



March 2014

Report No. 14-09

iBudget Implementation Continues as the Agency for Persons with Disabilities Responds to Legal Challenges

at a glance

The Agency for Persons with Disabilities reports that all current clients were transitioned to the iBudget program as of July 1, 2013. iBudget implementation continues as new clients are being added from APD's wait list. APD reported that for Fiscal Year 2012-13, there was no HCBS Medicaid waiver program deficit; instead, the agency reported that as a result of cost containment efforts, it would revert \$16.6 million in unspent general revenue funds to the state treasury.

Most clients saw no decrease in their service plan allocations. However, 18% received a reduction of greater than 10%. The largest group of iBudget clients received three services; the most commonly provided services were Waiver Support Coordination, Life Skills Development Level 3 (Adult Day Training), and Personal Supports. After iBudget implementation, the percentage of clients receiving certain services decreased somewhat along with average quarterly service expenditures.

The agency is responding to legal challenges, including administrative hearing requests, a federal class action lawsuit regarding iBudget notices, and an administrative rule challenge to the APD's implementation of the iBudget statute. The agency reached a settlement agreement on the federal lawsuit in October 2013.

Scope

As directed by the Legislature, OPPAGA reviewed the implementation of the Agency for Persons with Disabilities' iBudget system. This report addresses questions regarding the status of iBudget implementation, iBudget's consistency with statutory direction, the impact of iBudget on the Home and Community-Based Services Medicaid waiver program deficit, iBudget's impact on clients' allocated funding, service utilization, and ability to live independently, and the status of fair hearing appeals and litigation resulting from iBudget.

Background

The Agency for Persons with Disabilities (APD) supports people with developmental disabilities to help ensure their safety, self-sufficiency, and well-being. Agency clients include individuals who have or are at risk of having intellectual disabilities, autism, cerebral palsy, spina bifida, Prader-Willi syndrome, or Down syndrome.^{1,2} APD's Home and Community-Based Services (HCBS) Medicaid waiver program offers an array of social, behavioral, and medical services to assist clients in living in community settings, including the client's home, a family home, or a group home. In Fiscal Year 2012-13, the agency served 29,421 individuals through the HCBS Medicaid waiver program.

¹ Sections 393.063 and 393.0662(1), *F.S.*

² Prader-Willi syndrome is a complex genetic disorder that causes poor muscle tone, low levels of sex hormones, and a constant feeling of hunger.

The 2009 Legislature directed APD, in consultation with the Agency for Health Care Administration, to establish a new waiver system to provide individual budgets for individuals enrolled in the HCBS Medicaid waiver program. The Legislature established the new system in order to improve financial management of the existing HCBS Medicaid waiver program and avoid deficits that impede the provision of services to individuals who are on the waiting list for enrollment in the program.

To allocate program funds, Chapter 2010-157, *Laws of Florida*, directed APD to use an algorithm allocation and methodology based on variables determined to have a statistically validated relationship to the client's level of need for services through the HCBS Medicaid waiver program. The purpose of the algorithm was to determine the amount of funds allocated to each client's individual budget (iBudget).

Through the iBudget system, the Legislature sought to provide clients and their families greater flexibility to choose the services that best allow them to live in their community within the limits of an established budget. The Legislature directed the agency to consider input from stakeholder groups, including self-advocates, family members, service providers, waiver support coordinators, and advocacy organizations when developing the system.³

What is the status of iBudget implementation?

As of July 1, 2013, APD had implemented the iBudget program statewide for client groups in all service areas.

APD began implementing iBudgets on October 1, 2011 for Areas 1 and 2, the region that includes the Pensacola and Tallahassee areas. First, clients were introduced to the iBudget concept using their existing budget amounts. Second, clients were given their new budget allocation using the iBudget algorithm. The algorithm included each client's age, living setting, and components from the client's assessment (Questionnaire for Situational Information).⁴

APD gradually implemented the iBudget throughout the rest of the state, as shown in Exhibit 1. Agency officials report no significant delays in transitioning of clients to the iBudget system.

