

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20060107

1. ACTION REQUESTED/PURPOSE: Approve the temporary compromise agreement for Medicaid trips as recommended by the Local Coordinating Board (LCB), and support the proposed policy recommendation of the Executive Director of the Commission for the Transportation Disadvantaged (CTD) to clarify this issue for local Community Transportation Coordinators (CTC's). Direct staff to prepare a letter for the Chairwoman's signature supporting the CTD Executive Director's position statement on Medicaid Non-Emergency Transportation.

2. WHAT ACTION ACCOMPLISHES: Allows presently enrolled Medicaid clients on the ADA Passport system to continue to receive service through County FY '05-06; Good Wheels, the CTC, will retain and transport all new clients enrolled in a Medicaid Program and not mandate their use of the Lee Tran Passport system; supports the CTD Executive Director's position statement, which, if implemented by the CTD Commission, will clarify and resolve this issue. Notify the CTD that Lee County intends to take additional actions to recoup the cost of providing the Medicaid trips.

3. MANAGEMENT RECOMMENDATION: Approve LCB recommendation.

4. Departmental Category: <u>ALA</u>		5. Meeting Date: February 21, 2006
6. Agenda:	<input type="checkbox"/> Consent	7. Requirement/Purpose: (specify)
	<input checked="" type="checkbox"/> Administrative	
	<input type="checkbox"/> Appeals	
	<input type="checkbox"/> Public	
	<input type="checkbox"/> Walk-On	
	<input type="checkbox"/> Statute	8. Request Initiated:
	<input type="checkbox"/> Ordinance	
	<input type="checkbox"/> Admin. Code	
	<input type="checkbox"/> Other	
		Commissioner _____
		Department _____
		Division <u>Lee Transit</u>
		By: <u>Steve Myers, Director</u>

9. Background: Good Wheels Inc., the Community Transportation Coordinator (CTC) has a transportation provider contract with the CTD to provide Medicaid non-emergency transportation. Good Wheels receives an annual allocation of \$1,139,865 to provide this service in Lee County. In the Fall of 2004, Medicaid changed from a fee for service funding method, whereby a provider billed Medicaid for each trip provided, to a capitation system where one sum was allocated to each respective area for the provision of all Medicaid non-emergency trips. Good Wheels has been notifying Medicaid clients who live in the Lee Tran ADA service area that they are no longer eligible for trips funded by Medicaid, and has shifted approximately 12,000 of these trips to Lee Tran's ADA Passport service. It is Staff's opinion that is a breach of the Medicaid Provider Agreement. Good Wheels has contracted with the CTD to provide Medicaid services which are now are being shifted to Lee County. As a result, Lee County will expend \$250,000 in the current fiscal year to provide these services.

The Lee County Local Coordinating Board (LCB) which has oversight of the CTC, recommended to the Lee County Board of County Commissioners that Lee Tran continue to transport existing Medicaid eligible trips on its ADA Passport System through the end of the current fiscal year, and to support the Position Statement of the CTD Executive Director to resolve this issue.

Attachments: 1. The CTD Executive Directors Position statement 2. Lee Tran position statement presented to the CTD 12/9/05

2. The Florida Public Transportation Association position statement
3. The recent letter sent to Good Wheels recapping the compromise position
4. Draft Letter to be sent to the CTD

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
<u>Steve Myers</u> 2/10/06					<u>2/10/06</u>	<u>2/10/06</u>	<u>2/10/06</u>	<u>2/10/06</u>	<u>HS 2/10/06</u>

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

**State of Florida
Commission for the Transportation Disadvantaged**

MEETING DATE:

December 9, 2005

AGENDA ITEM:**Transit/ADA Services and the Coordinated System****BACKGROUND INFORMATION:**

Many CTCs and Fixed Route Transit Agencies have requested clarification as to the relationship between the Coordinated System and Transit/ADA. Public Transit Fixed Route services play an important role within the Florida Coordinated Transportation System. Section 427.013(21), Florida Statutes, charges the Commission to coordinate all transportation disadvantaged programs with appropriate state, local and federal agencies and public transit agencies to ensure compatibility with existing transportation systems. A representative of the Florida Transit Association serves on the Commission and, in areas where they exist, the Chairperson or designee of the local Mass Transit or Public Transit System's Board serves on the Local Coordinating Board.

