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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

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

Introduced By: Representatives Shanley, Canario, Slater, Blazejewski, and Azzinaro

Date Introduced: March 06, 2020

Referred To: House Health, Education & Welfare

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.**

4 As used in this chapter and in chapter 22 of this title the words:

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

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

10 (3) "Department" means the Rhode Island department of behavioral healthcare,
11 developmental disabilities and hospitals ([BHDDH](#)).

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

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

18 (i) Is attributable to a mental or physical impairment or combination of mental and physical

1 impairments;

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

3 (iii) Is likely to continue indefinitely;

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

6 (A) Self care,

7 (B) Receptive and expressive language,

8 (C) Learning,

9 (D) Mobility,

10 (E) Self-direction,

11 (F) Capacity for independent living,

12 (G) Economic self-sufficiency; and

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

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

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

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

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

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

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

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

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

32 (vii) Proposed criteria for monitoring and evaluating the success of the services in meeting
33 the individual's needs; and

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

1 The individual program plan shall indicate developmental, supportive, or ancillary services
2 by function and frequency, the manner of subsidy and delivery and the categories of need for
3 services such as transportation, job training, or occupation, housing, housing adaptation, personal
4 attendant care, community-based supports, homemaker, ~~or other services~~ and other identified
5 needed services. ~~This plan shall be reviewed at least annually; provided, however, that~~
6 ~~authorizations for services and funding issued prior to July 1, 2011 are null and void. Authorizations~~
7 ~~will be paid at the rate effective in the quarter the service was provided.~~

8 In keeping with the tenets of the Centers for Medicare and Medicaid Services (CMS) and
9 the Home and Community-Based Services (HCBS) final rule requiring person-centered planning,
10 individuals shall be able to access support services in a manner consistent with their plan of care.
11 Services will adopt the principles of person-centeredness and funding allocations for services will
12 be authorized consistent with an individual's identified clinical needs and stated person-centered
13 plan of care. To this end, authorizations for services and related funding issued on or after July 1,
14 2020, shall be developed and issued on an annual basis for each eligible participant. Authorizations
15 for services shall be effective when the authorization is issued on an annual basis, consistent with
16 the individual's established annual review period; provided that, the individual's assessed needs do
17 not change. Notwithstanding the issuance of annual funding authorizations, BHDDH is not
18 restricted in the exercise of any other statutory powers granted the department.

19 (8) "Mentally retarded developmentally disabled adult" means a person eighteen (18) years
20 old or older and not under the jurisdiction of the department of children, youth and families, with
21 significant sub-average, general intellectual functioning two (2) standard deviations below the
22 norm, existing concurrently with deficits in adaptive behavior and manifested during the
23 developmental period. For purposes of funding, it is understood that students enrolled in school
24 will continue to receive education from their local education authority in accordance with § 16-24-
25 1 et seq.

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

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

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

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

3 **40.1-26-2. Definitions.**

4 As used in this chapter:

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

9 (2) "Agency" means any person or organization which provides day program services,
10 residential services, support services or advocacy services for persons with developmental
11 disabilities, and which is licensed by the department of behavioral healthcare, developmental
12 disabilities and hospitals pursuant to § 40.1-24-1 et seq.

13 (3) "Applicant" means any person with a developmental disability who has applied for
14 services from the division of developmental disabilities and/or any agency licensed by the
15 department of behavioral healthcare, developmental disabilities and hospitals pursuant to § 40.1-
16 24-1 et seq.

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

19 (5) "Behavioral treatment intervention" means any intervention or treatment to develop or
20 strengthen adaptive appropriate behaviors through the application of behavioral interventions and
21 to simultaneously reduce the frequency of maladaptive or inappropriate behaviors. Behavior
22 interventions encompass interventions, which refer to purposeful, clinical manipulation of
23 behavior.

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

27 (7) "Department" means the department of behavioral healthcare, developmental
28 disabilities and hospitals ([BHDDH](#)).

29 (8) "Developmental disability" means a severe chronic disability which is attributable to a
30 mental or physical impairment or combination of impairments; is manifested before the person
31 attains age twenty-two (22); is likely to continue indefinitely; results in substantial functional
32 limitations in three (3) or more of the following areas of major life activity: self-care, receptive and
33 expressive language, learning, mobility, self-direction, capacity for independent living, economic
34 self-sufficiency; and reflects the person's need for a combination and sequence of special,

1 interdisciplinary or generic care, treatment, or other services which are of life long or extended
2 duration and are individually planned and coordinated.

3 (9) "Individualized plan" means the personalized document which describes an
4 individualized profile of the participant highlighting his or her capabilities, preferences and
5 interests. The plan describes specific supports in the areas of vocational, social, medical, supported
6 living, and rehabilitation required to meet the specific needs of the participant. The plan includes
7 quality indicators that demonstrate the plan has met the expectations of the participant and the
8 participant is satisfied with the support services he or she is receiving. ~~provided, however, that~~
9 ~~authorizations for services and funding issued prior to July 1, 2011 are null and void. Authorizations~~
10 ~~for services will be paid at the rate effective when in the quarter the service was provided.~~

11 In keeping with the tenets of the Centers for Medicare and Medicaid Services (CMS) and
12 the Home and Community-Based Services (HCBS) final rule requiring person-centered planning,
13 individuals shall be able to access support services in a manner consistent with their plan of care.
14 Services will adopt the principles of person-centeredness and funding allocations for services will
15 be authorized consistent with an individual's identified clinical needs and stated person-centered
16 plan of care. To this end, authorizations for services and related funding issued on or after July 1,
17 2020, shall be developed and issued on an annual basis for each eligible participant. Authorizations
18 for services shall be effective when the authorization is issued on an annual basis, consistent with
19 the individual's established annual review period; provided that, the individual's assessed needs do
20 not change. Notwithstanding the issuance of annual funding authorizations, BHDDH is not
21 restricted in the exercise of any other statutory powers granted the department.

22 (10) "Participant" means any person eighteen (18) years or older, with a developmental
23 disability who receives services from the division of developmental disabilities and/or an agency
24 licensed by the department of behavioral healthcare, developmental disabilities and hospitals.

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

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

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

32 (i) Has sustained an injury, which requires medical care or treatment beyond routine first
33 aid;

34 (ii) Has been missing;

- 1 (iii) Has died;
- 2 (iv) Has been involved in a criminal act;
- 3 (v) Has been subject to a medication error.
- 4 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 that home and community-based services for developmentally
- 2 disabled persons would be person-centered and support services consistent with their plan of care
- 3 This act would take effect upon passage.

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