



## **History of Agency for Persons with Disabilities (APD) Medicaid Waiver Funding**

### **2003**

- In July 2003, the State of Florida adopted the Mercer Rate system. The legislature basically bought a reimbursement system that was based on direct care wages funded at the 25<sup>th</sup> percentile compared to national averages for wages. The rate system contained up to 720 billing options for residential habilitation services and featured new rates for most of the 30+ services funded by the Home and Community Based Services (HCBS) Waiver. Transportation, Special Medical Homes, and Intensive Behavior services continued to have negotiated rates.
- In November 2003, the Agency reduced Residential Habilitation rates by 14.3% and Live-In Residential Habilitation by 7%. Also, billable days were limited to 350 per year for homes having more than 3 individuals. At the same time ADT rates were reduced by about 9.5%. The actions were taken to prevent projected deficit spending. The annualized reductions totaled about \$45 million for three services. Medicaid claims data indicate the Agency realized a \$37 million surplus at the end of the fiscal year.

### **2004**

- In 2004, the Agency implemented a Residential Habilitation matrix which looked at the overall number of staffing hours needed per home for minimum staff coverage and reduced service hours for individuals accordingly. The impact was significant in that in many cases the last two admissions to a six-bed group home received limited hours (typically 2) of training and supervision supports.

### **2006**

- In 2006, agencies received a 2.81% Cost of Living Adjustment that applied to all waiver services. This action added about \$21 million back into the HCBS system.
- In FY 05-06, about 5,000 new enrollees were added late in the fiscal year but the total cost of care was not realized until FY 06-07. This began another cycle of deficit spending.

### **2007**

- During the 2007 Legislative Session, the Florida Legislature mandated changes in Senate Bill 1124 that resulted in limitations and eliminations of HCBS Waiver services. Although implemented, the limitations and eliminations resulted in little if any savings in expenditures because clients often shifted to other services to meet their needs. The reductions were as follows:

- Chore, Non-residential Support Services, and Homemaker Services were eliminated for a projected \$12.7 million savings to APD. However, the definition of In-Home Support Services was expanded to include some activities previously provided in the eliminated services.
  - Massage Therapy and IQ Testing (Psychological Assessments) services were eliminated for a projected \$2.2 million savings.
  - APD was instructed to implement a uniform rate for individuals with intense needs for an estimated \$1.3 million savings, but implementation did not occur.
  - Supported Living Coaching was limited to no more than 20 hours per month for persons who also received In-Home Support Services for a \$4.4 million savings.
  - Support Coordination was reduced to "Limited" to all persons under the age of 18 who lived in the family home for a \$1.7 million savings.
  - Personal Care Assistance (PCA) services were limited to 180 hours per month unless the person had intensive needs and all rate modifiers were eliminated. Additional hours could be authorized if a substantial change in circumstances occurred. Projected savings were \$2.3 million. Those under the age of 21 were allowed to receive more than 180 hours of PCA, if medically necessary, under the Medicaid State Plan.
- In December 2007, Residential Habilitation rates were collapsed and reduced overall by 7%; however, a settlement agreement reduced the cuts to 4.25%, and some providers even realized increases because of an averaging effect. The net savings was about \$11 million.
  - As a result of the 2007 legislation, the State obtained federal approval for waivers to implement a four-tiered waiver system.
  - In FY 07-08, additional one-time funding was added to sustain the program until cost control measures could be implemented; however, the anticipated savings did not materialize.

## 2008

- The tier waivers were implemented in the fall of 2008 and were intended to reduce \$120 million in expenditures. However, due to rate reductions and other changes the annualized savings projections were lowered to \$74 million per year.
  - Tier 1 – No Monetary Cap: Limited to individuals with intensive medical, behavioral, and adaptive needs that cannot be met in other tiers.
  - Tier 2 – Capped at \$55,000: Limited to clients whose service needs included support in a licensed residential facility and at least minimal-moderate levels of Residential Habilitation with Behavior Focus services as well as clients in Supported Living who received more than six hours of In-Home Support services. The tier applied only to individuals who received Residential Habilitation or Supported Living and In-Home Support services.
  - Tier 3 – Capped at \$35,000: Included all individuals who did not fall into Tier 1 or Tier 2.
  - Tier 4 – Capped at \$14,792: Included most families with children under 21 who received Personal Care Assistance services via the Medicaid State Plan.