In response to the requests, staff has drafted the following as a "position statement":

- *Where available, use of regular fixed route service may be required for persons who are able to use the fixed route system, since the Coordinated System may be limited and not able to meet all their transportation needs.*
- *CTCs can not mandate riders to apply for ADA services, as this violates Civil Rights. CTC's should utilize the most appropriate funding source for a particular trip, i.e. Medicaid, Medwaiver, etc. CTCs should encourage those riders that have the functional ability to do so, to utilize the regular fixed route service. CTCs can not deny eligible rider services solely based on whether they are within 3/4 mile proximity of transit service.*
- *CTC's are encouraged to negotiate with transit agencies to purchase service (fixed route passes and Paratransit Services) that are funded by Medicaid and TD.*
- *Public transportation agencies and the Coordinated System recognize that ADA is a federal mandate but understand all partners need to work together to achieve successful coordination and maximize mobility for all riders.*

ATTACHMENTS:

- A. The American's with Disabilities Act Section 37.131, Service Criteria for Complementary Paratransit
- B. Transit Cooperative Research Program, Research Results Digest, April 1997

EXECUTIVE DIRECTOR RECOMMENDATION/MOTION:

The Executive Director recommends the Commission adopt this position statement and give the Executive Director authority to notify all Community Transportation Coordinators and Medicaid Subcontracted Transportation Providers that they cannot deny any qualified TD and Medicaid riders solely based on the fact that they live within ¾ mile of a fixed route system and/or mandate the rider utilize the ADA complementary paratransit services.

Executive Director

Date: November 22, 2005

ACTION TAKEN AT MEETING:

MEETING DATE:

December 9, 2005

AGENDA ITEM:

Transit/ADA Services and the Coordinated System

COMMENTS:

Lee Tran, a Department of Lee County Government that provides both fixed-route bus service and door to door paratransit service to Americans With Disabilities Act (ADA) clients, strongly supports the State of Florida, Commission for the Transportation Disadvantaged, Executive Director's recommendation to adopt the "position statement" and authorize the Executive Director to implement said policy.

It is Lee County's belief that the policy of dumping Medicaid, Transportation Disadvantaged and other social service agency trips onto the ADA paratransit systems is having a decidedly negative effect on the Florida Coordinated System as to its effects on the users of the system and the Transit ADA systems, which are predominantly funded by local government dollars.

NEGATIVE EFFECTS ON USERS:

- Creating a two-tiered Medicaid system where all Medicaid eligible clients do not receive the same covered benefits that they are entitled to. Medicaid clients are eligible for 24 hours, 7 days a week service, out of county, same day urgent care, non-emergency stretcher services, services that are not provided by transit systems
- Creating a two tiered system where some Medicaid clients must pay the ADA fare box while other Medicaid clients have no co-pay or are still provided service if they do not pay the \$1.00 co-pay even though they are both in the same Medicaid program. Medicaid is exceeding it's own policy on maximum co-pays for clients
- Client confusion on not being allowed to ride with the Medicaid Provider.
- Confusion and disbelief on the part of Nursing Homes when they received notice that the most frail and poorest of Medicaid clients could no longer ride with the Medicaid Provider and must now pay a fare before riding on an ADA vehicle.
- No due process or client information on a appeals process before ending service
- An imposed hardship on frail, long time Medicaid dialysis clients that now must pay and ride with a different provider
- The discriminatory nature of a two tiered system and its relationship and potential conflict with such Federal requirements as; the Section 504 Rehabilitation Act of 1973, and the Title II, Non-discrimination Section of the ADA
- Clients going to Medicaid medical providers without having been screened and prior authorized for eligible Medicaid services. Potential for backlash from medical providers when medical claims are repeatedly denied as a result of improper or lack of client screening on the part of the CTC.

