458, chapter 459, or chapter 466. Such services may include, but are not limited to, prescription drugs, specialized therapies, nursing supervision, hospitalization, dietary services, prosthetic devices, surgery, specialized equipment and supplies, adaptive equipment, and other services as required to prevent or alleviate a medical or dental condition.

(287) "Personal care services" means individual assistance with or supervision of essential activities of daily living for self-care, including ambulation, bathing, dressing, eating, grooming, and toileting, and other

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similar services that are incidental to the care furnished and essential to the health, safety, and welfare of the client if no one else is available to perform those services.

~~(298)~~ "Phelan-McDermid syndrome" means a disorder caused by the loss of the terminal segment of the long arm of chromosome 22, which occurs near the end of the chromosome at a location designated q13.3, typically leading to developmental delay, intellectual disability, dolicocephaly, hypotonia, or absent or delayed speech.

~~(3029)~~ "Prader-Willi syndrome" means an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior.

~~(310)~~ "Relative" means an individual who is connected by affinity or consanguinity to the client and who is 18 years of age or older.

~~(324)~~ "Resident" means a person who has a developmental disability and resides at a residential facility, whether or not such person is a client of the agency.

~~(332)~~ "Residential facility" means a facility providing room and board and personal care for persons who have developmental disabilities.

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160 (~~343~~) "Residential habilitation" means supervision and
161 training with the acquisition, retention, or improvement in
162 skills related to activities of daily living, such as
163 personal hygiene skills, homemaking skills, and the social
164 and adaptive skills necessary to enable the individual to
165 reside in the community.

166 (~~354~~) "Residential habilitation center" means a
167 community residential facility licensed under this chapter
168 which provides habilitation services. The capacity of such
169 a facility may not be fewer than nine residents. After
170 October 1, 1989, new residential habilitation centers may
171 not be licensed and the licensed capacity for any existing
172 residential habilitation center may not be increased.

173 (~~365~~) "Respite service" means appropriate, short-term,
174 temporary care that is provided to a person who has a
175 developmental disability in order to meet the planned or
176 emergency needs of the person or the family or other direct
177 service provider.

178 (~~376~~) "Restraint" means a physical device, method, or
179 drug used to control dangerous behavior.

180 (a) A physical restraint is any manual method or
181 physical or mechanical device, material, or equipment
182 attached or adjacent to an individual's body so that he or
183 she cannot easily remove the restraint and which restricts
184 freedom of movement or normal access to one's body.

185 (b) A drug used as a restraint is a medication used to
186 control the person's behavior or to restrict his or her

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187 freedom of movement and is not a standard treatment for the
188 person's medical or psychiatric condition. Physically
189 holding a person during a procedure to forcibly administer
190 psychotropic medication is a physical restraint.

191 (c) Restraint does not include physical devices, such
192 as orthopedically prescribed appliances, surgical dressings
193 and bandages, supportive body bands, or other physical
194 holding necessary for routine physical examinations and
195 tests; for purposes of orthopedic, surgical, or other
196 similar medical treatment; to provide support for the
197 achievement of functional body position or proper balance;
198 or to protect a person from falling out of bed.

199 (387) "Seclusion" means the involuntary isolation of a
200 person in a room or area from which the person is prevented
201 from leaving. The prevention may be by physical barrier or
202 by a staff member who is acting in a manner, or who is
203 physically situated, so as to prevent the person from
204 leaving the room or area. For the purposes of this chapter,
205 the term does not mean isolation due to the medical
206 condition or symptoms of the person.

207 (398) "Self-determination" means an individual's
208 freedom to exercise the same rights as all other citizens,
209 authority to exercise control over funds needed for one's
210 own support, including prioritizing these funds when
211 necessary, responsibility for the wise use of public funds,
212 and self-advocacy to speak and advocate for oneself in

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order to gain independence and ensure that individuals with a developmental disability are treated equally.

~~(4039)~~ "Significant additional need" means an additional need for medically necessary services which would place the health and safety of the client, the client's caregiver, or the public in serious jeopardy if it is not met. The term does not exclude services for an additional need that the client requires in order to remain in the least restrictive setting, including, but not limited to, employment services and transportation services. The agency may provide additional funding only after the determination of a client's initial allocation amount and after the qualified organization has documented the availability of nonwaiver resources.

~~(410)~~ "Specialized therapies" means those treatments or activities prescribed by and provided by an appropriately trained, licensed, or certified professional or staff person and may include, but are not limited to, physical therapy, speech therapy, respiratory therapy, occupational therapy, behavior therapy, physical management services, and related specialized equipment and supplies.

~~(421)~~ "Spina bifida" means a medical diagnosis of spina bifida cystica or myelomeningocele.

~~(432)~~ "Support coordinator" means an employee of a qualified organization as provided in s. 393.0663 designated by the agency to assist individuals and families in identifying their capacities, needs, and resources, as

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240 well as finding and gaining access to necessary supports
241 and services; coordinating the delivery of supports and
242 services; advocating on behalf of the individual and
243 family; maintaining relevant records; and monitoring and
244 evaluating the delivery of supports and services to
245 determine the extent to which they meet the needs and
246 expectations identified by the individual, family, and
247 others who participated in the development of the support
248 plan.