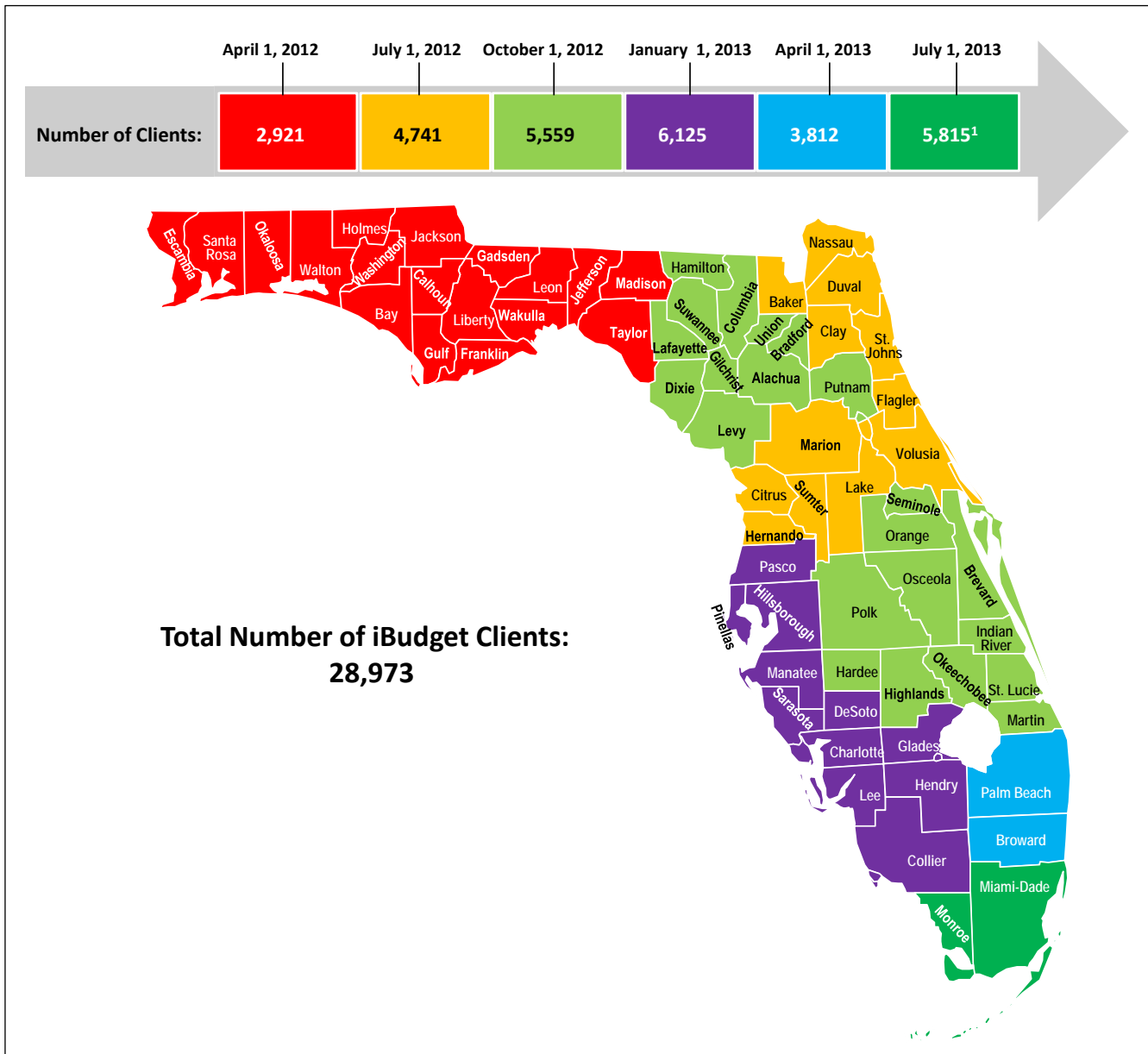
According to agency officials, all clients were informed of their due process rights and option to file a fair hearing request upon receiving notices of their iBudget allocations. Clients whose new allocation was a reduction in funding and who filed timely for a fair hearing (within 10 days of receiving their notice) had their budgets restored to pre-iBudget levels pending the hearing outcome. iBudget implementation continues for many clients being added from the HCBS Medicaid waiver program wait list.⁵

³ Waiver support coordinators are individuals that assist HCBS consumers and their families in accessing supports and services.

⁴ APD contracted with a university statistician to develop the iBudget algorithm.

⁵ In December 2013, the state announced that additional funding provided by the Legislature would allow 1,600 clients from the HCBS Medicaid waiver program waitlist to be added to the waiver.

**Exhibit 1
iBudget Enrollment Dates and Number of Clients Served**



¹ Includes Consumer Directed Care clients.

Source: OPPAGA analysis of APD information.

Was iBudget implementation consistent with statutory direction?

APD continues work on many aspects of iBudget implementation, including developing the waiver handbook with the Agency for Health Care Administration. Nearly 10,000 clients (those transitioned in March and July of 2013) have less than one year in the iBudget

system. As a result, additional time is needed to fully assess iBudget implementation.

The Legislature directed that the iBudget system include an equitable allocation of resources, appropriate assessment strategies, enhanced client choice, a flexible and streamlined service review process, an efficient consumer budgeting and billing process that includes monitoring and

reconciliation, and a redefined role for waiver support coordinators. The following summary describes APD's actions to implement each statutory component.

Equitable allocation of available funds. To achieve equitable allocation of funds through iBudget, APD took the following steps.

- Agency staff reviewed all client budgets and verified the amount of each client's existing cost plan.
- Using the iBudget algorithm, APD generated iBudget funding allocation amounts for each client.
- The agency then identified all clients whose funding would increase or decrease based solely on the new iBudget allocation. As part of this process, agency staff considered whether any decreases might produce a health or safety risk for the client. They also considered clients with extraordinary needs, as well as clients who had a change in needs in the prior year.
- APD adjusted algorithm allocations in order to ensure client health and safety and take extraordinary needs into consideration.
- Following meetings with agency officials, waiver support coordinators met with families to discuss possible reductions in services. Waiver support coordinators worked with families to identify any unused services as well as any natural supports that might be available in place of certain services to preserve health and safety.

Agency officials said these steps were necessary in order to take into consideration the diverse needs of the population they serve and to protect client health and safety.

Appropriate assessment strategies. APD officials support the current needs assessment process that includes both the Questionnaire for Situational Information (QSI) and the extraordinary needs criteria established as part of iBudget.

