

## AMENDED NOTICE OF COST PLAN REBASING

December 29, 2008

The 2007 Legislature passed legislation that requires adjustment of your current cost plan. This new law, Section 393.0661(6), F.S. (2008), requires the Agency for Persons with Disabilities (APD) to rebase cost plans for individuals receiving Medicaid waiver services to the amount of an individual's service expenditures for the period July 1, 2007 through June 30, 2008, plus 5%. To "rebase" means adjusting your current cost plan to the total amount that you spent for services last fiscal year, plus 5% additional funding. The Legislature has allowed certain adjustments for changes in services during the year. The entire content of the new law is included on page two of this Notice.

Although all cost plans must be reviewed and adjusted for cost plan rebasing, most individuals will not experience a reduction in current services. Your monthly expenditures for the period July 1, 2007 through August 31, 2008, are shown on page two of this Notice. In addition, an average monthly expenditure amount, adjusted according to the requirements of the law, is shown. Next to this monthly amount, your annual adjusted cost plan amount plus 5% is shown. You must contact your Waiver Support Coordinator immediately to discuss information about the amount of your cost plan change and the development of your revised cost plan. Your Waiver Support Coordinator can assist you in adjusting your cost plan to comply with the statutory requirements, and if necessary, choosing or changing services to meet your needs. Cost plans must be adjusted even if you have a pending fair hearing on a different issue such as your tier assignment. Your adjusted cost plan takes effect January 15, 2009.

You have 30 days from the day you receive this notice to file a request for hearing. APD will grant a hearing only if you demonstrate facts establishing that APD erred in calculating your revised cost plan. You have 10 days from the day you receive this notice to file a request for hearing if you wish to continue your current cost plan at the current, approved amounts. Please refer to the attached Notice of Hearing Rights for instructions on how to file a hearing request. Also please refer to the attached Hearing Request Form if you decide to file for a hearing on your rebased cost plan.

The Agency for Persons with Disabilities is committed to protecting your health and safety. Additional information about cost plan rebasing can be found on the Agency's website at <http://apd.myflorida.com>. You may contact the local Area APD office if you have questions or need assistance in contacting your Waiver Support coordinator or in completing a hearing request after meeting with your Wavier Support Coordinator.

Your expenditure information for last year and your rebased cost plan amount are shown below. The law being implemented requires certain adjustments to your actual expenditure amounts in instances where you had a single change in your cost plan of 5%. These adjustments have been calculated and are reflected in your adjusted monthly expenditure amount below. The language of Section 393.0661, F.S. (2008), requiring APD to rebase your cost plan is shown below.

FY 0708	FY 0708	FY 0708	FY 0809
Annualized Paid Claims	Average Monthly Expend	Adjusted 12 Month Cost Plan Plus 5%	Jan. 1, 2009 Rebased Plan Amount
\$«M_0708AnIPdClms»	\$«M_0708AvgMntExp»	\$«M_0708A12MCP5»	\$«M_0809Jan109RPA»

Actual Paid Claims						
Jul 07	Aug 07	Sept 07	Oct 07	Nov 07	Dec 07	Jan 08
\$«Jly07»	\$«Aug07»	\$«Spt07»	\$«Oct07»	\$«Nov07»	\$«Dec07»	\$«Jan08»
Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08
\$«Feb08»	\$«Mar08»	\$«Apr08»	\$«May08»	\$«Jun08»	\$«Jly08»	\$«Aug08»

Section 393.0661(6), Florida Statutes (2008)

(6) Effective January 1, 2009, and except as otherwise provided in this section, an individual served by the home and community-based services waiver or the family and supported living waiver funded through the Agency for Persons with Disabilities shall have his or her cost plan adjusted to reflect the amount of expenditures for the previous state fiscal year plus 5 percent if such amount is less than the individual's existing cost plan. The Agency for Persons with Disabilities shall use actual paid claims for services provided during the previous fiscal year that are submitted by October 31 to calculate the revised cost plan amount. If an individual was not served for the entire previous state fiscal year or there was any single change in the cost plan amount of more than 5 percent during the previous state fiscal year, the agency shall set the cost plan amount at an estimated annualized expenditure amount plus 5 percent. The agency shall estimate the annualized expenditure amount by calculating the average of monthly expenditures, beginning in the fourth month after the individual enrolled or the cost plan was changed by more than 5 percent and ending with August 31, 2008, and multiplying the average by 12. In the event that at least 3 months of actual expenditure data are not available to estimate annualized expenditures, the agency may not rebase a cost plan pursuant to this subsection. This subsection expires June 30, 2009, unless reenacted by the Legislature before that date.