249 (44~~3~~) "Supported employment" means employment located
250 or provided in an integrated work setting, with earnings
251 paid on a commensurate wage basis, and for which continued
252 support is needed for job maintenance.

253 (45~~4~~) "Supported living" means a category of
254 individually determined services designed and coordinated
255 in such a manner as to provide assistance to adult clients
256 who require ongoing supports to live as independently as
257 possible in their own homes, to be integrated into the
258 community, and to participate in community life to the
259 fullest extent possible.

260 (46~~5~~) "Training" means a planned approach to assisting
261 a client to attain or maintain his or her maximum potential
262 and includes services ranging from sensory stimulation to
263 instruction in skills for independent living and
264 employment.

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(476) "Treatment" means the prevention, amelioration, or cure of a client's physical and mental disabilities or illnesses.

Section 2. Section 393.0664, Florida Statutes, is created to read:

393.0664 Adult Pathways Home and Community Based Services

(1) PROGRAM IMPLEMENTATION.-

(a) The Agency for Persons with Disabilities shall develop and implement the Adult Pathways Home and Community Services Medicaid Waiver as a fee for service model with an annual per person funding cap to address needs for DD clients as they transition into adulthood and achieve greater independence throughout their lifetime.

(b) The waiver shall create an additional pathway to contain cost and provide necessary supports and services maximizing the use of natural supports and community partnerships before utilizing state resources to meet varying levels of need at the earliest moment possible to prevent crisis and to influence outcomes relating to health, safety, and well-being.

(c) The Agency for Health Care Administration, in partnership with the Agency for Persons with Disabilities, may seek federal approval through a state plan amendment or Medicaid waiver as necessary to implement the program. The Agency for Health Care Administration shall submit a

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request for federal approval needed to implement the
program by November 1, 2024.

(2) ELIGIBILITY; VOLUNTARY ENROLLMENT; DISENROLLMENT.-

(a) Participation in this Adult Pathways waiver is
voluntary and limited to the maximum number of enrollees
specified in the General Appropriations Act.

(b) The Agency for Persons with Disabilities shall
approve a needs assessment methodology to determine
functional, behavioral, and physical needs of prospective
enrollees. The assessment methodology may be administered
by persons who have completed training offered by the
Agency for Persons with Disabilities. Eligibility to
participate in the Adult Pathways waiver is determined
based on all of the following criteria:

1. Whether the individual is eligible for Medicaid.

2. Whether the individual is 21 years of age or at the
point of attainment of a high school diploma and currently
in a pre-enrollment category for iBudget waiver services
under chapter 393 and meets the current criteria of
categories 7, 6, or 5.

3. Whether the individual meets the level of care for
home and community-based services as identified in the
approved federal waiver.

(a) Participation in this Adult Pathways waiver will
not affect current enrollees on the iBudget waiver unless
an enrollee, or their legal representative, declares an
intent to voluntarily disenroll from the iBudget waiver.

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(b) Enrollees who voluntarily disenroll from the Adult Pathways waiver may be afforded the opportunity to return to the most appropriate pre-enrollment category based on a current needs assessment and individual criteria.

(3) ADULT PATHWAYS WAIVER BENEFITS.—

(a) The Agency for Persons with Disabilities shall authorize covered services as specified in the Adult Pathways waiver that are medically necessary and may include the following service offerings:

1. Adult Day Training.
2. Companion Services.
3. Employment Services.
4. Personal Supports.
5. Prevocational Services.
6. Supported Living Coaching.
7. Transportation.

(b) Services must be provided to enrollees in accordance with an individualized care plan which is evaluated and updated at least annually and as warranted by changes in the enrollee's circumstances.

(4) PROGRAM ADMINISTRATION AND EVALUATION.—

(a) The Agency for Persons with Disabilities shall begin enrollment upon federal approval, with coverage for enrollees becoming effective upon authorization and availability of sufficient state and federal resources.

(b) Nothing in this section or in any administrative rule shall be construed to prevent or limit the Agency for

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345 Health Care Administration, in consultation with the Agency
346 for Persons with Disabilities, from adjusting fees,
347 reimbursement rates, lengths of stay, number of visits, or
348 number of services, or from limiting enrollment, or making
349 any other adjustment necessary to comply with the
350 availability of moneys and any limitations or directions
351 provided for in the General Appropriations Act.

352 (c) The Agency for Health Care Administration, in
353 consultation with the Agency for Persons with Disabilities,
354 shall submit progress reports to the Governor, the
355 President of the Senate, and the Speaker of the House of
356 Representatives upon federal approval, implementation and
357 operation of the Adult Pathways waiver, as follows:

358 1. By July 1, 2026, a status report on the operation
359 of the Adult Pathways waiver, including, but not limited
360 to:

361 a. Waiver enrollment, including the number of
362 enrollees.

363 b. Service utilization.

364 c. Average cost per enrollee.

365 d. Outcomes and performance reporting relating to
366 health, safety and well-being.

367 Section 3. This act shall take effect July 1, 2024.