Memorandum

MIAMI-DADE COUNTY

DATE:	November 17, 2009	Agenda Item No. 14(A)(3)
TO:	Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners	
FROM:	George M. Burgess County Manager	
SUBJECT:	Approval of the State of Florida Department of Children and Families Circuit Eleven Proposed Transportation Exception Plan to the Florida Mental Health Act	

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the State of Florida Department of Children and Families (DCF) Circuit Eleven's proposed Transportation Exception Plan (Attachment A) to the Florida Mental Health Act, pursuant to section 394.451 et seq., Fla. Stat. Approval of this item will permit the DCF to submit its proposed Transportation Exception Plan for review and approval to the DCF Program Office. If approved, the Transportation Exception Plan will allow those for whom a Baker Act involuntary examination is being initiated, to be taken to the nearest facility that provides specialized services for elderly individuals, minors, individuals with special medical conditions and/or handicaps.

Scope

The Transportation Exception Plan encourages law enforcement to transport persons in need of specialized services to the nearest appropriate facility. However, the Plan indicates that law enforcement "may" transport to the appropriate facility, not "must" transport. This will allow for situations in which law enforcement officers recognize the need to transport certain individuals to a specialized facility. However, it will not require the officers to transport individuals to specialized facilities when it is not possible due to, for example, time constraints or personnel limitations.

Fiscal Impact/Funding Source

There is no fiscal impact related to this item.

Track Record/Monitor

Once approved by the DCF Program Office, all community stakeholders will be notified. State Circuit staff will coordinate and provide trainings on the Transportation Exception Plan, as necessary and will monitor implementation of the plan with law enforcement agencies.

Background

The Florida Mental Health Act, usually referred to as "The Baker Act," delineates the process for handling an individual who appears to have a mental illness and who has either refused voluntary examination or is unable to personally determine whether an examination is necessary; who is likely to suffer from neglect or poses a real threat or harm to their well-being; and who will likely cause serious personal bodily harm or harm to others in the near future if he or she does not receive care or treatment.

The Baker Act requires that these persons be taken by law enforcement to the nearest receiving facility when involuntary psychiatric examinations are initiated by a circuit court judge, a law enforcement officer, or an authorized mental health professional. Although the Baker Act specifies the requirements related to transporting these persons to a suitable facility, section 394.462(3), Fla. Stat. allows a community to prepare a Plan and request an exception to the statute's requirements, if deemed necessary. The implementing regulation, Florida Administrative Code Rule 65E-5.2601, further requires that the proposed Plan be approved by the "governing boards of any affected counties...prior to the plan's submission to the

Secretary of the DCF". Board approval of this item is sought in order to comply with this requirement.

Miami-Dade County has "receiving facilities" throughout its geographic area to provide the examinations for involuntary commitment determination and crisis stabilization function, if necessary. However, taking persons to the nearest facility may require subsequent transfer to another facility capable of providing the specialized care required by a patient. For example, Miami-Dade County currently has specialized facilities for minors, the elderly, the medically-involved, and the deaf and hard of hearing. The Transportation Exception Plan will allow law enforcement to transport the patient to the nearest and appropriate receiving facility. In this way, for example, children and adolescents or elderly patients will be transported to a facility specially designed for their care. This will result in the efficient and effective provision of services to these specialized populations and reduce the need for transfers between receiving facilities.

The proposed Transportation Exception Plan was developed with the involvement of a wide array of community providers and stakeholders including law enforcement, public and private receiving facilities, crisis stabilization units, and DCF staff. The Miami-Dade Police Department and the Miami-Dade Corrections and Rehabilitation Department have been involved in these discussions, have reviewed the plan from both an operational and legal aspect, and have approved the proposal.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: November 17, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 14(A)(3)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(3)
11-17-09

RESOLUTION NO. _____

RESOLUTION APPROVING THE STATE OF FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES CIRCUIT ELEVEN PROPOSED TRANSPORTATION EXCEPTION PLAN TO THE FLORIDA MENTAL HEALTH ACT AS PROVIDED IN SECTION 394.462(3) OF THE FLORIDA STATUTES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board, pursuant to section 394.462(3), Fla. Stat., approves the State of Florida Department of Children and Families Circuit Eleven proposed Plan for Exception to Transportation Requirements for Baker Act Involuntary Examinations, in substantially the same form as attached.