- Dismantles the centralized coordination of a CTC and instead creates separate providers for clients that are in the same respective programs going to the same sites and medical facilities
- Creates the uncoordinated and inefficient scenario of having a respective client using the ADA ParaTransit, a HMO Provider and the CTC Provider at the same time.

NEGATIVE EFFECTS ON ADA TRANSIT SYSTEMS:

- Since its inception in February 2005, the Lee Tran ADA system known as Passport Service, has expanded rapidly with an annual projection of 140,000 ADA trips. It is estimated that close to 50% of trips are social service agency trips, including Medicaid and MedWaiver trips.
- The cost to provide these agency trips could have funded substantial service enhancements such as many new routes, increased frequency of service or additional evening, weekend or express routes though out the county, instead of being used to supplant the agency transportation funding that once existed in the local coordinated system for this area
- The corresponding capital costs and costs for vehicle procurements have been funded from a mixture of various FTA capital grants, FDOT capital grants and other local capital funds that could have potentially funded other transportation capital projects
- The administrative costs to screen, register, interview and maintain client applications and databases are substantial.
- ADA transit staff has been at the point of contact for confused and upset Medicaid and Nursing home clients and Directors regarding the cutting off of Medicaid transportation service.
- Transit Agencies have been lenient in enforcing ADA rules to the letter. Lee Tran and other Transit Agencies have been providing service above and beyond what is required and may now be forced to implement such changes as: curb to curb instead of door to door service, thereby requiring agency staff and family members to have and bring clients to the curb; provide service to agencies within the one hour before or after the requested time window (not guaranteed times)- a situation not appealing for an agency site that would need to meet its' clients at the curb; enforce reservations no more than two weeks in advance (subscription service is not required); charge agencies for agency trips as allowed; individual clients must pay for their own fare; impose an additional "premium" fare on top of the regular fare box for service above the minimum required ADA service.
- Could force Transit Agencies to investigate the possibility of converting selected routes to route deviation service which complementary ADA service is not required under ADA. This would force Medicaid and other agency clients along these routes to find their own transportation.
- Force Counties with Transit Agencies to re-examine at the state level how transportation funds are allocated

- This policy will force counties and local governments to adopt a more “survival” or “self preservation” attitude than in the past in order to deal with the escalating transportation costs. Local governments and Transit Agencies do not appear to get the recognition or credit for the millions of dollars of funds spent annually for policies and programs that help support the overall Coordinated System and social service programs. This support come in such forms as; low subsidized rates charged agencies (especially government CTC’s), vehicles procured, leased or given outright to support Providers and programs, various capital funds and grants used to support programs, various in kind support for equipment, buildings, vehicles, fuel, maintenance and staff support, and direct government assistance to various local social service agencies to assist with operating costs.
- The current unfolding policy is the opposite of the goals, intent and policies that were addressed and envisioned in various state and federal policies such as FS 427 or the recent Presidential Executive Order (2/2004), Human Service Transportation Coordination, that established the Coordination Council on Access and Mobility, (CCAM), to foster coordination, better access to federal programs that provide transportation, such as Medicaid, and cost sharing among all federal programs that provide transportation.

**FPTA POSITION STATEMENT
ON
MEDICAID/ADA ISSUE
December 6, 2006**

The **Florida Public Transportation Association** appreciates this opportunity to provide our position on the proposals by some local CTC's to turn over Medicaid trips to local transit systems' ADA service. Our position reflects, and is indebted, to earlier correspondence on this issue from Mr. Ken Fischer of Votran, as well as Lee County Transit. FPTA's position, like their's, is that this would be an inappropriate, counter-productive, and perhaps, unlawful, action.

A CTC cannot simply make Medicaid and TD trips the responsibility of the transit system even if an individual resides within a $\frac{3}{4}$ mile corridor of a bus route. The basic qualifications for ADA paratransit service are; an individual is disabled and functionally unable to utilize the regular bus service. Curb to curb paratransit service is then provided within a $\frac{3}{4}$ mile corridor of a regular bus route during the same times and days of the week as regular bus service.