(Full implementation did not occur until 2011. The savings were negligible although many individuals lost services especially meaningful day activities.)

- In May 2008, legislative proviso language resulted in a \$43 million across the board rate cut for waiver services that were effective July 1, 2008. Residential Habilitation and Support Coordination services received a 3% cut effective July 1, 2008 (in addition to the 4% reduction in December 2007 for Residential Habilitation) and other waiver services received a 7.21% reduction in rates. Other reductions included:
  - The rate paid to Personal Care Assistants decreased by 4%.
  - Support Coordinator caseloads were allowed to increase to 43 people per month, up from 36. APD no longer required a consumer needs assessment or cost plan development. Support Coordinators could still earn up to \$68,000 a year serving a full caseload.
  - In July 2008, South Florida providers had geographic rate differentials reduced for Residential Habilitation services by 2.5% in Broward, Palm Beach, and Dade Counties. Monroe County realized a 5% reduction.
- In October 2008, APD began a rebasing exercise to freeze individual service expenditures as of January 2009 at the FY 07-08 level plus no more than a 5% increase until June 30, 2009. Because of inaccurate data, the exercise was delayed until late December. The intent was to control a projected 9% utilization creep that results in deficit spending. APD projected saving \$20 million per year from this exercise.

## **2009**

- In January 2009, during a Special Session the Florida Legislature approved a 3% rate reduction (\$21 million) for APD HCBS waiver services. The rate reduction was vetoed by the Governor and was not implemented even though the funding reduction was not reinstated to the appropriation.
- Effective July 1, 2009, one-time funding of approximately \$19 million was added to the appropriation line to maintain service delivery.
- Effective October 1, 2009, Medication Administration Review services were eliminated as a waiver service for a project savings of \$301,907.

## **2010**

- Effective January 1, 2010, Durable and Consumable Medical Supply purchases were consolidated to save \$932,093.
- The 2010 Legislature decreased the overall funding level for the waiver by \$43.8 million and did not budget anticipated federal stimulus (FMAP) dollars to continue Florida's enhanced FMAP ratio from January 2011 through June 30, 2011. The cuts were as follows:
  - \$3,075,000 transfer to the Agency for Health Care Administration (AHCA) to provide Disposable Incontinence Supplies to children ages 4-20 through the Medicaid State Plan.
  - \$4,196,362 savings as a result of reducing the caps for Tiers 2, 3, and 4 by 2.5%. The reductions were effective February 2011.

- \$1,393,145 in savings by limiting Tier 1 annual expenditures to \$150,000 annually and excluding Intensive Behavior and Special Medical Care homes from the cap effective January 1, 2010 - although implementation did not follow.
- The proviso language approved by the 2010 legislature reduced the appropriation by \$35,208,560, including a \$16,811,989 reduction for a 2.5% provider rate reduction for most waiver services excluding: Support Coordination, Transportation, Personal Care Assistance, Durable Medical Equipment, Consumable Medical Supplies, and Environmental and Home Accessibility services. The Governor vetoed the rate cut language but did not reinstate the funding. The action also included an additional \$18,396,571 in one-time funding cuts. While the General Revenue portion of the appropriation actually increased by about \$38.9 million, the Trust Fund portion was reduced by \$78,790,410.