The QSI, used by the agency since 2008, assesses each client's need for services based on his or her functional, behavioral, and physical status as well as information on recent life changes (e.g., the death of a long-term caregiver), community inclusion, and employment information. APD, in a report to the Legislature, acknowledged earlier stakeholder criticism of the QSI, but recommended its continued use in iBudget implementation.⁶ QSI components are used as one of three elements in the iBudget algorithm.⁷

QSI scores are summarized in an overall composite score that identifies estimated level of support needed and ranges from 1 (basic) to 5 (intensive) based on functional status, behavioral status, and physical status. As shown in Exhibit 2, based on each client's most recent assessment, 45% (13,301) of all waiver clients had a score of 5, the highest level of need.

⁶ According to APD, criticism of the QSI by consumers and other stakeholders pertained to the prior instrument on which the QSI was based (Florida Status Tracking Survey). Specifically, they suggested that the tracking survey was not designed for individual budgeting or to meet the needs of all subpopulations that APD serves (e.g., children). Other consumers expressed concern that unique client needs or natural supports they receive may not be captured in the QSI.

⁷ APD contracted with a Ph.D.-level statistician to develop the iBudget algorithm. The algorithm includes three elements: client age (those 21 and younger or those 22 and older); client living situation (supported or independent living, licensed foster or group home, congregate group home, or residential habilitation center); and QSI assessment information—functional score, behavioral score, and ability to transfer, self-protect, and maintain hygiene.

Exhibit 2
QSI Scores for 45% of Waiver Clients Are at the Highest Level of Need¹

Area	Level of Need					Total
	1	2	3	4	5	
1	137	320	162	97	580	1,296
2	206	413	244	191	760	1,814
3	136	237	194	102	642	1,311
4	357	527	383	196	871	2,334
7	311	545	337	340	1,423	2,956
8	74	228	191	135	589	1,217
9	235	262	249	137	699	1,582
10	339	437	349	209	1,245	2,579
11	527	752	796	360	1,755	4,190
12	81	205	125	80	452	943
13	176	397	283	145	832	1,833
14	76	198	121	116	407	918
15	97	221	173	104	412	1,007
23	543	910	762	583	2,634	5,432
Total	3,295	5,652	4,369	2,795	13,301	29,412

¹ This analysis includes all clients with a QSI assessment that could be matched to individuals in APD's enrollment data. For clients with more than one QSI assessment, the analysis is based on a client's QSI scores on the most recent assessment date.

Source: OPPAGA analysis of APD data.

In addition to the algorithm that includes the QSI needs assessment, the iBudget system provides for a determination of extraordinary needs. Section 393.0662(1)(b), *Florida Statutes*, allows APD to increase funds for clients with extraordinary needs that cannot be accommodated within funding provided through the algorithm. The iBudget statute defines situations of extraordinary need as those that would place the health and safety of the client, the client's caregiver, or the public in immediate, serious jeopardy unless the funding increase is approved. An extraordinary need may include, but is not limited to a

- documented history of significant, potentially life-threatening behaviors, such as recent suicide attempts, arson, non-consensual sexual behavior, or self-injurious behavior requiring medical attention;
- complex medical condition that requires active intervention by a licensed nurse on

- an on-going basis that cannot be taught or delegated to a non-licensed person;
- chronic comorbid condition (defined as a medical condition existing simultaneously but independently with another medical condition);
- need for total physical assistance with activities such as eating, bathing, toileting, grooming, and personal hygiene;
- significant need for one-time or temporary support or services; or
- significant increase in need because of changes in the client's circumstances occurring after the beginning of the service plan year.

To account for extraordinary needs, the Legislature directed the agency to hold a portion of its appropriation for the HCBS Medicaid waiver program in reserve to adjust client allocations.

APD officials explained that they had difficulty in operationalizing extraordinary needs as well as determining how much of a reserve to establish and how it would be distributed. As a result, the agency identified clients with extraordinary needs based on certain types of services that clients were already receiving. Specifically, clients with extraordinary needs are clients who receive residential habilitation, behavioral services, adult day training, companion services (for those living at home) or nursing services, or those with a change in their QSI score or living situation in the last year.

APD's expert consultant suggested that the agency maintain a reserve of 10% of agency funds; instead, the agency reserved 7.6%, or \$66.6 million, which represents the difference between its Fiscal Year 2011-12 and Fiscal Year 2012-13 budget. The Florida Auditor General recently audited the agency's reserve and recommended that the agency periodically evaluate the reserve calculation process.⁸

⁸ *Agency for Persons with Disabilities iBudget Florida and Prior Audit Follow-up*, Florida Auditor General [Report 14-056](#), December 2013.

Enhanced client choice. The iBudget system provides two primary mechanisms to enhance client choice. First, within certain service categories, clients can shift funds from one service to another. For example, within the Life Skills service category, a client would be able to shift his or her allocated funding for Companion Services to Adult Day Training instead. Second, a client who spends less than anticipated on services during one quarter may carry those funds forward to the next quarter and apply them to other services, such as Dental Care or Transportation. Changes for certain service categories, such as Therapeutic Supports and Wellness, require APD area office review before funds can be shifted to other services. (See Appendix A for additional information about the iBudget service categories.)

Flexible and streamlined service review process. APD staff reviews iBudget service plans when the client enrolls in the waiver and when changes to the service plan are needed.⁹ Florida Medicaid rules require that APD ensure that the initial service plan guarantees that clients receive services that are medically necessary.¹⁰ To achieve this goal, APD is required by law to use a prior service authorization process.

Under the iBudget system, clients can make service changes within and across certain service categories. These changes are entered

by waiver support coordinators in the iBudget information system; agency staff electronically approves these changes. APD requires area offices to review requested changes for those services that may impact client health and safety. In addition, clients experiencing a change, such as a one-time significant increase in costs, must also undergo additional agency review for supplemental funding.

