



Transition Planning for Youth with Disabilities

Alexandra St. Pierre, Esq.

Legal Aid Society of Palm Beach County, Inc.

Equal Justice Works Fellow, Sponsored by the Florida Bar
Foundation and Greenberg Traurig, LLP



Who are we talking about?

- Youth/young adults with:
 - Developmental disabilities
 - Physical disabilities
 - Mental health diagnoses
 - Trauma
 - Problems with substance abuse



DCF Independent Living Benefits

- Extended Foster Care
- Road to Independence Program
 - Postsecondary Education Services and Support
 - Aftercare Services



Extended Foster Care, §39.625 I

- Eligibility Requirements:
 - Must have been in licensed care on 18th birthday
 - Includes runaway status, DJJ commitment programs, etc.
 - Essentially, must have been in the *legal custody* of DCF on 18th birthday
 - Must be engaging in a qualifying activity:
 - Completing secondary education or equivalent; or
 - Enrolled in postsecondary or vocational institution; or
 - Participating in program/activity to promote employment or eliminate barriers to employment; or
 - Working at least 80 hrs/mo; or
 - Unable to participate in above activities full time due to physical, intellectual, emotional, or psychiatric condition that limits participation
 - Documentation of such condition is necessary



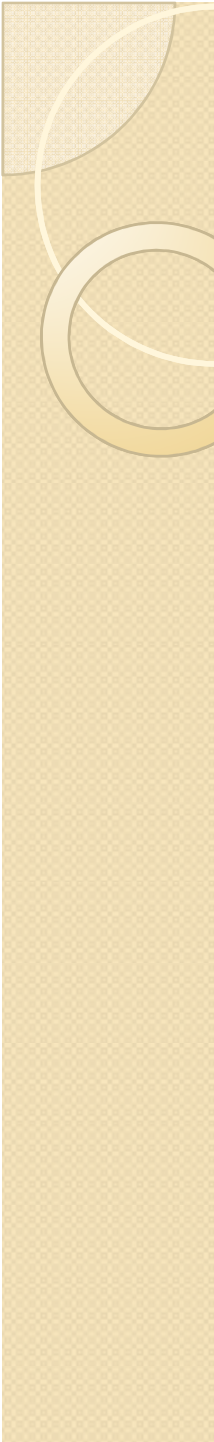
Extended Foster Care, §39.625 I

- Permanency goal = transition to independent living
- Young adult must reside in supervised living arrangement
 - Statute lays out certain options, with preference being foster home
 - Big issue is agreement between young adult and CBC
 - If there is no agreement, then child should be given opportunity to present her choices to the court for the court to make the ultimate decision



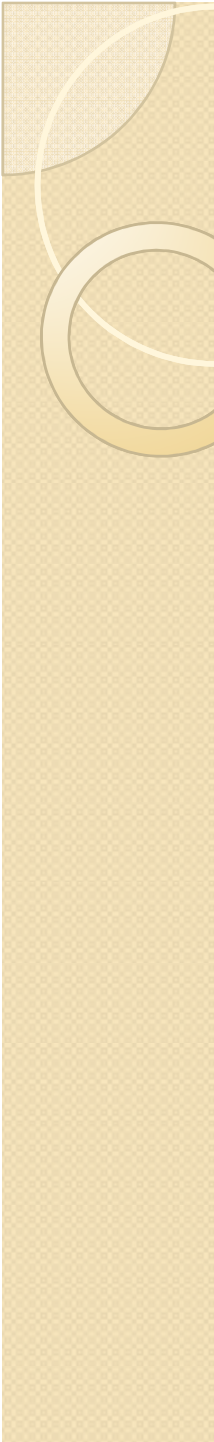
Extended Foster Care, §39.625 I

- Eligibility ends on earliest date that young adult:
 - Reaches 21 years of age, or 22 years of age if young adult has disability
 - Leaves care to live in permanent home consistent with permanency plan
 - Knowingly and voluntarily “opts out”
 - Must have hearing pursuant to §39.701(4)(e) to verify that withdrawal is knowing and voluntary
- Young adult who has left EFC can reenter at any time so long as they meet eligibility criteria
 - If they do not meet criteria, CBC must assist the young adult in becoming eligible



