

65G-4.0021 Tier Waivers

(1) The Agency for Persons with Disabilities will assign clients of home and community-based waiver services for persons with developmental disabilities to one of the four Tier Waivers created by section 393.0661, Florida Statutes (2007). The Agency will determine the Tier Waiver for which the client is eligible and assign the client to that waiver based on the developmental disabilities waiver criteria and limitations provided in Chapters 393 and 409, F.S., Rule Chapter 59G-13, F.A.C., and this rule Chapter and the Agency's evaluation of the following information:

- (a) The client's level of need in functional, medical, and behavioral areas, as determined through Agency evaluation of client characteristics, the Agency approved assessment process, and support planning information;
- (b) The client's service needs as determined through the Agency's prior service authorization process to be medically necessary;
- (c) The client's age and the current living setting; and
- (d) The availability of supports and services from other sources, including natural and community supports.

(2) The services described by the Developmental Disabilities Waiver Services Coverage and Limitations Handbook, July 2007 (hereinafter referred to as the "DD Handbook"), adopted by Rule 59G-13.080, F.A.C. and incorporated herein by reference, are available to clients of the Developmental Disabilities Waiver (hereinafter called "the Tier One Waiver"), the Developmental Disabilities Tier Two Waiver (hereinafter called "the Tier Two Waiver"), and Developmental Disabilities Tier Three Waiver (hereinafter called "the Tier Three Waiver"). The following services described in the DD Handbook are available to clients assigned to the Tier Four Waiver (presently known as The Family and Supported Living Waiver):

- (a) Adult Day Training;
- (b) Behavior Analysis;
- (c) Behavior Assistance;
- (d) Consumable Medical Supplies;
- (e) Durable Medical Equipment;
- (f) Environmental Accessibility Adaptations;
- (g) In-Home Support Service;
- (h) Personal Emergency Response System;
- (i) Respite Care;
- (j) Support Coordination;
- (k) Supported Employment;
- (l) Supported Living Coaching; and
- (m) Transportation.

(3) The total billings in any quarter of the state's fiscal year for any service a client is authorized to receive shall not exceed twenty-five percent (25%) of the total annual cost plan budget for that service.

(4) For all Tiers client must utilize all available State Plan Medicaid services including, but not limited to, personal care assistance, therapies, and medical services, that duplicate the waiver services proposed for the client. A client shall not be provided waiver services that duplicate available State Plan Medicaid Services including, but not limited to, personal care assistance, therapies, and medical services.

(5) The Agency will review a client's tier eligibility when a client has a significant change in circumstance or condition that impacts on the client's health, safety, or welfare or when a change in the client's plan of care is required to avoid institutionalization. The information identifying and documenting a significant change in circumstance or condition that necessitates additional or different services must be submitted by the client's Waiver Support Coordinator to the appropriate Agency Area office for determination.

(6) This rule shall take effect July 1, 2008.

65G-4.0022 Tier One Waiver

(1) The Tier One Waiver is limited to clients that the Agency has determined meet at least one of the following criteria:

- (a) The client's needs for medical or adaptive services cannot be met in Tiers Two, Three, and Four and are essential for avoiding institutionalization, or
- (b) The client possesses behavioral problems that are exceptional in intensity, duration, or frequency with resulting service needs that cannot be met in tiers Two, Three, and Four, and the client presents a substantial risk of harm to themselves or others.

(2) Clients living in a licensed residential facility receiving any of the following services shall be assigned to the Tier One Waiver:

- (a) Intensive behavioral residential habilitation services;
- (b) Behavior focus residential habilitation services at the moderate or above level of support; or
- (c) Standard residential habilitation at the extensive 1, or higher, level of support; or
- (d) Special medical home care.

(3) Nursing service needs that can be met through the Tier Two, Tier Three, or Tier Four Waivers are not "services" or "service needs" that support assignment to the Tier One Waiver.

(4) This rule shall take effect July 1, 2008.

The total budget in a cost plan year for each Tier Two Waiver client shall not exceed \$55,000. The Tier Two Waiver is limited to clients who meet the following criteria:

- (1) The client's service needs include placement in a licensed residential facility and authorization for greater than five hours per day of residential habilitation services; or
- (2) The client is in supported living and is authorized to receive more than six hours a day of in-home support services.
- (3) This rule shall take effect July 1, 2008.

65G-4.0024 Tier Three Waiver.