Efficient consumer budgeting and billing process that includes reconciliation and monitoring. The iBudget system has enhanced monitoring, but APD is still developing its reconciliation process.

The Legislature directed APD to implement an efficient consumer budgeting and billing process, in part, to help consumers make funds last throughout the year. As a result, the agency has effected a significant change by implementing the iBudget system. Prior to iBudget, the agency approved and authorized client services annually. However, instances occurred in which clients used all their allocated services for the entire year prior to the end of the year. The agency then faced a situation of providing additional services to avoid endangering client health and safety.

Under the iBudget system, waiver support coordinators must re-authorize services for clients each quarter. This change allows waiver support coordinators to track client service use and identify any usage that appears to exceed the current quarter's authorization. Waiver support coordinators can then address the situation with the client and service provider in order to ensure clients' services last throughout the year.

A 2013 Auditor General's report noted that the agency does not have a process to reconcile expenditures in its information system with expenditures submitted to the Agency for Health Care Administration and to ensure that only those expenditures that should be applied to the waiver program are submitted. In response to the Auditor General's report, APD officials reported that they would develop a reconciliation process.

⁹ An APD legal challenge, *Wheaton, et al v. APD*, Case No. 4:13-cv-00179-MW-CAS, though not directly related to iBudget implementation, was settled in October 2013. The case originated with the agency's 2011 cost plan freeze, and the settlement requires the agency to review all service requests within 30 days and to adopt standards for service requests.

¹⁰ Rule 59G-1.010 (166), *F.A.C.*, states that the goods or services furnished must be necessary to protect life, to prevent significant illness or significant disability or to alleviate severe pain, be individualized, specific, and consistent with symptoms or confirmed diagnosis of developmental disability of the person receiving services, and not in excess of the individual's needs; be consistent with generally accepted professional medical standards as determined by the Medicaid program and not be experimental or investigational; be reflective of the level of service that can be safely furnished, for which no equally effective and more conservative or less costly treatment is available, statewide; and be furnished in a manner not primarily intended for the convenience of the recipient, the recipient's caretaker, or the provider.

Redefined waiver support coordinator role that avoids potential conflicts of interest. To avoid potential conflicts of interest, the Legislature and APD have taken steps to ensure that staff who determines client needs are not employed or influenced by service providers that would profit from providing services.

Historically, support coordinators worked with individuals, families, service providers, and others to develop service plans that outlined the type, frequency, and intensity of services to be provided. Following development of a client's service or support plan, the support coordinators would establish a cost plan outlining an estimate of costs to provide the services described in the service plan; agency staff would approve the service and cost plans.

In addition to service and cost plans, waiver support coordinators also administered the individual's needs assessment. However, the Legislature recognized the potential conflict of interest in having support coordinators, who are by law advocates, determine an individual's need for services in addition to preparing the client's service and cost plans. In 2002, the Legislature directed the program to redefine the support coordinator role to avoid potential conflicts of interest.¹¹

Under the iBudget system, APD employees complete the Questionnaire for Situational Information (QSI) for each individual receiving waiver services. Waiver support coordinators gather additional information in order to help determine the client's service needs. In addition, the amount of an individual's cost plan, based on the iBudget algorithm and any identified extraordinary needs, is known to the individual and family at the beginning of the support planning process rather than being determined at the end of the process.

The Florida Developmental Disabilities Waiver Services Coverage and Limitations Handbook also specifies requirements for waiver support coordinators and service providers. The handbook requires that service providers and

employees who supervise or train staff or conduct support coordination remain free from influences that interfere with the client's choice of supports and services. The handbook states that service providers and employees certified to render support coordination shall not provide direct services, shall be legally and financially independent from and freestanding of persons or organizations that provide direct services, and shall not be a subsidiary of or function under the direct or indirect control of persons or organizations.

What is the impact of iBudget implementation on APD Medicaid waiver program deficits, if any?

APD reported that for Fiscal Year 2012-13, there was no HCBS Medicaid waiver program deficit and that \$16.6 million in unspent general revenue funds would revert to the state treasury.¹² It is not possible to determine the relative impact of iBudget on APD's waiver deficits because of legislative action and agency cost containment strategies over the last several years. The deficit reduction allows APD to move forward with an improved financial outlook. However, APD must control spending as it adds new clients from the agency's waitlist.¹³

APD had waiver deficits for several years prior to the implementation of iBudget, as well as during the first full year of implementation (Fiscal Year 2011-12). The 2011 Legislature directed APD to implement a 4% provider rate reduction and a client cost plan freeze; agency officials reported that these efforts resulted in savings of \$37.9 million and \$6.9 million, respectively. The agency also reported savings of \$23.4 million in other cost containment initiatives, including utilization reviews and uniform residential habilitation rates. In addition, the agency reported a savings of \$2.9 million resulting from iBudget implementation.

¹¹ In 2002, the program was housed in the Department of Children and Families.

¹² Subsequently, APD paid \$544,511 in Fiscal Year 2013-14 funds for prior year waiver expenditures.

¹³ iBudget expenditures in Fiscal Year 2013-14 may be affected by the settlement requirements of the federal class action lawsuit regarding the agency's notice of iBudget reductions.