However, eligibility for Medicaid is based on income and lack of available transportation. Service is to be provided 24 hours a day, 7 days a week. Refusing to provide CTC service for Medicaid recipients based solely on residency within a $\frac{3}{4}$ mile corridor of a bus route could result in the denial of service for the following types of trips.

1. Ambulatory (no disability).
2. Disabled but functionally able to use regular bus service.
3. Door through door service.
4. Non-emergency stretcher.
5. Out of area.
6. Service after regular bus hours.
7. Out of corridor.
8. Same day urgent care.

Eligibility for TD is based on disability, income, elderly and children at risk that do not have access to transportation. Service is to be provided throughout the county with hours and days of operation to be determined by the CTC. Refusing to provide CTC service for TD eligible individuals based on residency within a $\frac{3}{4}$ mile corridor of a bus route could result in denial of service for the following types of trips.

1. Ambulatory (no disability).
2. Disabled but functionally able to use regular bus service.
3. Door through door service.
4. Out of corridor
5. Children at risk.

In summary, ADA, Medicaid and TD while similar in nature have distinct eligibility requirements and levels of service. A CTC would not be compliant with the Commission agreements if it is sending all Medicaid and TD clients that live within a ¾ mile corridor to the transit system.

In addition, funding for both Medicaid and TD is predicated on the eligibles within the entire county, not on those eligible that are outside the ¾ mile corridor of a bus route. While these funding formulas may not provide the necessary funding needed, the intent is clear that funding should be utilized throughout the county and not be limited to a specified portion of the county.

AHCA's policies, however, are promoting a cost shift to the local level of government. In this case, the shift is to the ADA service funded by local governments. Should the Commission endorse/condone/allow such actions they can expect the next cost shift to be to the TD Program. We would encourage the Commission to go on record to strongly discourage such shifts and focus on Medicaid adequately funding their non-emergency transportation program.

We would remind the Commission that the transit systems have supported the distribution of 15% of the funds designated for the public transit block grant program into the TD Trust Fund. This was done to assist with the provision of CTC services throughout the State. Medicaid to ADA shifts may cause some transit systems to revisit the support for this provision.

Should the above shift in trips take place the financial burden on our fixed route systems would be considerable. This would almost certainly necessitate our systems to consider severe cost saving measures. Among these could be:

- *Curb to curb instead of door to door service, thereby requiring agency staff and family members to have and bring clients to the curb.*
- *Provide service to agencies within the one hour before or after the requested time window (not guaranteed times)- a situation not appealing for an agency site that would need to meet its' clients at the curb.*
- *Enforce reservations no more than two weeks in advance (subscription service is not required).*
- *Charge agencies for agency trips as allowed; individual clients must pay for their own fare; impose an additional "premium" fare on top of the regular fare box for service above the minimum required ADA service.*
- *And, it could force transit agencies to investigate the possibility of converting selected routes to route deviation service, under which complementary ADA service is not required under ADA. This would force Medicaid and other agency clients along these routes to find their own transportation.*

We hope that the Commission, local CTC's, as well as the Agency for Health Care Administration will come to understand the negative consequences that the precipitous shifting of Medicaid transportation can have to local transit systems, other than in our very successful fixed route, Bus Bass Programs.

FPTA appreciates the opportunity to present our position on this important matter., through our CTD Representative, Mr. Jim Swisher.



BOARD OF COUNTY COMMISSIONERS

Writer's Direct Dial Number: _____

Bob Janes
District One January 9, 2006

Douglas R. St. Cemy
District Two Gary L. Bryant


Ray Judah
District Three President and CEO
Good Wheels, Inc.

Tammy Hall
District Four 10075 Bavaria road, S.E.
Fort Myers, FL 33913

John E. Albion
District Five RE: Medicaid Clients

Donald D. Stihwell
County Manager

Robert W. Gray
Deputy County Attorney

Dear Mr.  Bryant

Diana M. Parker
County Hearing
Examiner

Thank you for participating in a productive and interesting Local Coordinating Board (LCB) meeting this past Friday regarding the Medicaid client issue, and for supporting the subsequent actions that Lee Tran, Good Wheels and the LCB will undertake.