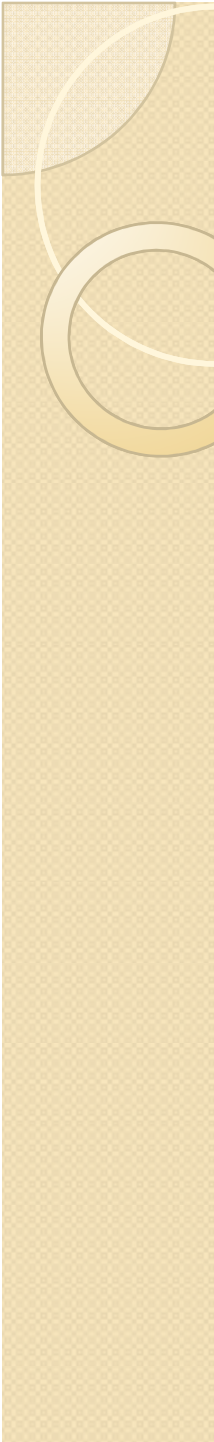
Postsecondary Education Services and Supports, §409.1451(2)

- Eligibility Requirements:
 - Must have one of the following legal statuses :
 - Living in licensed care/in the legal custody of DCF on 18th birthday; or
 - Currently living in licensed care; or
 - At least 16 when adopted from foster care or placed with a court-approved dependency guardian after spending at least 6 months in licensed care w/in the 12 months immediately preceding such placement or adoption
 - Spent at least 6 months in licensed care before turning 18
 - Has earned a standard high school diploma pursuant to §1002.3105(5), §1003.4281, §1003.4282, or its equivalent pursuant to §1003.435; or a special option diploma pursuant to §1003.438
 - NOTE: After July 1, 2015, there will be no more special option diploma alternative. If a young adult is not *already* participating in PESS with a special option at that time, they will no longer be eligible.



Postsecondary Education Services and Supports, §409.1451(2)

- Eligibility Requirements cont'd:
 - Be admitted as full-time student or equivalent in a Bright Futures postsecondary institution
 - Full-time = 9 credit hours, or vocational school equivalent
 - Student can be enrolled part-time if she has a recognized disability OR is faced with a challenge or circumstance that would prevent full-time attendance
 - If part-time attendance is not due to a recognized disability, student needs approval from an academic advisor
 - Be at least 18 years old but not yet 23
 - Have applied, *with assistance from caregiver or CBC*, for any other grants/scholarships for which she may qualify
 - Submitted complete and error free FAFSA
 - Signed agreement to allow DCF/CBC access to school records



Postsecondary Education Services and Supports, §409.1451(2)

- Payment:

- Made during months which student is enrolled in school
- Made to foster parent, group home, CBC, or youth depending on where youth is residing and whether the youth is also in EFC
- \$1,256/month
 - A few exceptions depending on where youth is residing

Aftercare Services, §409.1451(3)

- Eligibility Requirements:
 - At least 18 years old but not yet 23
 - Not in foster care
 - Temporarily not receiving financial assistance through PESS
 - DCF's draft rules have further narrowed eligibility to require that a young adult have turned 18 in licensed care—not a valid limitation



Transition Plan, §39.6035

- Must be developed within 180 days of child's 17th birthday
 - Meeting to develop the plan must be held when convenient for child, must include anyone the child wishes to include
- Plan needs to be specific re: housing, work, etc.
- Must coordinate with case plan, IDEA transition plan
- Shall be updated as necessary
- Should be reviewed by Judge prior to child turning 18—must be *approved* by judge if child opting out of EFC



Administrative Rules for EFC, PESS, and Aftercare Services

- Still being developed
- Both rules and forms have gone through many revisions



Housing

- Usually the most stressful part of transition planning for many young adults
- If in EFC, must stay in a “supervised living arrangement”
 - CBC and young adult must agree
 - If housing cannot be agreed upon, can bring issue before the court
- If child is placed out of county, does youth want to stay out of county?
 - Can request out-of-county courtesy worker for EFC youth
 - May need to send EFC case plan to CBC in county where child is residing
- Many placements will keep children for certain period of time once they turn 18
- Make sure young adult can see living arrangement, meet any house parents/staff members, before moving in