In Fiscal Year 2011-12, legislative directives combined with agency cost containment initiatives and iBudget savings produced an estimated waiver cost savings of \$71.1 million. The 2013 Legislature provided \$40.3 million to eliminate APD's deficits from Fiscal Years 2010-11 and 2011-12.¹⁴

What is the impact of iBudget implementation on clients' allocated funding and service utilization?

Most iBudget clients saw no decrease in their service plan allocation after entering iBudget. Half of iBudget clients had average quarterly expenditures of \$4,000 or less and received three services. The most frequently provided services were Waiver Support Coordination, Life Skills Development 3 (Adult Day Training), and Personal Supports. After iBudget implementation, the percentage of clients receiving certain services declined along with the average per service expenditure.

For most clients, service plan allocations did not decrease when they transitioned to iBudget. Client service plans outline the type, frequency, and intensity of services to be provided. We compared clients' pre-iBudget service plan amounts to their service plan amounts after entering iBudget.¹⁵ Seventy-three percent of iBudget clients experienced no reduction in allocation when transitioning to iBudget. However, the average service plan allocation was 4% lower after clients transitioned to iBudget.¹⁶ The 4% reduction is due to a smaller percentage of iBudget clients (26%) that received larger reductions (18% of

all clients received a reduction greater than 10%).^{17, 18}

Overall, clients spent less on services after entering iBudget. Prior to entering iBudget, the mean quarterly per client expenditure was \$7,255. For clients on iBudget, the mean quarterly per client expenditure was \$6,442 after implementation, a decrease of 11%.

Expenditures for iBudget clients vary widely. As shown in Exhibit 3, per client expenditures for half of iBudget clients were \$4,000 or less per quarter; however, expenditures were between \$32,000 and \$77,000 per quarter for 1% of iBudget clients.¹⁹

**Exhibit 3
Expenditures for 50% of iBudget Clients Totaled \$4,000 or Less per Quarter**

Cumulative Number and Percentage of iBudget Clients	Quarterly Expenditures
2,027 (10%)	Up to \$500
9,965 (50%)	Up to \$4,000
13,904 (70%)	Up to \$9,000
17,923 (90%)	Up to \$14,000
18,696 (94%)	Up to \$17,000
19,768 (99%)	Up to \$32,000
19,959 (100%)	Up to \$77,000

Source: OPPAGA analysis of APD data.

The typical iBudget client receives three waiver services. Exhibit 4 presents the total number of iBudget services received by clients during the final quarter of Fiscal Year 2012-13, which is the quarter with the largest number of iBudget clients receiving at least one quarter of services.

In this quarter, the largest group of iBudget clients (6,176 or 30.9%) received three iBudget services. Less than 1% of clients received eight or more iBudget services.

¹⁴ This funding for the deficit included \$17 million in nonrecurring General Revenue and \$23.3 million in nonrecurring funds from the Operations and Maintenance Trust Fund.

¹⁵ Clients included in this analysis were those on the waiver as of October 14, 2013, that had both a pre-iBudget service allocation and an iBudget service allocation. To assess the actual impact of iBudget, we excluded from this analysis the clients who filed an administrative challenge to their iBudget allocation. Service plans for these clients would have reverted to the pre-iBudget amount until resolution of the appeal.

¹⁶ The mean pre-iBudget allocation was \$31,077 and the mean post-iBudget allocation was \$29,822, a 4% difference.

¹⁷ The overall reduction reflects the wide range in service plan allocations. The minimum service plan allocation was \$629 and the maximum was \$324,631.

¹⁸ The remaining 1% of clients received an increase in service plan allocations.

¹⁹ Expenditures are for the final quarter of Fiscal Year 2012-13. This quarter contained the most enrolled waiver clients and excluded clients in the last enrollment group (Miami-Dade and Monroe counties as well as clients on the Consumer Directed Care waiver and those who requested an administrative hearing).

Exhibit 4
The Largest Number of iBudget Clients Received Three iBudget Services per Quarter¹

Number of iBudget Services Received	Number of Clients	Percentage of Total Clients
1	1,519	7.6%
2	4,775	23.9%
3	6,176	30.9%
4	4,256	21.3%
5	2,090	10.5%
6	771	3.9%
7	265	1.3%
8	82	0.4%
9	21	0.1%
10	3	0%
12	1	0%
Total	19,959	100.0%

¹ This analysis is based on expenditures for all iBudget clients that received services during the last quarter of Fiscal Year 2012-13. This included all iBudget clients enrolled in iBudget for at least one quarter; as such, it does not include clients enrolled during the final phase of iBudget implementation (those in Miami-Dade and Monroe counties, those on the Consumer Directed Care waiver, or those that requested an administrative hearing).

Source: OPPAGA analysis of Agency for Health Care Administration Medicaid expenditure data.

The largest number of iBudget clients received Waiver Support Coordination, Adult Day Training, and Personal Supports. Exhibit 5 shows the most frequently provided iBudget waiver services in the final quarter of Fiscal Year 2012-13. For each service, the exhibit includes the number of unique clients who received the service, total expenditures for the service during the quarter, and the number and frequency of services.

The most frequently provided service was Waiver Support Coordination. For a typical quarter, clients received 2.9 months of Waiver Support Coordination. The next most frequently used service was Life Skills Development Level 3, known as Adult Day Training (ADT). In the last quarter of Fiscal Year 2012-13, 7,534 clients received 2,268,318 units of service at a cost of \$10.6 million. ADT is provided hourly; the average client received 301 hours, or 37.6 days, of ADT for the quarter. During the last quarter of Fiscal Year 2012-13, 7,241 clients received Personal Supports; this is a new service that combines personal care, in-home services, respite, and companion services.²⁰

²⁰ As indicated in Exhibit 5, client service plans may authorize Personal Supports by the quarter hour or on a daily basis. We identified 7,241 unduplicated clients receiving Personal Supports by the quarter hour or daily.