(1) The total budget in a cost plan year for each Tier Three Waiver client shall not exceed \$35,000. A client must meet at least one of the following criteria for assignment to the Tier Three Waiver:

- (a) The client resides in a licensed residential facility and is not eligible for the Tier One Waiver or the Tier Two Waiver; or
- (b) The client is 21 or older, resides in their own home and receives Live-in In-Home Support Services and is not eligible for the Tier One Waiver or the Tier Two Waiver; or
- (c) The client is 21 or older and is authorized to receive Personal Care Assistance services at the moderate level of support as defined in the DD Handbook.
- (d) The client is 21 or older and is authorized to receive Skilled or Private Duty Nursing Services and not eligible for the Tier One Waiver or the Tier Two Waiver; or
- (e) The client is 22 or older and is authorized to receive services of a behavior analyst and/or a behavior assistant.
- (f) The client is under the age of 22 and authorized to receive the combined services of a behavior analyst and/or a behavior assistant for more than 60 hours per month and is not eligible for the Tier One Waiver or the Tier Two Waiver.
- (g) The client is 21 or older and is authorized to receive at least one of the following services:
 - (i) Occupational Therapy; or
 - (ii) Physical Therapy; or
 - (iii) Speech Therapy; or
 - (iv) Respiratory Therapy.

(2) This rule shall take effect July 1, 2008.

(1) The total budget in a cost plan year for each Tier Four Waiver client shall not exceed \$14,792 per year.

(2) Clients who are not eligible for assignment to the Tier One Waiver, the Tier Two Waiver, or the Tier Three Waiver shall be assigned to the Tier Four Waiver. The criteria for the Tier 4 Waiver includes, but is not limited to:

- (a) Clients who are currently assigned to receive services through the Family and Supported Living Waiver unless there is a significant change in condition or circumstance as described in section 65G-40021(4); or
 - (b) Clients who are under the age of 22 and residing in their own home or the family home, or
 - (c) Clients who are dependent children who reside in residential facilities licensed by the Department of Children and Families under 409.175 F.S.;
- (3) This rule shall take effect July 1, 2008.

**APD CRITERIA FOR TIER SELECTION:
DRAFT RULE AND PROPOSED OPERATIONAL DETAIL**

Rule General Provisions, Rule Detail and Operational Detail		
<p>Tier 1—65G-4.0022 The client's needs for medical or adaptive services cannot be met in Tiers Two, Three, and Four and are essential for avoiding institutionalization. The client possesses behavioral problems that are exceptional in intensity, duration, or frequency with resulting service needs that cannot be met in tiers Two, Three, and Four, and the client presents a substantial risk of harm to themselves or others.</p>		
<ul style="list-style-type: none"> <input type="checkbox"/> Clients living in a licensed residential facility receiving Special medical home care. <input type="checkbox"/> Clients living in a licensed residential facility receiving intensive behavioral residential habilitation services. <input type="checkbox"/> Children and adults receiving behavior focus res hab services at the current "moderate level or above", (or 7 or more hours a day based on the previous rate table.) <input type="checkbox"/> Clients living in a licensed residential facility receiving Standard residential habilitation at the extensive 1, or higher, level of support (10 or more hours a day based on the previous rate table.) 	<ul style="list-style-type: none"> <input type="checkbox"/> Nursing service needs that can be met through the Tier Two, Tier Three, or Tier Four Waivers are not "services" or "service needs" that support assignment to the Tier One Waiver. <input type="checkbox"/> Anyone 21 or over receiving continuous nursing services and annual cost plan for all services exceeding \$55,000. (Intermittent nursing services do not qualify.) Continuous nursing is defined as 4 or more hours of nursing a day. (Note: Skilled nursing is considered intermittent nursing.) 	<ul style="list-style-type: none"> <input type="checkbox"/> Anyone 21 and over receiving personal care assistant services at 180 hours or more a month and total annual cost plan for all services exceeding \$55,000. (In order to receive over 180 hrs. a month the person must be approved for <u>intense PCA services</u> only per the statute and the handbook.) <input type="checkbox"/> Adults (18+) with supported living coaching, in-home supports (quarter hour or live-in), approved cost plan over \$55,000, and any one of the following therapies: physical therapy, occupational therapy, or behavior analysis. <input type="checkbox"/> Anyone 21 or older living in the family home with combined Behavior Analysis Services and Behavior Assistance services of 60 or more hours per month AND total annual cost plan for all services exceeding \$55,000.