## **Notice of Hearing Rights**

The Florida Legislature requires the Agency for Persons with Disabilities (APD), to rebase (adjust) cost plans as described in Section 393.0661 (6), Florida Statutes (2008).

If you believe that the APD's adjustment of your cost plan is wrong, you may be entitled to an administrative hearing as provided in Sections 120.569 and 120.57, Florida Statutes (2008) and 42 CFR 431.220. A hearing will only be granted if your hearing request states facts that demonstrate APD erred in adjusting your cost plan. Mediation is not available in this proceeding.

If APD determines you have a right to hearing, you may represent yourself or use legal counsel, a relative, a friend, or other spokesperson in a hearing on this matter. If you are not representing yourself, proof of guardianship or other written proof of your representative's authority to act on your behalf is required with the request for hearing.

Section 393.125(1)(c), Florida Statutes (2008), states that you must make your hearing request to the agency, in writing, within thirty (30) days of receiving notice of your rebased cost plan amount. The request must be signed by you or your authorized representative. Information about some sources of possible legal assistance maybe found at: <http://apd.myflorida.com/customers/legal/resource-listing.htm>.

If you file your request within ten (10) days of receiving this notice of your rebased cost plan amount, your services will continue at the existing level until the final decision on your request for hearing.

The Hearing Request Form for Cost Rebasing, included with this notice and also available from your Waiver Support Coordinator, the area office or our website, may be used when requesting a hearing on your cost plan rebasing. At a minimum, your hearing request must include the following information:

1. The name, address, and telephone number of the party making the request and the name, address and telephone number of the party's counsel or representative upon whom service of pleadings and papers must be made;
2. A statement that you are requesting an administrative hearing;
3. A list of any facts and circumstances on which you rely to assert an error in your cost plan adjustment;
4. A reference to, or copy of your Notice of Rebased Cost Plan and your Amendment Request Form;
5. A statement indicating the date you received your revised cost plan, and
6. If someone is making the request for hearing on your behalf, a document, such as an Order Appointing Guardian or a written statement of authorization, establishing the representative's authority to act on your behalf.

To request a hearing mail or deliver your completed request to the local APD area office.

You may contact your local APD office if you have questions or need assistance in completing a hearing request. You may also view the Administrative Hearings Rights brochure located at <http://apd.myflorida.com/customers/legal/docs/administrative-hearings-guide.pdf>

**COST PLAN REBASING (ADJUSTMENT)  
HEARING REQUEST FORM**

If you are adversely affected by the adjustment of your cost plan required by Section 395.0661(6), Florida Statutes (2008), you may request a fair hearing. You may use this form for the request. Please remember to provide facts that show how APD erred in calculating your new cost plan service levels. **File the completed form with your Area Agency for Persons with Disabilities office.**

Consumer's/Petitioner's Name:	Representative's Name:
Address	Address:
City/State/Zip:	City/State/Zip:
Phone Number:	Phone Number:
Social Security Number:	

**[IF USING A REPRESENTATIVE, PLEASE PROVIDE WRITTEN AUTHORIZATION, GUARDIANSHIP ORDER, OR OTHER DOCUMENTATION FOR THIS PERSON TO REPRESENT YOU.]**

I am requesting a hearing on APD's rebasing adjustment of my cost plan pursuant to Section 393.0661(6), F.S. (2008). I received notice of the adjusted cost plan amount and my new cost plan on \_\_\_\_\_, 2008.

APD is adjusting my cost plan from \$\_\_\_\_\_ to \$\_\_\_\_\_. (See second page of Notice for rebased cost plan amount.)

I **did** or **did not** **[PLEASE CIRCLE ONE]** have a single change of more than 5% to my cost plan from July 1, 2007 through June 30, 2008. The change was on [provide date] \_\_\_\_\_.

APD erred in reducing my cost plan because

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**[PLEASE ADD ADDITIONAL PAGES IF NECESSARY]**

Signed,

\_\_\_\_\_  
**[CONSUMER OR REPRESENTATIVE]**  
**REV. 12/12/08**

\_\_\_\_\_  
**[DATE]**