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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- DIVISION OF DEVELOPMENTAL DISABILITIES

Introduced By: Senators DiPalma, Ruggiero, Ottiano, and Goodwin

Date Introduced: June 16, 2014

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40.1-21-4.3 of the General Laws in Chapter 40.1-21 entitled
2 "Division of Developmental Disabilities" is hereby amended to read as follows:

3 **40.1-21-4.3. Definitions.** -- As used in this chapter and in chapter 22 of this title the
4 words:

5 (1) "Ancillary services" means those services provided, and shall include, but not be
6 limited to, transportation, housing, housing adaptation, personal attendant care, and homemaker
7 services.

8 (2) "Case management" means the implementation of an individual's program by
9 providing information, by referral to appropriate service providers, by procurement of services,
10 and by the coordination of the necessary services.

11 (3) "Department" means the Rhode Island department of ~~mental health, retardation,~~
12 [behavioral healthcare, developmental disabilities](#) and hospitals.

13 (4) "Developmental services" means those services provided to developmentally
14 disabled adults, and shall include, but not be limited to, habilitation and rehabilitation services,
15 and day services.

16 (5) "Developmentally disabled adult" means a person, eighteen (18) years old or older
17 and not under the jurisdiction of the department of children, youth, and families who is either a
18 mentally retarded developmentally disabled adult or is a person with a severe, chronic disability

1 which:

2 (i) Is attributable to a mental or physical impairment or combination of mental and
3 physical impairments;

4 (ii) Is manifested before the person attains age twenty-two (22);

5 (iii) Is likely to continue indefinitely;

6 (iv) Results in substantial functional limitations in three (3) or more of the following
7 areas of major life activity:

8 (A) Self care,

9 (B) Receptive and expressive language,

10 (C) Learning,

11 (D) Mobility,

12 (E) Self-direction,

13 (F) Capacity for independent living,

14 (G) Economic self-sufficiency; and

15 (v) Reflects the person's need for a combination and sequence of special,
16 interdisciplinary, or generic care, treatment, or other services, which are of lifelong or extended
17 duration and are individually planned and coordinated. For purposes of funding, it is understood
18 that students enrolled in school will continue to receive education from their local education
19 authority in accordance with section 16-24-1 et seq.

20 (6) "Diagnosis and evaluation" means a process to determine whether and to what extent
21 an individual is developmentally disabled and a study of the individual's condition, situation, and
22 needs which lead to a recommendation of what services, if any, would benefit the individual.

23 (7) "Individualized program plan" or "general service plan" means a plan, however
24 named, which includes, but shall not be limited to, the following:

25 (i) An evaluation of the strengths, difficulties, needs, and goals of the individual;

26 (ii) A description of those services found to be necessary or appropriate to assist the
27 individual in realizing his or her potential for self-sufficiency in major life activities;

28 (iii) A description of the agencies and/or individuals, which are proposed to provide each
29 of the recommended services;

30 (iv) The intermediate and long-range objectives for the individual's development and
31 habilitation;

32 (v) The expected duration for the provision of the services;

33 (vi) A description of the tests and other evaluative devices used and their results;

34 (vii) Proposed criteria for monitoring and evaluating the success of the services in

1 meeting the individual's needs; and

2 (viii) The signatures of the preparers of the plan and the date.

3 The individual program plan shall indicate developmental, supportive, or ancillary
4 services by function and frequency, the manner of subsidy and delivery and the categories of need
5 for services such as transportation, job training, or occupation, housing, housing adaptation,
6 personal attendant care, homemaker, or other services. This plan shall be reviewed at least
7 annually; provided, however, that authorizations for services and funding issued prior to July 1,
8 2011 are null and void. ~~Authorizations will be paid at the rate effective in the quarter the service~~
9 ~~was provided.~~ Authorizations for services and funding issued on or after July 1, 2014, shall be
10 developed and issued on an annual basis for each participant, and the corresponding billing for
11 said participant shall not exceed the individual's annual allocation except in circumstances
12 specifically authorized by the department. Authorizations for services shall be paid at the rate
13 effective when the authorization is issued and on an annual basis; provided, however,
14 notwithstanding the above, the department (OHHS/BHDDH) may modify the rate paid for annual
15 service authorization for participants for any calendar quarter in which the service is to be
16 provided with no less than thirty (30) days written notice to the provider.

17 (8) "Mentally retarded developmentally disabled adult" means a person eighteen (18)
18 years old or older and not under the jurisdiction of the department of children, youth, and
19 families, with significant sub-average, general intellectual functioning two (2) standard deviations
20 below the norm, existing concurrently with deficits in adaptive behavior and manifested during
21 the developmental period. For purposes of funding, it is understood that students enrolled in
22 school will continue to receive education from their local education authority in accordance with
23 section 16-24-1 et seq.

24 (9) "Service broker" means that individual who assists in facilitating the connection
25 between the developmentally disabled person and the services required by the individual program
26 plan.

27 (10) "Subsidized access to service" means the provisions of financial resources through
28 vouchers to a developmentally disabled person to enable the person to gain access to appropriate
29 generic and/or special services as required by the individual program plan.