## 2011

- On March 31, 2011, in response to a Governor's Emergency Order, the Agency for Health Care Administration (AHCA) filed Emergency Rules to reduce all DD Medicaid Waiver provider reimbursement rates for 90 days. While the intent was to implement a 15% across-the-board rate cut, the reductions equated to more than 30% in some cases since the rate cuts also involved collapsing of agency/solo rates for 19 services. The emergency rules were in response to a projected \$170 million deficit for FY 2010-11. The rate reductions were expected to reduce state General Revenue expenditures by \$16.3 million over a 90-day period, and would have resulted in the loss of another \$30 million dollars in federal Medicaid funding. The reductions were effective April 1, 2011, but were lifted two weeks later when the Governor, Senate President, and Speaker of the House agreed to fund the projected current year deficit per the Back of the Bill within the General Appropriations Act. The two-week rate reduction resulted in a loss of approximately \$5 million in provider rates.
- The funding level was about \$7.6 million more than in FY 05-06 and the program was still in deficit spending status.
- In response to the 2011 General Appropriations Act, as of July 1, 2011, DD waiver providers received a 4% across-the-board rate cut for all waiver services which resulted in about \$37 million in rate reductions. Also, recipient cost plans were frozen which was estimated to generate another \$6 million in savings. Other cost cutting reduction efforts reduced expenditures by about \$21 million which came primarily from changes in limitations to Companion Services rates, Transportation limitations, use of In-Home Supports in lieu of Personal Care Assistance, and pooling of Respite services for draw-down access.
  - Further, the APD program was required by Florida Statute to operate within its appropriation of approximately \$810 million. Even with the referenced July 1 rate reduction, the program spent at a rate that created a deficit.
  - APD was also given legislative authority to implement an iBudget system that would ensure that collective cost plan totals did not exceed the appropriation amount. Discussions as of June 2011 indicated the deficit would be managed through proportional reductions to cost plans at a level that would generate the needed savings. iBudget implementation was to be finalized by July 2013. Early projections indicated about 14,889 individuals would have cost plan reductions and the Agency will realize about \$70 million in savings.
- As of June 30, 2011, APD data indicated 30,256 individuals were being served via the DD Medicaid waivers and thousands of individuals were receiving fewer services as a result of the

tiered waiver caps, rebasing, and other cost savings measures. Thousands of administrative appeals were filed protesting proposed cuts to cost plans. Ultimately, expenditures increased by about \$2,000 per person, on average. Also, only limited numbers of new enrollees were added and these were typically individuals in crisis status with intensive service needs. In the Spring of 2011, the Florida Legislature added an additional \$166 million in the Back of the Appropriations Bill to cover the deficit spending.

## 2012

- Beginning July 1, 2011, and into FY 2012-13, APD implemented the iBudget process as a cost containment measure. APD also completed cost plan reviews of individual cases that appeared to be above the norm for costs and reductions made to the affected plans. Additionally, Intensive Behavior Rates were collapsed in 2012 for a savings of about \$2 million. In the Spring of 2012, the Florida Legislature added an additional \$46.5 million in the Back of the Appropriations Bill to cover the deficit spending.
- Effective July 1, 2012, the iBudget waiver appropriation increased to \$877,061,351 which is commensurate with the expenditures reported for the previous year. However, \$65 million was identified as “Waiver Restructuring” funds that could not be released until a distribution plan was approved by the Legislative Budget Commission. The distribution plan was to document the need for the amount of funds requested.
- As of November 2012, the APD waitlist for services exceeded 21,000 individuals who were awaiting services.

## 2013

- In the Spring of 2013, the Florida Legislature added an additional \$40.3 million in the Back of the Appropriations Bill to cover the deficit spending that was occurring. APD completed the fiscal year on June 30, 2013, with a balanced budget.
- The 2013 Legislature also appropriated a total of \$1.11 billion for APD for FY 13-14, including for the first time in eight years a \$36 million investment to allow individuals on the waiting list to enroll in the HCBS waiver. APD later reported enrolling 1,450 people from the waitlist to the Medicaid waiver.