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of November, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency. MD

By:_____
Deputy Clerk

Mandana Dashtaki

Plan for Exception to Transportation Requirements for Baker Act Involuntary Examinations

Department of Children and Families
Circuit 11 (Miami-Dade County)

Background

The Florida Mental Health Act, usually referred to as "The Baker Act," requires that a person who appears to have a mental illness and who has either refused voluntary examination or is unable to determine for himself whether examination is necessary, and who is likely to suffer from neglect or refuse to care for himself which may then pose a real and present threat of substantial harm to his well-being, and that without care or treatment will cause serious bodily harm to himself or others in the near future be taken by law enforcement to the nearest receiving facility when involuntary psychiatric examinations are initiated by a circuit court judge, a law enforcement officer, or an authorized mental health professional.

The law requires that each county designate a single law enforcement agency within the county, or portions thereof, to take persons into custody upon the entry of a judge's ex parte order or the execution of a certificate for involuntary examination by an authorized professional. The State has vested only in law enforcement the legal authority to take persons into custody and to transport them to receiving facilities for involuntary examination under the Baker Act. The law requires law enforcement officers to take these persons to facilities specially designated by the Department of Children and Families (DCF) where they can be held for up to seventy-two (72) hours for examination and treatment. Section 394.462(1)(a) of the Florida Statutes requires transport to the nearest receiving facility. This requirement serves to reduce the amount of driving time used by law enforcement officers and also reduces abuse of the Baker Act by eliminating arrangements in which selected psychiatric facilities, located at a distance from the sending facilities, actively recruit patients for financial gain.

Crisis stabilization units (CSU) have been established in a number of community mental health centers to provide examinations and short-term treatment to persons with acute mental illness who lack insurance or ability to pay for their own care. These "public" receiving facilities are funded by DCF to care for indigent persons while "private" receiving facilities are not entitled to receive such State funding.

However, by always taking persons to the nearest facility who may then require subsequent transfer to another facility is an unnecessary waste of resources and poor clinical practice for the patient and deprives some individuals of a specialized facility which could best meet their needs. For example, some persons with mental illness may have co-existing medical problems which require a general hospital rather than a free-standing psychiatric facility to ensure the availability of needed medical treatment. Others, such as juveniles, would be better served if transported directly to a facility licensed to treat minors since the law requires that minors be separate from adults in psychiatric facilities.

The 1996 Florida Legislature provided in section 394.462(3), Fla. Stat. that, if deemed necessary, a community could prepare a Plan and request an exception to the Statute's requirements. To address some of the issues identified in this section, an exception to the Baker Act's requirements for transporting persons to the nearest receiving facility for involuntary examination is hereby requested.

Recommendations

An exception is being requested under section 394.462(3)(b)1, Fla. Stat., which allows for an arrangement to improve service coordination or better meet the special needs of individuals within a circuit. Circuit 11's proposed Transportation Exception Plan calls for persons with specialty needs, for whom an involuntary examination has been initiated, to be taken to the nearest receiving facility that provides specialty services, regardless of payer source. The specific specialty needs are:

(1) Persons, adults or minors, who are medically involved with acute or chronic medical conditions shall be taken to the nearest emergency room in an emergent situation or to the nearest general hospital with a psychiatric unit in non-emergent situations. The designated receiving facilities capable of providing substantial medical services for persons undergoing involuntary psychiatric examination as of the date of this Plan are found in Appendix A. The list of such receiving facilities is subject to change from time to time as new facilities are designated and others are closed or have their designations removed.

(2) Persons age sixty (60) or older may be taken to the nearest designated receiving facilities offering specialized care to older adults. Facilities currently providing specialty geriatric care for older adults undergoing involuntary psychiatric examinations as of the date of this Plan are found in Appendix A. The list of such receiving facilities is subject to change from time to time as new facilities are designated and others are closed or have their designations removed.

