

2012 -- S 2467

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BEHAVIORAL HEALTHCARE, DEVELOPMENTAL DISABILITIES AND
HOSPITALS - RIGHTS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

Introduced By: Senators Doyle, Tassoni, and Gallo

Date Introduced: February 16, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40.1-11-4.3 of the General Laws in Chapter 40.1-11 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, and
12 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; provided, further, that the authorized rates for the period of October 1, 2011 to
10 December 31, 2011, shall be the same as the rates in effect for the period of July 1, 2011 to
11 September 30, 2011.

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

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

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

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

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

30 **40.1-26-2. Definitions.** -- As used in this chapter:

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

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

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

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

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

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

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

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

28 (9) "Individualized plan" means the personalized document which describes an
29 individualized profile of the participant highlighting his or her capabilities, preferences and
30 interests. The plan describes specific supports in the areas of vocational, social, medical,
31 supported living, and rehabilitation required to meet the specific needs of the participant. The
32 plan includes quality indicators that demonstrate the plan has met the expectations of the
33 participant and the participant is satisfied with the support services he or she is receiving;
34 provided, however, that authorizations for services and funding issued prior to July 1, 2011 are

1 null and void. Authorizations for services will be paid at the rate effective when in the quarter the
2 service was provided; provided, further, that the authorized rates for the period of October 1,
3 2011 to December 31, 2011, shall be the same as the rates in effect for the period of July 1, 2011
4 to September 30, 2011.

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

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

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

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

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

17 (ii) Has been missing;

18 (iii) Has died;

19 (iv) Has been involved in a criminal act;

20 (v) Has been subject to a medication error.

21 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
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- 1 This act would rescind the quarterly financial authorization for services to persons with
- 2 developmental disabilities and would restore such funding to be based on an annual basis.
- 3 This act would take effect upon passage.

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