As a recap, the actions to be taken are:

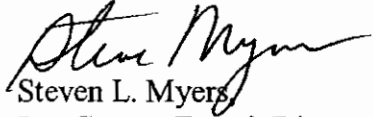
1. The immediate implementation of a compromise position, which includes: Lee Tran Passport Service will continue to transport the Medicaid clients presently on the Passport System for the remainder of the fiscal year, through September 30th, 2006. Good Wheels will retain, enroll and transport all other Medicaid clients enrolled in any Medicaid Program, as well as all Transportation Disadvantaged clients, that are within the ¼ mile ADA corridor of the fixed route system, effective immediately.
2. The LCB approved a motion to support this compromise position, along with support of the Transportation Disadvantage Commission's (TDC) Executive Director's position statement regarding this issue, that was presented at the TDC meeting on 12/09/05 in Miami Beach, and the LCB will forward correspondence to the TDC supporting this position.
3. Lee Tran will present this compromise position, including the support of the TDC's Executive Director's position statement, to the Lee County Board of County Commissioners for endorsement before the next scheduled TDC meeting (2/17/06), and will forward correspondence to the TDC regarding BOCC Action.

It appears that all parties are in consensus regarding the state-wide significance of this issue as it pertains to: State-wide Medicaid funding issues, it's effect on the state-wide Coordinated System, implementation and policies of the State's Medicaid Plan, how this will effect the new HMO Medicaid transportation, Medicaid transportation vendor contracts, client's civil rights and co-pay issues and benefits, and the requirement of local governments to fund agency sponsored transportation. The TDC is the only statewide agency with the authority, standing and expertise to clarify and resolve these issues that affect the Coordinated System on a State-wide basis.

If you have any questions or comments, please don't hesitate to contact me.

Thank you for your time and consideration regarding this matter.

Sincerely,



Steven L. Myers

Lee County Transit Director

Cc: Ray Judah, LCB Chairman, Commissioner, Lee County BOCC
Lisa Bascot, Executive Director, FL TDC
Peter Gajdjis, Deputy Director, Lee Tran, Passport Service ✓
Julia Davis, Planner, Lee County MPO

Peter Gianino, Chairperson
State of Florida, Commission for
the Transportation Disadvantaged (CTD)
605 Suwanee street, MS-49
Tallahassee, Florida 32399-0450

February 21, 2006

RE: Lee County Board Position Statement
Medicaid Non-Emergency Transportation

Dear Mr. Gianino:

This is to inform you that the Lee County Board of County Commissioners, based on the recommendation of the Lee County Local Coordinating Board at their meeting on 1/6/06, supports the CTD Executive Director's position statement and recommendation on Medicaid Non-Emergency transportation on local transit systems. This recommendation was presented by CTD staff at the December 9, 2005 CTD board meeting. Lee County requests that the CTD implement said policy as soon as possible.

The CTD entered into an agreement with the Agency for Health Care Administration (AHCA) in 2004 to operate and administer the Medicaid Non-Emergency Transportation (NET) program, and has executed provider agreements with the Medicaid Subcontracted Transportation Providers (STPs). The CTD, therefore, is the only Agency that has the responsibility and authority to oversee, implement and enforce policies for the Medicaid NET program. Because this issue affects the entire Florida Coordinated System on a statewide basis, this issue can only be addressed and resolved by the CTD.

Lee County stands ready to assist the CTD and the local Medicaid provider to implement a fixed route bus pass program or any other innovative concepts that will help reduce the cost of Medicaid transportation. However, Lee County strongly believes that the current policy of allowing the local Medicaid provider to retain 100% of the Medicaid transportation funding allocation while at the same time mandating that Medicaid clients within $\frac{3}{4}$ of a mile of the fixed route system must ride with another non-Medicaid provider, in this case the County Lee Tran ADA Passport system, is discriminatory in nature, is detrimental to and fragments the coordinated system. As a result, Lee County is forced to expend transportation funds for Medicaid client trips without receiving any of the allocated Medicaid transportation funds. These local funds could be used to provide additional bus routes or enhancements to the fixed route bus system, which would help the Transportation Disadvantaged population of Lee County, instead of supplanting the existing Medicaid transportation funding. Lee County believes that the local CTC is in breach of their contract with the CTD, and County staff has been directed by the Board to take additional actions to obtain reimbursement for the County funds expended for provision of these Medicaid trips.

