

## **February 13, 2018: Advocating on Behalf of Youth with Disabilities-**

Panel composed of: **Diana Flores** (Regional Program Supervisor, Southern Region Agency for Persons with Disabilities), **Luis Tomas** (Our Kids), **Odalys Pena** (Our Kids), and **Monica Vignes-Pitan** (Executive Director, Legal Services of Greater Miami)

### **Agency for Persons with Disabilities (APD).**

APD works in partnership with local communities and private providers to assist people who have developmental disabilities and their families. APD also provides assistance in identifying the needs of people with developmental disabilities for supports and services.

- In order to be eligible for services, an individual must have a developmental disability which occurs prior to age 18. Disabilities served include: intellectual disability (significantly sub-average general intellectual functioning existing concurrently w/deficits in adaptive behavior & can expect to continue indefinitely), autism, spina bifida, cerebral palsy, Prader-Willi syndrome, Down syndrome, high-risk (children age 3-5 with either a developmental delay in cognition, language, physical development, child surviving catastrophic infectious or traumatic illness known to be associated w/developmental delay, child w/parent or guardian w/developmental disability who requires assistance meeting child's developmental needs or child who has a physical or genetic anomaly associated w/developmental disability) and Phelan-McDermid syndrome).
- Proof of developmental disability is required with the application.
- **Diagnosis must be made prior to age 18!!** You can only apply for children 3years old +.
- A referral can be made by anyone.
- If an applicant is found **eligible**, they go straight to the wait list. If found **ineligible** it can be appealed. You are encouraged to apply every year -- it creates a paper trail, (even if you think it will be declined).
- An application can be submitted at any age, but the documented diagnosis must be made prior to age 18.
- Once found eligible you are placed on the "wait list". There are 7 wait list categories with the lowest # the most needy and highest priority:
  - o #1 - Clients deemed to be in crisis (homelessness, danger to self or others and caregiver unable to give care).
  - o #2 - Includes children from the child welfare system with an open case in DCF automated child welfare info system. Children in this category are actually classified as category 7 but are differentiated with a "baby blue folder".
  - o #3 - Next best category. Pre-crisis (about to go into crisis); caregiver has a documented condition that is expected to render the caregiver unable to provide care w/in the next 12 months and no alternate caregiver available; those at substantial risk of incarceration or court commitment without supports; documented behaviors or physical needs place them or their caregivers at risk of serious harm & other supports unavailable; identified as ready to be discharged from state mental health facility or skilled nursing facility who require a caregiver but none available.
  - o #4 - Clients whose caregiver is aged 70+ and for whom a caregiver is required but no alternate and government or community resource available.
  - o #5 - Clients expected to graduate w/in next 12 months and need support to obtain or maintain competitive employment or to pursue an accredited program of postsecondary education to which they have been accepted.

- o #6 - Clients 21 + who do not meet the criteria for category 1-5.
  - o #7 - Clients younger than 21 who do not meet criteria for category 1-4.
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- The more details the better when submitting an application.
  - If an applicant has a dual diagnosis, use the most severe first!! (Example: IQ below 59 and autism - use intellectual delay first unless type of autism is the most severe on the spectrum).
  - APD is for life!
  - The children in the system have access to APD group homes while they are on the wait list.
  - If they age out of the system while in an APD group home, they can stay in the group home for life.
  - **When children age out of the foster care system, they bump up to waiver status. GALS should contact Luis Tomas in Our Kids 2 months prior to aging out so he can notify APD they will eligible for the waiver.**
  - If children achieve permanency (either adoption or reunification) they are also eligible to jump to waiver with a custody release order.
  - There is a monthly staffing for all of the CBC kids on the wait list.
  - APD runs the Medicaid waiver program. Medicaid waiver is Medicaid on steroids (there are many different kinds of Medicaid- see attachment).
  - Being on the “wait list” opens up many opportunities for other services.
  - If a child on your caseload has a qualifying developmental disability, contact Luis Tomas at Our Kids (305-455-6000). The case manager completes the application which is reviewed by Our Kids.
  - Medicaid is a federal and state program but STATES administer Medicaid programs through federally approved plans.
  - The federal medical-necessity standard is services necessary “to correct or ameliorate” a physical or mental illness or condition are covered.” This only applies to children under 21.
    - o State can limit amount of child’s prescribed service as long as: no discrimination based on medical condition; provide sufficient amount; duration; scope to reasonably achieve purpose of the service.
    - o Evidence on amount of medically necessary service from both state and treating doctor considered.
  - Be creative -- just because a service is denied doesn’t mean it isn’t covered! Covered services include: personal care services, private duty nursing, dental services, medical supplies and equipment, speech, occupational & physical therapies, inpatient psychiatric hospital services for people under 21.
  - There are no hard limits or caps on services. State must cover all medically necessary services for children (under 21) as long as they are coverable under federal law.
  - When services are denied, reduced, terminated or delayed: recipients have the right to notice and the opportunity for a fair hearing. They have the right to continued services if this is a termination, reduction or suspension of an ongoing service, and a appeal is filed w/in 10 days of written notice. This also applies to Medicaid HMO’s.

**Special Ed (ESE) – sometimes called SPED by school personnel**

Serves students who have emotional, behavioral, physical, learning, cognitive, physical or other disabilities that lead to difficulties in educational achievement

- **Requesting an evaluation:**
  - Submit written request.
  - Parent, legal guardian, or surrogate meets w/school to discuss concerns and signs consent form to begin evaluation process.
  - Once consent is signed, school has 60 school days to complete the initial evaluation.
  
- **Evaluation process:**
  - Hearing and vision screening; school social worker meets w/parent, caseworker, etc. to get social history; psychological and educational achievement tests administered; and student should be observed in the classroom.
  
- **IEP meeting:**
  - Once evaluations are done, school psychologist will prepare report w/recommendations & district will meet w/parent/caregiver/surrogate.
  - Based on report and other data, District will inform if child eligible for ESE.
  - If eligible, team will begin developing IEP immediately.
  - If emotional/behavioral component, a FAB (functional assessment of behavior) and BIP (behavioral intervention plan) will be completed.
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- **McKay Scholarship** -- program for ESE students to transfer to another public school or participating private school. To qualify, child must have been in Florida public school in October and February the previous year and have an IEP.