**APD CRITERIA FOR TIER SELECTION:
DRAFT RULE AND PROPOSED OPERATIONAL DETAIL**

Rule General Provisions, Rule Detail and Operational Detail		
TIER 2—65G-4.0023 The total budget in a cost plan year for each Tier Two Waiver client shall not exceed \$55,000.		
<p>The client's service needs include placement in a licensed residential facility and authorization for greater than five hours per day of residential habilitation services. (Statutory Requirement)</p> <p>Individuals living in their family home are <u>excluded</u> from this Tier.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Adults or children receiving standard Residential Habilitation at the moderate level of higher who do not meet the criteria for Tier 1, or <input type="checkbox"/> Behavior Focus Residential Habilitation services at the minimal level or higher who do not meet the criteria for Tier 1 <input type="checkbox"/> Adults or children receiving Live-in Residential Habilitation services in a home licensed for 3 or less people. (Live-in is 8 or more hrs. a day.) 	<ul style="list-style-type: none"> <input type="checkbox"/> The client is in supported living and is authorized to receive more than six hours a day of in-home support services. <p>This includes all individuals who receive the in-home live in rate as well as those who receive the quarter hr. rate that meets the criteria. (In-home live in is 8 or more hours a day.)</p>
TIER 3—65G-4.0024 The total budget in a cost plan year for each Tier Three Waiver client shall not exceed \$35,000.		
<ul style="list-style-type: none"> <input type="checkbox"/> The client is receiving residential habilitation services at the daily or monthly rate at the basic level or higher and is not eligible for the Tier One Waiver or the Tier Two Waiver. (Standard Basic or Minimal levels.) 	<ul style="list-style-type: none"> <input type="checkbox"/> The client is 21 or older, resides in their own home and receives In-Home Support Services and is not eligible for the Tier One Waiver or the Tier Two Waiver or the Tier Four Waiver. <input type="checkbox"/> The client is 21 or older and is authorized to receive Skilled or 	<ul style="list-style-type: none"> <input type="checkbox"/> The client is 21 or older and is authorized to receive Personal Care Assistance services at the moderate level of support as defined in the DD Handbook. <input type="checkbox"/> The client is 21 or older and is authorized to receive Personal Care Assistance services and does not meet the criteria for placement in

**APD CRITERIA FOR TIER SELECTION:
DRAFT RULE AND PROPOSED OPERATIONAL DETAIL**

Rule General Provisions, Rule Detail and Operational Detail		
<ul style="list-style-type: none"> <input type="checkbox"/> The client is 22 or older and is authorized to receive services of a behavior analyst and/or a behavior assistant. <input type="checkbox"/> The client is under the age of 22 and authorized to receive the combined services of a behavior analyst and/or a behavior assistant for more than 60 hours per month and is not eligible for the Tier One Waiver or the Tier Two Waiver. 	<p>Private Duty Nursing Services and not eligible for the Tier One Waiver or the Tier Two Waiver. (Client receives Skilled (intermittent) nursing services or Private Duty Nursing services of less than 4 hours a day.)</p>	<p>Tier 1, or Tier 2, or receives standard PCA.</p> <ul style="list-style-type: none"> <input type="checkbox"/> The client is 21 or older and is authorized to receive Occupational Therapy. <input type="checkbox"/> The client is 21 or older and is authorized to receive Physical Therapy. <input type="checkbox"/> The client is 21 or older and is authorized to receive Speech Therapy. <input type="checkbox"/> The client is 21 or older and is authorized to receive Respiratory Therapy.
<p>TIER 4—65G-4.0025 The total budget in a cost plan year for each Tier Four Waiver client shall not exceed \$14,792.</p>		
<ul style="list-style-type: none"> <input type="checkbox"/> Clients who are not eligible for assignment to the Tier One Waiver, the Tier Two Waiver, or the Tier Three Waiver shall be assigned to the Tier Four Waiver. 	<ul style="list-style-type: none"> <input type="checkbox"/> Clients who are currently assigned to receive services through the Family and Supported Living Waiver unless there is a significant change in condition or circumstance as described in subsection 65G-4.0021(4), F.A.C. 	<ul style="list-style-type: none"> <input type="checkbox"/> Dependent children in need of in-home support services through APD who live in a DCF licensed group or foster home under Section 409.175 F.S.. <input type="checkbox"/> Clients who are under the age of 22 and residing in their own home or the family home except for those who have moderate or extensive behavior support needs that are more intense than the Tier level can accommodate.