Exhibit 5
Waiver Support Coordination, Adult Day Training, and Personal Supports Were the Most Commonly Provided iBudget Services¹

iBudget Service	Number of Clients	Total Service Cost for the Quarter	Total Units	Type of Unit
Support Coordination – Full ²	17,318	\$6,371,981	50,714	Month
Life Skills Development Level 3 (ADT) – Facility Based	7,534	\$10,632,590	2,268,318	Hours
Personal Supports	6,012	\$17,204,513	5,121,491	Quarter Hour
Consumable Medical Supplies	4,828	\$1,934,135	29,810	Item
Transportation – Trip	4,811	\$3,785,370	407,567	Trip
Supported Living Coaching	3,148	\$4,883,203	655,679	Quarter Hour
Support Coordination – Limited	2,341	\$421,796	6,715	Month
Residential Habilitation – Moderate	2,029	\$19,724,569	5,885	Month
Life Skills Development Level 1 (Companion)	2,026	\$2,602,257	1,241,911	Quarter Hour
Personal Supports	1,547	\$10,712,884	111,402	Day

¹ This analysis is based on expenditures for all iBudget clients that received services during the last quarter of Fiscal Year 2012-13. This included all iBudget clients enrolled in iBudget for at least one quarter; as such, it does not include clients enrolled during the final phase of iBudget implementation.

² Support Coordination is a required waiver service.

Source: OPPAGA analysis of Agency for Health Care Administration Medicaid expenditure data.

Average quarterly service expenditures decreased under iBudget. The analysis of quarterly service expenditures included only those clients with at least one quarter on the waiver prior to and following iBudget implementation. With the exception of Waiver Support Coordination, which is a required service, the overall average percentage of clients receiving services decreased somewhat under iBudget. That is, for 11 of 30 services, the percentage of clients receiving the service declined by 1% or more.

For the most commonly used service, Waiver Support Coordination, the percentage of clients receiving services did not change following iBudget implementation (87%), and the average quarterly expenditure per recipient decreased only \$5.04. ADT was used by 41% of clients before iBudget implementation and 40% following implementation. The average quarterly expenditure per recipient for ADT decreased by \$100.88. The percentage of clients using Transportation decreased from 31% before iBudget implementation to 27% following implementation, and the average quarterly expenditure per recipient decreased by \$144.21. Overall, for 17 of 30 services, average spending per recipient decreased by at least \$10 per quarter.

For additional information on other waiver services, see Appendix B. One potential anomaly is Personal Supports. The percentage of clients receiving Personal Supports declined from 45% before iBudget implementation to 38% following implementation. It is important to note that Personal Supports did not exist as a service category prior to iBudget. Instead, Personal Supports is a composite of four prior services, primarily provided to clients age 21 and over.²¹ The apparent decrease in Personal Supports could be due to capturing some waiver expenditures prior to iBudget in Life Skills Development Level 1 (Companion) or with other Respite expenditures. As shown in Appendix B, the percentage of clients receiving Life Skills Development Level 1

increased from less than 1% before iBudget implementation to 10%.

How has iBudget affected clients' ability to live independently?

During the course of our review, we inquired about the impact of iBudget on clients' ability to live independently. Opinions differed as to what types of changes to a client's living situation would be viewed as living less independently. For example, moving to a group home could be considered greater independence for a young adult who no longer wants to live in a family home. However, moving to a group home could be considered living less independently in instances where someone was no longer able to live at home because a caregiver's health has declined.

Various stakeholders did not report that iBudget resulted in clients moving to more restrictive settings. APD officials also said that they were not aware of any iBudget impact on independent living.

What is the status of fair hearing appeals and litigation resulting from iBudget implementation?

During the course of iBudget implementation, the agency received 3,471 requests for administrative hearings in response to agency iBudget notices.²² In addition, clients and their representatives filed two legal challenges to iBudget: a now-settled federal class action lawsuit regarding iBudget notices and an administrative rule challenge to APD's implementation of the iBudget statute.

For Medicaid programs administered by APD, an applicant for services or a client, or his or her parent, guardian advocate, or authorized representative, may request an administrative hearing in accordance with federal law and rules applicable to Medicaid cases. A request for an administrative hearing may be filed when an individual wants to appeal the agency's decision to reduce or deny services. Florida law provides that the Department of Children and Family

²¹ Four services included In-Home Supports, Companion Services, Personal Care Assistance, and Respite.

²² As of October 2013.

Services conduct these hearings following procedures consistent with federal law and rules applicable to Medicaid cases.²³

APD received requests from 3,471 clients for an administrative hearing regarding iBudget notices. As of October 2013, most of these cases were still pending due to the class action lawsuit that challenged the adequacy of the agency's iBudget notices. (See Exhibit 6.)

Exhibit 6

APD Has Received 3,471 Requests for Administrative Hearings as Part of iBudget Implementation

Area	Case Closed	Final Order	Pending	Total
1	7	12	153	172
2	1	26	12	39
3	0	25	272	297
4	0	67	136	203
7	3	361	283	647
8	0	139	65	204
9	0	50	107	157
10	0	35	155	190
11	0	5	503	508
12	0	12	7	19
13	1	93	48	142
14	0	39	11	50
15	0	113	35	148
23	0	271	424	695
Total	12	1,248	2,211	3,471

Source: OPPAGA analysis of APD data.