At the recommendation of the LCB, Lee County has agreed to temporarily continue funding the Medicaid trips currently being provided by our ADA System, until the end of the current fiscal year, September 30, 2006, with the understanding that the Medicaid provider will provide all other non-emergency transportation, and not shift more trips to our ADA system.

Lee County respectfully requests that this issue be addressed, clarified and resolved by the CTD as soon as possible, due to it's detrimental effect to the coordinated system in Lee County and statewide.

Thank you for your time and consideration of this issue.

Sincerely,

Tammara A. Hall
Chairwoman
Dist 4, Lee County

cc: Bob Janes, Dist 1, Lee County
Douglas St. Cerny, Dist 2, Lee County
Ray Judah, Dist 3, Lee County
John E. Albion, Dist 5, Lee County
Lisa M. Bacot, Executive Director, CTD
Julia B. Davis, Senior Planner, SWFRPC
Steven L. Myers, Director, Lee Tran

Peter Gianino, Chairperson
State of Florida, Commission for
the Transportation Disadvantaged (CTD)
605 Suwanee street, MS-49
Tallahassee, Florida 32399-0450

February 21, 2006

RE: Lee County Board Position Statement
Medicaid Non-Emergency Transportation

Dear Mr. Gianino:

The purpose of this letter is to inform the Commission that the Lee County Board of County Commissioners supports the CTD Executive Director's position statement and recommendation on Medicaid Non-Emergency transportation on local transit systems. This recommendation was presented by CTD staff at the December 9, 2005 CTD board meeting. Lee County requests that the CTD implement said policy as soon as possible.

The CTD entered into an agreement with the Agency for Health Care Administration (AHCA) in 2004 to operate and administer the Medicaid Non-Emergency Transportation (NET) program, and has executed provider agreements with the Medicaid Subcontracted Transportation Providers (STPs). The CTD, therefore, is the only Agency that has the responsibility and authority to oversee, implement and enforce policies for the Medicaid NET program. Because this issue affects the entire Florida Coordinated System on a statewide basis, this issue can only be addressed and resolved by the CTD.

Lee County stands ready to assist the CTD and the local Medicaid provider to implement a fixed route bus pass program or any other innovative concepts which will reduce the cost of Medicaid transportation. The current policy allows the local Medicaid provider to retain 100% of the Medicaid transportation funding allocation while at the same time mandating that Medicaid clients within $\frac{3}{4}$ of a mile of the fixed route system must ride with another non-Medicaid provider, in this case the Lee Tran ADA Passport system. Lee County believes this policy is discriminatory in nature, and fragments the coordinated system. As a result, Lee County is forced to expend transportation funds for Medicaid client trips without receiving any of the allocated Medicaid transportation funds. These local funds could be used to provide additional bus routes or enhancements to the fixed route bus system, which would help the Transportation Disadvantaged population of Lee County, instead of supplanting the existing Medicaid transportation funding. Lee County believes that the local CTC is in breach of their contract with the CTD, and the Board has directed County staff to take additional actions to obtain reimbursement of County funds expended for provision of these Medicaid trips.

At the recommendation of the LCB, Lee County has agreed to temporarily continue funding the Medicaid trips currently being provided by our ADA System, through the end of the current fiscal year, September 30, 2006. This is being done with the understanding

that the Medicaid provider will provide all other non-emergency transportation, and not shift more trips to our ADA system.

Lee County respectfully requests that this issue be resolved by the CTD as soon as possible, due to its detrimental effect on the coordinated system statewide.

Thank you for your time and consideration.

Sincerely,

Tammara A. Hall
Chairwoman
Dist 4, Lee County

cc: Bob Janes, Dist 1, Lee County
Douglas St. Cerny, Dist 2, Lee County
Ray Judah, Dist 3, Lee County
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