
**Children & Family Services
Committee**

HB 1623

Brief Description: Prioritizing services to persons with developmental disabilities by the department of social and health services to promote the independence of the individual and other natural and community-based supports.

Sponsors: Representatives Kagi, Boldt, Skinner, Edwards, Linville and Rockefeller; by request of Department of Social and Health Services.

Brief Summary of Bill

- Prioritizes services to persons with developmental disabilities provided by the Department of Social and Health Services.

Hearing Date: 2/18/03

Staff: Cynthia Forland (786-7152).

Background:

The Division of Developmental Disabilities (DDD) in the Department of Social and Health Services (DSHS) provides or purchases a broad array of services and supports for individuals with developmental disabilities and their families. The DDD caseload includes approximately 30,000 clients served in the community and 1,100 clients served in five state-operated institutions (Residential Habilitation Centers).

Current Law:

The term "developmental disability" is defined as a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the Secretary of the DSHS (Secretary) to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation. In addition, the disability must originate before the individual attains 18 years of age, must have continued or be expected to continue indefinitely, and must constitute a substantial handicap to the individual. The DSHS is required to promulgate rules defining neurological or other conditions in a way that is not limited to intelligence quotient scores as

the sole determinant of these conditions.

A person is eligible for developmental disability services if the Secretary finds that the person has a developmental disability. The Secretary may adopt rules further defining and implementing the criteria in the definition of "developmental disability."

On receipt of an application for developmental disability services, the Secretary in a timely manner must make a written determination as to whether the applicant is eligible for developmental disability services. The Secretary must give notice of his or her determination on eligibility to the person who submitted the application and to the applicant, if the applicant is a person other than the person who submitted the application for services. The notice must include a statement advising the recipient of the right to an adjudicative proceeding and the right to judicial review of the Secretary's final decision. The Secretary may establish rules for redetermination of eligibility for developmental disability services.

The determination on eligibility for developmental disability services is separate from the Secretary of the DSHS's determination as to what services are appropriate for the person.

To the extent that state, federal, or other funds designated for services to persons with developmental disabilities are available, the Secretary must provide every eligible person with habilitative services suited to the person's needs, regardless of age or degree of developmental disability. The Secretary must establish minimum standards, with the involvement of consumers, advocates, service providers, appropriate professionals, and local government agencies, for habilitative services. The term "habilitative services" is defined as those services provided by program personnel to assist persons in acquiring and maintaining life skills and to raise their levels of physical, mental, social, and vocational functioning.

The Secretary may make payments for nonresidential services which exceed the cost of caring for an average individual at home, and which are reasonably necessary for the care, treatment, maintenance, support, and training of persons with developmental disabilities, upon application. The Secretary must adopt rules determining the extent and type of care and training for which the DSHS will pay all or a portion of the costs.

The Secretary may produce and maintain an individual service plan for each person who has been found eligible for developmental disability services. An individual service plan is a plan that identifies the needs of a person for services and determines what services will be in the best interests of the person and will meet the person's needs.

Reviews of the DDD:

During the past 18 months, the DDD has undergone several major reviews. These reviews include a federal review of the Community Alternatives Program waiver by the Centers for Medicare and Medicaid Services, a legislatively mandated review by the Joint Legislative Audit and Review Committee (JLARC) on caseload and staffing, and a review mandated by the Governor and conducted by Sterling Associates, LLP on internal business practices. A legislatively mandated performance audit of the DDD by the JLARC is ongoing.

The reviews of the DDD have consistently focused on the following:

- The need to better define eligibility for services and scope of services;
- Poorly defined and followed procedures for the use of assessment tools, which results in inconsistency;
- The failure of current assessment tools to link the assessment of service need with a service plan;
- Lack of program controls and standards in procedures and practices; and
- Problems with program data and data systems.

In October 2002 the DSHS announced the creation of an Aging and Disability Services Administration, which combines Developmental Disabilities and Aging and Adult Services under one administration.