Federal Class Action Lawsuit. On November 7, 2012, 10 named iBudget clients (plaintiffs) filed a lawsuit in the U.S. District Court for the Northern District of Florida on behalf of all iBudget clients who received a notice of reduction in their annual waiver funding due to iBudget implementation. The suit was granted class action status for settlement purposes. Plaintiffs alleged that the agency's notice regarding a reduction in services to iBudget clients was inadequate and therefore violated their due process rights.

APD, while denying any violation of statute, law, or constitutional provision or of any liability or wrongdoing, signed a settlement agreement that was approved by the court on November

27, 2013. As part of the settlement, the agency has agreed to reinstate cost plans for all class members to the funding level they had prior to iBudget implementation (on a pro-rated basis).²⁴ In January 2014, APD issued notices to all class members temporarily reinstating their pre-iBudget funding allocations. Following this step, APD will send an amended notice of iBudget Allocation and Reduction of Annual Funding Amount that will include individualized information on how the iBudget funding was determined and will provide each member another opportunity for an administrative hearing.

Rule Challenge. A petition challenging the iBudget proposed rule was filed on May 16, 2013. The challenge asserts that the proposed iBudget rule does not properly implement the iBudget statute.²⁵ Petitioners claim that the statute requires that individual's iBudget funding allocation be set solely by the algorithm required in statute. Petitioners further claim that the algorithm developed by the agency is not statistically valid and fails to properly predict individual budgets. APD disagrees and argues that the statute provides for an iBudget system that uses both the algorithm and a manual review of files to serve clients.

The administrative law judge who heard the rule challenge in July 2013, ruled in favor of APD. Petitioners subsequently have appealed this ruling to the Florida First District Court of Appeal. While the appeal moves forward, the agency's rules remain valid and enforceable.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Director of the Agency for Persons with Disabilities for review and response. The Director's written response to this report is in Appendix C.

²⁴ Class member means all individuals who receive services under iBudget and received a notice of reduction in their annual waiver funding due to the transition to iBudget.

²⁵ Section 393.0662, *F.S.*

²³ Section 393.125, *F.S.*

Appendix A

iBudget Service Categories

Under the new iBudget system, waiver services are grouped in service families. Within certain family categories (e.g., Life Skills Development), clients can shift funds within the fiscal year. Changes in some service families (e.g., Therapeutic Supports and Wellness) require agency approval. (See Exhibit A-1.)

Exhibit A-1

APD's iBudget Services by Service Family

Service Family	iBudget Services
Life Skills Development	<ul style="list-style-type: none"> ▪ Life Skills Development Level 1 <i>(formerly known as Companion Services)</i> ▪ Life Skills Development Level 2 <i>(formerly known as Supported Employment)</i> ▪ Life Skills Development Level 3 <i>formerly known as Adult Day Training)</i> ▪ Family and Legal Representative Training <i>(currently not available)</i>
Supplies and Equipment	<ul style="list-style-type: none"> ▪ Consumable Medical Supplies ▪ Durable Medical Equipment and Supplies ▪ Environmental Accessibility Adaptations ▪ Personal Emergency Response Systems <i>(Unit and Services)</i>
Personal Supports	<ul style="list-style-type: none"> ▪ Personal Supports <i>(includes services formerly known as In-Home Supports, Respite, Personal Care, and Companion; for individuals age 21 or older, living in their own home or family home; also for those at least 18 but under 21 living in their own home or supported living)</i> ▪ Respite <i>(for individuals under 21 living in their family home)</i>
Residential Services	<ul style="list-style-type: none"> ▪ Standard Residential Habilitation ▪ Behavior-Focused Residential Habilitation ▪ Intensive-Behavior Residential Habilitation ▪ Live-In Residential Habilitation ▪ Specialized Medical Home Care ▪ Supported Living Coaching
Support Coordination	<ul style="list-style-type: none"> ▪ Limited Support Coordination ▪ Full Support Coordination ▪ Enhanced Support Coordination
Therapeutic Supports and Wellness	<ul style="list-style-type: none"> ▪ Private Duty Nursing ▪ Residential Nursing ▪ Skilled Nursing ▪ Dietician Services ▪ Respiratory Therapy ▪ Speech Therapy ▪ Occupational Therapy ▪ Physical Therapy ▪ Specialized Mental Health Counseling ▪ Behavior Analysis Services ▪ Behavior Assistant Services
Transportation	<ul style="list-style-type: none"> ▪ Transportation
Dental Services	<ul style="list-style-type: none"> ▪ Adult Dental Services

Source: Agency for Persons with Disabilities.

Appendix B

Change in Quarterly Services and Expenditures for iBudget Recipients

Exhibit B-1 shows the percentage of clients receiving services quarterly prior to iBudget and following iBudget implementation. For example, 45% of clients received Personal Supports in an average quarter prior to iBudget but 38% received Personal Supports following iBudget implementation. The exhibit also shows the change in average quarterly spending per recipient following iBudget implementation. For example, average quarterly spending per recipient for Transportation dropped by \$144.21 from \$905.52 prior to iBudget to \$761.31 following iBudget implementation.