30 (11) "Supportive services" means those services provided to developmentally disabled
31 adults, and shall include, but not be limited to, occupational therapy, physical therapy,
32 psychological services, counseling, nursing services, and medical services.

33 SECTION 2. Section 40.1-26-2 of the General Laws in Chapter 40.1-26 entitled "Rights
34 for Persons with Developmental Disabilities" is hereby amended to read as follows:

1 **40.1-26-2. Definitions.** -- As used in this chapter:

2 (1) "Advocate" means: (i) a legal guardian; or (ii) an individual acting on behalf of a
3 person with a developmental disability in a manner clearly consistent with the interests of the
4 person with a developmental disability and includes a family member, friend, or professional
5 advocate. Whenever possible an advocate should be selected by the person with a disability.

6 (2) "Agency" means any person or organization which provides day program services,
7 residential services, support services or advocacy services for persons with developmental
8 disabilities, and which is licensed by the department of mental health, retardation, and hospitals
9 pursuant to section 40.1-24-1 et seq.

10 (3) "Applicant" means any person with a developmental disability who has applied for
11 services from the division of developmental disabilities and/or any agency licensed by the
12 department of mental health, retardation, and hospitals pursuant to section 40.1-24-1 et seq.

13 (4) "Aversive interventions" means a class of stimuli that are followed by escape or
14 avoidance response.

15 (5) "Behavioral Treatment Intervention" means any intervention or treatment to develop
16 or strengthen adaptive appropriate behaviors through the application of behavioral interventions
17 and to simultaneously reduce the frequency of maladaptive or inappropriate behaviors. Behavior
18 interventions encompass interventions, which refer to purposeful, clinical manipulation of
19 behavior.

20 (6) "Competent" means the ability to understand the likely risks and benefits of a
21 procedure or plan when the risks and benefits are presented to the participant in a manner most
22 likely to be understood by the participant in light of his or her cognitive abilities and learning
23 style.

24 (7) "Department" means the department of mental health, retardation, and hospitals.

25 (8) "Developmental disability" means a severe chronic disability which is attributable to
26 a mental or physical impairment or combination of impairments; is manifested before the person
27 attains age twenty-two (22); is likely to continue indefinitely; results in substantial functional
28 limitations in three (3) or more of the following areas of major life activity: self-care, receptive
29 and expressive language, learning, mobility, self-direction, capacity for independent living,
30 economic self-sufficiency; and reflects the person's need for a combination and sequence of
31 special, interdisciplinary or generic care, treatment, or other services which are of life long or
32 extended duration and are individually planned and coordinated.

33 (9) "Individualized plan" means the personalized document which describes an
34 individualized profile of the participant highlighting his or her capabilities, preferences and

1 interests. The plan describes specific supports in the areas of vocational, social, medical,
2 supported living, and rehabilitation required to meet the specific needs of the participant. The
3 plan includes quality indicators that demonstrate the plan has met the expectations of the
4 participant and the participant is satisfied with the support services he or she is receiving;
5 provided, however, that authorizations for services and funding issued prior to July 1, 2011 are
6 null and void. ~~Authorizations for services will be paid at the rate effective when in the quarter the~~
7 ~~service was provided.~~ Authorizations for services and funding issued on or after July 1, 2014,
8 shall be developed and issued on an annual basis for each participant, and the corresponding
9 billing for said participant shall not exceed the individual's annual allocation except in
10 circumstances specifically authorized by the department. Authorizations for services shall be
11 paid at the rate effective when the authorization is issued and on an annual basis; provided,
12 however, notwithstanding the above, the department (OHHS/BHDDH) may modify the rate paid
13 for annual service authorization for participants for any calendar quarter in which the service is to
14 be provided with no less than thirty (30) days written notice to the provider.

15 (10) "Participant" means any person eighteen (18) years or older, with a developmental
16 disability who receives services from the division of developmental disabilities and/or an agency
17 licensed by the department of mental health, retardation, and hospitals.

18 (11) "Relative" means a member of the participant's or applicant's family who has been
19 actively involved in the participant's or applicant's life, has an ongoing relationship with the
20 participant or applicant, and is supportive in a manner clearly consistent with the best interests of
21 the participant or applicant.

22 (12) "Seclusion" means placing a participant alone in a locked room without supervision.

23 (13) "Serious incidents" means any situation involving a person with developmental
24 disabilities in which the person:

- 25 (i) Has sustained an injury, which requires medical care or treatment beyond routine first
26 aid;
- 27 (ii) Has been missing;
- 28 (iii) Has died;
- 29 (iv) Has been involved in a criminal act;
- 30 (v) Has been subject to a medication error.

31 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS -- DIVISION OF DEVELOPMENTAL DISABILITIES

1 This act would provide for authorizations for services to developmentally disabled adults
2 issued on or after July 1, 2014 to be developed on an annual basis, and funding for these services
3 would be issued on an annual basis; Billing would not exceed the individual's annual allocation
4 unless authorized by the department. The department (OHHS/BHDDH) would be allowed to
5 modify the rate paid for annual service authorization for participants for any calendar quarter in
6 which the service is to be provided.

7 This act would take effect upon passage.

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