Summary of Bill:

The definition of "developmental disability" is changed to require that the disability is attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition found by the DSHS to be closely related to mental retardation *and* requires treatment similar to that required for individuals with mental retardation. The DSHS is *no longer* prohibited from defining neurological or other conditions in a way that is limited to intelligence quotient scores as the sole determinant of these conditions.

Sections of current law concerning eligibility and eligibility determinations *are repealed*.

The DSHS must emphasize to the persons and entities, with which it contracts, the importance of recognizing the rights of a person with a developmental disability established under federal law. The DSHS must require contractees to post these rights and make them readily available to persons who have a developmental disability.

The Secretary is *no longer* required to provide, to the extent that state, federal, or other funds designated for services to persons with developmental disabilities are available, every eligible person with habilitative services suited to the person's needs, regardless of age or degree of developmental disability. The Secretary is required to establish minimum standards for services through the development of a quality assurance system.

The Secretary may make payments for nonresidential services exceeding the cost of caring for an average individual at home, if they are reasonably necessary for the health and safety, *rather than* the care, treatment, maintenance, support, and training of persons with developmental disabilities.

The DSHS is required to identify priority populations based upon assessed need, and provide information and referral to other potential resources that may be able to assist a person with a developmental disability who does not receive services because he or she is not within a priority population.

In the identification of priority populations, the DSHS must emphasize whether or not a person with a developmental disability is in crisis and whether or not a person with a developmental disability could function independently or with family or other natural supports if low cost services, such as employment and family supports, were authorized. If a

person with a developmental disability is the parent of a child who is about to be placed for adoption or foster care prior to termination, that parent must be a high priority to receive services from DSHS in order to promote the integrity of the family unit. If a caregiver of a person with a developmental disability, who has provided care for several years to that person, has reached an age that the caregiver is considering alternative living arrangements, the person with a developmental disability must be a high priority for out-of-home placement.

The DSHS is required to develop a tool for the comprehensive assessment of need for services for persons with developmental disabilities. The DSHS is not required to meet all needs of a person with a developmental disability. The tool must identify natural supports and any services that would supplement the natural supports.

The Secretary is required, *rather than* permitted, to produce and maintain an individual service plan, which is reviewed annually and revised as needed, for each person with a developmental disability. It is specified that the service plan is specifically focused on meeting a person's health and safety needs. The service plan must be developed collaboratively with the person with a developmental disability and his or her natural supports, and any other person considered integral to the service planning process. The service plan must be developed within a reasonable period of time following the needs assessment and authorization that the person with a developmental disability receive services.

The duty of the DSHS to provide a service to a person with a developmental disability is limited by the funds specifically appropriated for that purpose. Limitations in funding can be the basis for denying services to a person with a developmental disability not enrolled in a federal Medicaid waiver program, and limitations in funding can be the basis for denying nonwaiver services to a person with a developmental disability enrolled in a federal Medicaid waiver program.

An applicant for services, who is enrolled in a Medicaid waiver or receiving waiver services, must be eligible for Intermediate Care Facilities for People with Mental Retardation (ICF/MR) services. Accessing Medicaid for an applicant by enrolling an applicant in a Medicaid waiver is prohibited, unless the applicant is assessed to need waiver services and is a person assessed to meet the criteria of a priority population. The DSHS is required to evaluate Medicaid cost-sharing options for applicants enrolled in a Medicaid waiver, as well as available cost-effective options for covering an applicant assessed to need medical coverage.

The DSHS is required to coordinate with the Office of the Superintendent of Public Instruction to access funding to the fullest extent possible so that a person with a disability can achieve the maximum level of self-sufficiency, including employability. The DSHS is also required to coordinate with all other state agencies to achieve early intervention that may prevent the need for more complex and costly services later in the person's development.

The DSHS is authorized to adopt rules, including the adoption of rules that clarify the term "developmental disability," formulate implementation provisions, and set criteria for determination and redetermination of developmental disability, priority populations, and assessment.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.