The analysis is based on all clients that had a least one full quarter on the waiver prior to iBudget and at least one full quarter enrolled on iBudget. Average quarterly spending per recipient was calculated for each service prior to and following iBudget implementation. Negative differences in quarterly spending per recipient show a decrease in per client spending following iBudget was implementation, and positive differences show an increase. Service titles reflect the current iBudget service names. Pre-iBudget service codes were matched to iBudget codes in order to conduct this analysis.

Exhibit B-1

Differences Show Small Decreases in the Percentage of Clients Receiving Services

Service Title	Percentage of Clients Receiving Service Prior to iBudget Implementation	Percentage of Clients Receiving Service Following iBudget Implementation	Percentage Change	Average Quarterly Spending per Recipient Prior to iBudget Implementation	Average Quarterly Spending per Recipient Following iBudget Implementation	Change in Spending per Recipient (\$)
Support Coordination Full	87.2%	87.4%	0.2%	\$374.36	\$369.31	-5.04
Personal Supports	45.3%	38.0%	-7.2%	3,766.03	3,762.14	-3.89
Life Skills Development Level 3	40.6%	39.7%	-0.9%	1,461.57	1,360.69	-100.88
Transportation	31.0%	26.9%	-4.2%	905.52	761.31	-144.21
Consumable Medical Supplies	25.9%	24.2%	-1.7%	401.23	388.34	-12.88
Residential Habilitation Standard	23.4%	20.8%	-2.6%	9,301.13	8,939.29	-361.84
Supported Living Coaching	16.4%	17.0%	0.6%	1,640.15	1,492.05	-148.10
Behavior Analysis	15.0%	11.1%	-3.9%	1,168.41	1,033.76	-134.64
Support Coordination Limited	12.5%	11.6%	-0.9%	184.10	180.41	-3.69
Life Skills Development Level 2	8.7%	6.4%	-2.3%	783.83	625.53	-158.30
Adult Dental Services	7.1%	5.3%	-1.8%	395.32	387.14	-8.17
Respite	6.6%	5.6%	-0.9%	1,325.82	1,304.30	-21.52
Physical Therapy	3.3%	2.0%	-1.3%	1,060.83	826.88	-233.96
Residential Habilitation Behavior Focused	3.2%	3.7%	0.4%	12,881.23	10,981.52	-1,899.71
Speech Therapy	2.4%	0.9%	-1.5%	938.60	774.24	-164.36
Behavior Assistant Services	2.1%	1.0%	-1.1%	4,097.76	3,028.18	-1,069.58
Residential Habilitation Intensive Behavior	2.1%	2.3%	0.2%	30,299.45	30,918.31	618.87

Service Title	Percentage of Clients Receiving Service Prior to iBudget Implementation	Percentage of Clients Receiving Service Following iBudget Implementation	Percentage Change	Average Quarterly Spending per Recipient Prior to iBudget Implementation	Average Quarterly Spending per Recipient Following iBudget Implementation	Change in Spending per Recipient (\$)
Occupational Therapy	1.4%	0.7%	-0.7%	\$1,035.49	\$841.91	-\$193.58
Specialized Mental Health Counseling	1.4%	0.7%	-0.7%	534.19	376.39	-157.81
Dietitian Services	0.6%	0.2%	-0.4%	383.24	376.10	-7.14
Residential Nursing	0.5%	0.4%	-0.1%	8,803.40	10,188.86	1,385.46
Personal Emergency Response Systems	0.5%	0.5%	0.0%	97.17	96.40	-0.77
Private Duty Nursing	0.5%	0.6%	0.1%	23,576.34	19,405.94	-4,170.40
Life Skills Development Level 1	0.3%	9.9%	9.6%	1,112.19	1,214.74	102.55
Skilled Nursing	0.2%	0.1%	-0.2%	5,201.36	4,043.22	-1,158.14
Durable Medical Equipment and Supplies	0.2%	0.2%	0.0%	1,340.18	913.28	-426.89
Environmental Accessibility Adaptations	0.1%	0.1%	0.0%	2,493.17	3,136.54	643.37
Respiratory Therapy	0.1%	0.0%	-0.1%	3,544.91	3,614.36	69.45
Specialized Medical Home Care	0.0%	0.0%	0.0%	26,721.36	27,576.40	855.04
Support Coordination Enhanced	0.0%	0.0%	0.0%	360.14	912.66	552.52

Source: OPPAGA analysis of waiver expenditures.

Appendix C



Rick Scott
Governor

■ ■
Barbara Palmer
Director

■ ■
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March 5, 2014

Mr. R. Philip Twogood
Coordinator
Office of Program Policy Analysis and Government Accountability
312 Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1475

Dear Mr. Twogood:

We reviewed the Office of Program Policy Analysis and Government Accountability's preliminary and tentative report titled *iBudget Implementation Continues as the Agency for Persons with Disabilities Responds to Legal Challenges*. We appreciate the report recognizing the need for additional time to fully assess iBudget implementation.

We value the efforts your staff put forth during the analysis of the Agency's performance and appreciate their professionalism.

If you have any questions or need additional information, please contact Carol Sullivan, Inspector General at (850) 414-7166.

Sincerely,

A handwritten signature in black ink that reads 'Barbara Palmer'. The signature is written in a cursive, flowing style.

Barbara Palmer
Director

The Florida Legislature

Office of Program Policy Analysis and Government Accountability



OPPAGA provides performance and accountability information about Florida government in several ways.

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R. Philip Twogood, Coordinator