Other 2013 appropriations included:

- A one-time appropriation of \$40 million to pay off the waiver deficit from prior fiscal years. APD ended the fiscal year on June 30, 2013 within its appropriation for the first time in many years.
- \$500,000 to assist approximately 200 people on the waiver and waiting list obtain and maintain jobs and internships.
- A 3% rate increase to providers of Adult Day Training (ADT) services of \$1.9 million in total funds.
- The Florida Housing Finance Corporation received non-recurring grant funds appropriated by the 2013 Legislature; \$4 million of which will be used for housing for persons with intellectual disabilities to fund the development of supportive housing options.

- APD received a transfer from AHCA of approximately \$1.8 million from the ICF/IID line item for transition of individuals to the iBudget.

## 2014

- Based on statewide iBudget waiver implementation and subsequent reductions, APD reverted \$56.7 million in funding for FY 13-14 for the fiscal year that ended June 30, 2014. While expenditures were reduced significantly because of the iBudget process, court rulings reduced the actual savings since service dollars had to be reinstated.
- The 2014 Legislature appropriated a total of \$1.15 billion for the Agency for Disabilities program for FY 2014-15, including a \$20 million investment to allow individuals on the waiting list to enroll in the APD HCBS waiver. APD estimated it would enroll 1,200 people from the waitlist to the iBudget waiver. Other appropriations included:
  - \$500,000 to assist people on the waiver and waiting list obtain and maintain jobs and internships.
  - A 2% rate increase to providers of Adult Day Training (ADT) services of \$1.29 million in total funds.
  - Back of the bill language provided APD with prior year unexpended funds to use to adjust cost plans because of increased service rates to meet Department of Labor Domestic Service rule changes as of January 1, 2015. Implementation of the rule was delayed until September 2015 and therefore did not impact FY 14-15 spending.
  - The Florida Housing Finance Corporation received non-recurring grant funds appropriated by the 2014 Legislature; \$10 million of which will be used for housing for persons with intellectual disabilities to fund the development of supportive housing options.
  - APD received a transfer from AHCA of approximately \$2.4 million from the ICF/IID line item for transition of individuals to the iBudget.

During the year, iBudget reductions were reinstated because of litigation rulings that challenged the APD iBudget Administrative Rule.

## 2015

- The 2015 Legislature added an additional \$40 million for FY 15-16 to serve about 1,200 individuals off the waitlist, most of these will be children transitioning out of school or children in the child welfare system.
- Because of a recent DOL Home Care/Companion ruling that affects Supported Living arrangements, the state had to increase some cost plans to ensure payment of staffing coverage consistent with the DOL rules.
- In June 2015, unexpended iBudget waiver funds were reverted. The reversion occurred before the June 30, 2015 invoice was paid and before a certified forward payable was established. As a result, the June 2015 invoice and all subsequent invoices for FY 2014-15 were paid from the FY 2015-16 current year funds. The reversion resulted in a projected deficit of \$145 million. A budget amendment was approved and reinstated all but about \$990,000 of the deficit.

## 2016

- The 2016 Legislature was responsive to the needs of APD, the clients served, and to provider concerns and funded the program at \$1.3 billion. Highlights of the appropriation included:
  - \$39 million to expand the iBudget waiver by removing the greatest number of individuals permissible from the APD waitlist.
  - \$37 million in nonrecurring funds to implement revised 1:1 ratio service rates due to the expansion of minimum wage requirements under the US Department of Labor Fair Standards to Domestic Service Rule.
  - About \$25 million to fund a 3% provider rate increase for key services including:
    - \$5 million rate increase to the 1:3 ratio service rates for Adult Day Training providers.
    - \$2.5 million for a rate increase for Ault Day Training providers.
    - \$10.9 million for a rate increase for Residential Habilitation providers.
    - \$7 million for a rate increase for Personal Supports providers.