Residential Treatment Centers

- “RTC” includes both Specialized Therapeutic Group Homes and Psychiatric Inpatient Programs
- Services to be provided to young adult until 21
- Not a lot of providers will keep youth once they turn 18, cite liability issues of having adults and children housed together
 - MMC providers’ contract with AHCA states that they must have sufficient providers
 - Copy of contract can be found at:
http://www.ahca.myflorida.com/Medicaid/statewide_mc/plans.shtml
- Watch out for suitability assessments prior to child turning 18
 - Should not recommend step-down unless therapeutically beneficial



Agency for Persons with Disabilities (APD) Services

- Legislation in the works to have APD and DCF share cost of housing, rehabilitative services
- Residential APD options include group homes, Supported Living
- Young adult will have Waiver Support Coordinator who helps coordinates services
- APD group homes will not be representative payee



Master Trust, §402.17

- DCF is trustee for youth in their legal custody
- Actual master trust document, set up by judge in Leon County
- Money held in trust for a youth can come from a lawsuit settlement, social security benefits, etc.
- For most Social Security benefits, DCF charges a “room and board” fee per §402.33
- Can request a waiver of this fee per §402.33(7)



Social Security Benefits

- **Title II Survivor's Benefits**
 - Continue until 19 years 3 mos if enrolled in elementary or secondary school full-time
 - School needs to send certified letter or transcript to Social Security to verify
- **Supplemental Security Income**
 - \$2,000 asset limit
 - Plan to Achieve Self Support (PASS), Program Operations Manual System (POMS) SI 00870.000
- **18 Year Old Redetermination**
 - New standard of disability: young adult must have a medically determinable physical or mental impairment(s) that results in an inability to do any substantial gainful activity.
- **Section 301 Payments**
 - Disability payments can continue if young adult has an active IEP or is participating in a vocational rehabilitation or similar program **EVEN IF** young adult determined not to be disabled by SSA standards, see POMS DI 14505.010
- **Disabled Adult-Child Benefits**
 - Title II Insurance benefit
- **Special Needs Pooled Trusts**
 - Irrevocable
 - Can be set up by court order prior to child turning 18
- **Representative Payee**



Education

- High School
 - ESE students can go to school until 22 or until they obtain a standard high school diploma
 - Education rights transfer to young adult at age 18—must be given notice at IEP meeting during 17th year
 - Transition plan in IEP should be coordinated with dependency Transition Plan and Case Plan
 - No more special option diploma as of July 1, 2015
- Credit recovery schools
- GED
- Vocational Program



Medicaid

- Young adults who turned 18 in licensed care are categorically eligible for Medicaid until age 26, 42 U.S.C. § 1396a(a)(10)(A)(i)(IX) (2013)
- Young adult should NOT apply for Medicaid through ACCESS until youth is about to turn 21
- Managed Care plans have contract with AHCA
 - Problems should be submitted via online complaint system
 - <https://www.flmedicaidmanagedcare.com/enroll/#Login>
- Sunshine Child Welfare Specialty Plan is default plan for youth in licensed care or who turned 18 in licensed care—available in all regions
 - Magellan Complete Care Specialty Plan
 - Clear Health Alliance HIV/AIDS Specialty Plan, Positive Healthcare of Florida HIV/AIDS Specialty Plan
 - Children's Medical Services
- Sometimes plans get changed automatically because young adult turns 18
 - Young adult can change plan back by going to above website or calling Choice Counseling hotline
- Haitian and Cuban youth/young adults who have Special Immigrant Juvenile status are entitled to receive Medicaid as soon as they receive Legal Permanent Resident status



Food Assistance

- Young adults should be eligible to receive the full amount of food assistance
- Community Based Care Lead Agency will need to submit a letter to DCF regarding the benefits the child receives
- Can apply before turning 18, ACCESS will list the application as pending



Youth in DJJ Commitment Programs/Jail

- Committed and incarcerated young adults can still be in EFC!!!
- Qualifying activity can be participating in school, GED classes, therapy, etc.
 - Jails must provide education services to ESE students up to age 22
- Both DJJ and county jails often have transition meetings or transition/reentry staff
 - Case manager, GAL, young adult's attorney can and should participate in any transition/reentry meetings
 - All parties should know what probation requirements are, if any
 - Can help locate placement, etc.
 - Could ask for \$25/mo to save, put in canteen (similar to RTI)
- Knowing that a young adult is in EFC, or will be eligible for EFC, can help with plea deals
 - Explain benefits to public defender
 - Write letter to ASA, Judge