(3) Children (0-12 years old) and adolescents (13-17 years old) may be taken to the nearest receiving facility, whether designated as a public or private facility, that is licensed to serve children and adolescents. Facilities currently providing specialized care for children and adolescents undergoing involuntary psychiatric examinations as of the date of this Plan are found in Appendix A. The list of such receiving facilities is subject to change from time to time as new facilities are designated and others are closed or have their designations removed.

(4) Persons in the custody of the Miami-Dade County Department of Corrections and Rehabilitation which have been assessed as having psychiatric issues that warrant an involuntary examination, and who are eligible for "diversion" into the community will be transferred to the receiving facility closest to his/her residence or where the person was arrested, contingent on bed availability. Absent bed availability, the person may be diverted to the most appropriate receiving facility, based on the person's individual needs.

(5) Persons who are deaf and hard of hearing may be taken to Jackson Memorial Hospital's (JMH) receiving facility. This will expedite their placement in JMH's Deaf and Hard of Hearing Program. Persons who are taken to other receiving facilities will have their transfers to JMH expedited. The JMH program offers easier and quicker access to an interpretor and/or peer specialist (if needed) while in the inpatient unit and linkage upon discharge to the program for outpatient services. The program provides outpatient services to children, adolescents, adults and their families.

NOTE: The medical needs of Baker Act patients as detailed in paragraph 1 above will take precedence in all transportation situations. Consequently, transportation to the nearest receiving facility that provides specialty services will only be accomplished when there are no medical issues requiring transportation to an emergency room or general hospital.

Improved Services / Simplicity

The proposed Plan will increase the likelihood that persons for whom a Baker Act involuntary examination has been initiated will be taken to the nearest appropriate receiving facility. This Plan will promote better clinical interventions while reducing the likelihood of unethical marketing strategies and referral arrangements.

Centralized Accountability

The DCF Circuit 11 Quality Improvement Supervisor will ensure plan compliance for the continued oversight and monitoring of the approved proposal as required by rule 65E-5.2601 (2)(c). Each critical entity will identify a contact person to assist DCF in resolving any inquiries, complaints, or request for assistance as it involves disputes arising regarding implementation of the Plan.

Impact on Law Enforcement and Transportation Authorities

A proposed Transportation Exception Plan is required to describe how it will be implemented by participating law enforcement agencies and transportation authorities. This Plan allows minors or older adults to be transported to receiving facilities that have specialized services and/or licensed beds for persons in these age groups, rather than to the nearest receiving facilities, unless the person has significant medical conditions. The Plan also permits persons who are deaf or hearing impaired or those in jail facilities who meet certain criteria to be taken to facilities more able to meet their needs. No delays or confusion as a result to the implementation of the Plan are expected given that the requested transportation exceptions are not mandatory for law enforcement, but are to occur when possible.

In accordance with State law, a receiving facility shall accept any person brought by law enforcement for involuntary examination. When the person is taken to a facility which is subsequently found to be inappropriate due to patient choice, lack of needed services, or payer status, the patient may be transferred in accordance with the provisions of the federal Emergency Medical Treatment and Active Labor Act (EMTALA) law and the

Baker Act through non-law enforcement means. The cost of this transfer is to be paid by the sending facility unless agreement is reached between the two facilities for a different payer source. In no case shall a law enforcement officer be required to further transport a person after bringing the person to a hospital or receiving facility.

Process/Agreement By Involved Parties

The Transportation Exception Plan was developed with the involvement and support of a wide array of community providers and stakeholders, law enforcement, public and private receiving facilities, crisis stabilization units, advocates, and DCF staff. A copy of all e-mails, meeting invitations, invitees, and attendance lists are available upon request. Appendix A of this Plan provides a list of the agencies that will be involved in implementation of the exception Plan.

As required pursuant to section 394.462(3), Fla. Stat., the proposed Plan will be submitted to the Miami-Dade Board of County Commissioners for approval. Upon BCC approval, the DCF Circuit Administrator will forward the Plan for approval to the Director of Mental Health, DCF Program Office.

DCF Circuit staff will provide written notification to all stakeholders community-wide once the Transportation Exception Plan is approved. Circuit staff will also coordinate and provide trainings regarding the Transportation Exception Plan as necessary.