## 2017

The 2017 Legislature responded to the needs of APD, their providers, and clients by funding the program at \$1.2 billion. Highlights of the appropriation included:

- \$3.7 million for the APD waitlist to serve individuals that have been waiting for services.
- \$750,000 for employment and internships for individuals on the waitlist.
- \$41.1 million in nonrecurring funds to cover the 1:1 staffing ratios and other costs of implementation of the DOL Home Care Rule. The amount also includes \$11.2 for an approximate 1.5% rate increase for Adult Day Training (ADT), Residential Habilitation (Res Hab), Personal Supports, and Supported Employment (SE) providers. These funds will not recur unless the 2018 legislature authorizes continuation or substitutes recurring dollars which would then roll into the base funding for this program.
- \$992,384 to address waiver Intensive Behavior models.
- \$3.3 million for a rate increase for Nursing services provided by Licensed Practical Nurses.
- \$208,395 for a Questionnaire for Situational Information Validity and Reliability Study.
- \$1.3 million for the client data management system which the Agency continues to work to implement.

As of the close of 2017, the Agency is involved in two lawsuits (one state and one federal) challenging the allocation algorithm and iBudget processes used to determine individual cost plan amounts.

## Summary Chart

The following chart shows the funding history for the APD HCBS Medicaid Waivers since FY 03-04 when the System Redesign was implemented.

<b>FY</b>	<b>Appropriation</b>	<b>Supplemental</b>	<b>Expenditures</b>	<b>Surplus/Deficit</b>	<b>Served</b>	<b>Ave. Cost</b>
FY 03-04	\$687,255,720		\$654,883,720	\$32,372,000	24,257	\$26,998
FY 04-05	\$734,118,671		\$644,339,179	\$89,779,492	25,848	\$24,928
FY 05-06	\$798,141,900		\$749,150,257	\$48,991,643	30,936	\$24,216
FY 06-07	\$851,549,572		\$905,954,703	-\$54,405,131	30,991	\$29,233
FY 07-08	\$961,599,474		\$927,531,579	\$34,067,895	30,585	\$30,326
FY 08-09	\$833,529,770		\$882,784,502	-\$49,254,732	30,166	\$29,264
FY 09-10	\$849,699,685		\$928,167,201	-\$78,467,516	30,275	\$30,658
FY 10-11	\$805,826,618	\$169,292,241	\$985,634,451	-\$10,515,592	30,256	\$32,576
FY 11-12	\$810,437,372	\$49,228,056	\$899,619,800	-\$39,954,372	29,906	\$30,082
FY 12-13	\$877,061,351	\$40,265,838	\$878,065,263	\$39,261,926	29,521	\$29,744
FY 13-14	\$917,331,689		\$858,259,944	\$59,071,745	30,092	\$28,521
FY 14-15	\$941,032,259		\$775,567,480	\$165,464,779	30,992	\$29,688
FY 15-16	\$994,793,906	\$134,382,596	\$1,130,169,476	-\$992,974	31,192	\$31,599
FY 16-17	\$1,097,206,747		\$1,097,462,366	-\$255,619	33,780	\$32,519
FY 17-18	\$1,133,868,210					

### Source Data:

FY 03-04 to FY 12-13: Agency for Persons with Disabilities (APD) Surplus Deficit Reports.

FY 13-14 to FY 14-15: APD 4<sup>th</sup> Quarter Report on Services to Floridians with DD & Their Costs & APD HCBS Monthly Surplus-Deficit Reports. NOTE: Expenditures for FY 2014-15 and FY 2015-16 adjusted for the \$144,529,433 expended in FY 2015-16 for FY 2014-15 related invoices.

FY 15-16: General Appropriations Act and APD HCBS Monthly Surplus-Deficit Reports. NOTE: Expenditures for FY 2014-15 and FY 2015-16 adjusted for the \$144,529,433 expended in FY 2015-16 for FY 2014-15 related invoices.

FY 16-17: Chapter 2016-66, Laws of Florida (General Appropriations Act) and APD HCBS Monthly Surplus-Deficit Reports.