Guardianship/Guardian Advocacy

- The Regis Little Act to Protect Children with Special Needs
 - CS/CS/HB 437
- Changes §39.625 I and §39.70 I, as well as §393.12 and §744.30 I
- Department is supposed to identify potential guardian/guardian advocate
- Petition should be filed in court with jurisdiction over guardianship matters



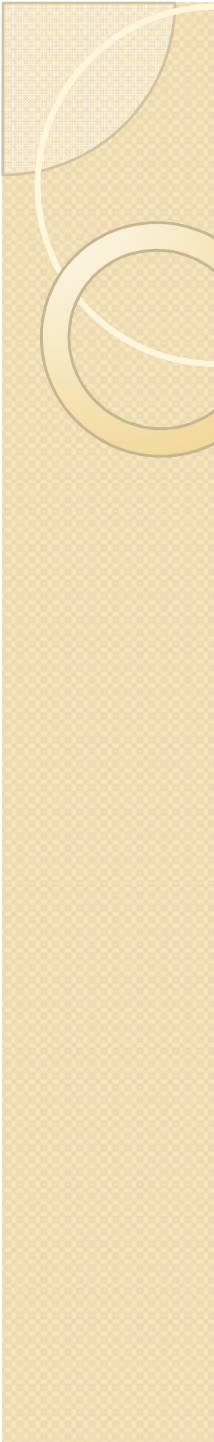
Keys to Independence Program

- Purpose is to assist youth *in licensed care* with obtaining a driver's license
- For youth ages 15-21
- Money disbursed on first come, first served basis
- Covers most expenses related to getting a license, including car insurance, driver's training, DMV fees, etc.
- Mr. Wayne Brown, CBC of Central Florida
- <http://www.keystoindependence.org/>



Judicial Reviews for 17 year olds, §39.701(3)

- JR must be held within 90 days after child's 17th birthday
 - At this JR, DCF must provide court with updated case plan that includes specific info regarding IL skills child has acquired since turning 13 or entering licensed care
- Court must enter separate order removing disability of non-age so child can contract for leasehold, utilities, bank account, car insurance
 - §743.044-7
- Child must be given opportunity to address the court
- Last JR must address whether child staying in foster care, ensure transition plan complies with law
- Court can review status of child more frequently during 17th year



Judicial Review and Social Study Report, §39.701 (3)

- Medicaid card and all info concerning applying for Medicaid
- Certified copy of birth certificate
- Florida ID
- Social Security card and all info regarding Social Security benefits
- Accounting of any monies being held in trust for child
- Info about PESS, Aftercare, and *assistance in applying for those programs*
- Open bank account or ID necessary to open bank account and acquire banking and budgeting skills
- Info on public assistance and how to apply
- A clear understanding of where child will be living on 18th birthday, how living expenses will be paid, and school in which child will be enrolled
- Info related to remaining in care until 21 per §39.013
- Letter providing dates child is under jurisdiction of court
- Letter stating child is in compliance with financial aid documentation requirements
- Entire educational, health, and mental health records
- Info on how to access case file
- Statement encouraging child to attend all judicial review hearings occurring after child's 17th birthday



Last Judicial Review, §39.701 (3)(d)

- Court shall address whether child wishes to remain in foster care
 - If so, shall ensure transition plan includes a plan to meet EFC eligibility criteria and a supervised living arrangement
- Court shall ensure child has been informed of:
 - Right to continued support and services from DCF
 - Right to “opt-out” of EFC and terminate court jurisdiction
 - Opportunity to reenter EFC until 21st or 22nd birthday pursuant to §39.625 I



“Opt-Out” Hearing for 17 year olds, §39.701(3)(d)(4)

- If child chooses to “opt-out” of foster care upon turning 18, court must ensure child has been informed of:
 - Services or benefits for which youth may be eligible based on former placement in foster care
 - Services or benefits that may be lost through termination of dependency jurisdiction
 - Other federal, state, local, or community-based services and supports available to youth



Questions???

Alex St. Pierre, Esq.

Legal Aid Society of Palm Beach County, Inc.

Equal Justice Works Fellow, Sponsored by the Florida Bar Foundation and
Greenberg Traurig, LLP

(561) 822-9761

astpierre@legalaidpbc.org