Appendix A
Designated Receiving Facilities
(as of July 2008)

The following is a complete list of Miami-Dade County psychiatric facilities designated by the Florida Department of Children and Family Services to receive and hold persons with mental illness for involuntary examination and short-term treatment. Facilities currently designated as of the date of this Plan are found below, but the list is subject to change from time to time as new facilities are designated and others are closed or have their designations removed.

Public Receiving Facilities

Bayview Center for Mental Health
9198 NW 8th Avenue
Miami, FL 33150

Citrus Health Network
Adult & Children CSUs
4175 West 20th Avenue
Hialeah, FL 33012

Community Health Center of South Florida
10300 SW 216th Street
Miami, FL 33190

Miami Behavioral Health Center
3850 West Flagler Street
Miami, FL 33134

New Horizons CMHC
1469 NW 36th Street
Miami, FL 33142

Public Health Trust of Miami-Dade County, Florida - Jackson North CMHC
15055 NW 27th Avenue
Opa Locka, FL 33054

Public Health Trust of Miami-Dade County, Florida - Jackson Memorial Hospital
1695 NW 9th Avenue
Miami, FL 33136

Private Receiving Facilities

Aventura Hospital & Medical Center
20900 Biscayne Blvd.
Miami, FL 33180

Jackson South Community Hospital
9333 SW 152nd Street
Miami, FL 33157

Jackson North Medical Center
160 NW 170th Street
North Miami Beach, FL 33169

Larkin Community Hospital
7031 SW 62nd Avenue
South Miami, FL 33143

Miami Children's Hospital
3100 SW 62nd Avenue
Miami, FL 33155

Mount Sinai Medical Center
4300 Alton Road
Miami Beach, FL 33140

North Shore Medical Center
1100 NW. 95th Street
Miami, FL 33150

Palmetto General Hospital
2001 West 68th Street
Hialeah, FL 33016

Southern Winds Hospital
4225 West 20th Avenue
Hialeah, FL 33012

University of Miami Hospital
1400 NW 12th Avenue
Miami, FL 33136

Westchester General Hospital
2500 Southwest 75th Avenue
Miami, FL 33155

Veteran's Administration
(VA) Medical Center
1201 N.W. 16th Street
Miami, FL 33125

The following is a complete list of Miami-Dade County designated receiving facilities with the capability of providing significant **medical** examination and treatment of persons for whom an involuntary examination has been initiated. Facilities currently designated that have the ability to provide extensive medical treatment as of the date of this Plan are found below, but the list is subject to change as new facilities are designated and others are closed or have their designations removed.

a. Aventura Hospital and Medical Center
b. University of Miami Hospital
c. Public Health Trust of Miami-Dade County, Florida - Jackson Memorial Hospital
d. Jackson North Medical Center
e. Jackson South Community Hospital
f. Larkin Community Hospital
g. Miami Children's Hospital (children and adolescents only)
h. Mount Sinai Medical Center
i. North Shore Medical Center
j. Palmetto General Hospital
k. Westchester General Hospital
l. Miami VA Medical Center

Designated Receiving Facilities that provide specialty geriatric care for **older adults** undergoing involuntary psychiatric examinations as of the date of this Plan are listed below. The list of such receiving facilities is subject to change as new facilities are designated and others are closed or have their designations removed.

a. University of Miami Hospital
b. Jackson North Medical Center
c. Larkin Community Hospital
d. Mt. Sinai Medical Center
e. Palmetto Hospital
f. Southern Winds
g. Westchester General Hospital

Designated Receiving Facilities that provide specialty psychiatric care for **children and adolescents** undergoing involuntary psychiatric examinations as of the date of this Plan are listed below. The list of such receiving facilities is subject to change as new facilities are designated and others are closed or have their designations removed.

a. Miami Children's Hospital
b. Citrus Health Network
c. ~~Public Health Trust of Miami-Dade County,~~ Florida - Jackson Memorial Hospital
d. Southern Winds Hospital (adolescents only)

The only designated receiving facility that provides specialty psychiatric care for persons of all ages who are **deaf or hard of hearing** is the Public Health Trust-Jackson Memorial Hospital (JMH).