

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

Blue Sheet No. 20030129

**1. REQUESTED MOTION:**

**ACTION REQUESTED:** Consideration of providing county funding for assisting Lee Memorial Health Systems Trauma Center operations through the State Supplemental Medicaid Payment Program; approval of related agreements and/or direction on other county funding options.

**WHY ACTION IS NECESSARY:** Provides Board approval of county funding mechanism or direction on other options to assist Lee Memorial Trauma Center.

**WHAT ACTION ACCOMPLISHES:** Provides Board approval for and/or consideration of providing county funding for assisting Lee Memorial Health Systems for Trauma Service purposes.

**2. DEPARTMENTAL CATEGORY:**

COMMISSION DISTRICT # A12A

**3. MEETING DATE:**

03-11-2003

**4. AGENDA:**

CONSENT

ADMINISTRATIVE

APPEALS

PUBLIC

WALK ON

**TIME REQUIRED:**

45minutes

**5. REQUIREMENT/PURPOSE:**

(Specify)

STATUTE F.S. Chapters 125 & 163, Special Act 63-1552, as amended

ORDINANCE

ADMIN. CODE

OTHER

**6. REQUESTOR OF INFORMATION:**

A. COMMISSIONER

B. DEPARTMENT County Attorney

C. DIVISION

BY: James G. Yaeger

County Attorney

**7. BACKGROUND:** Previously, the Board requested County Administration and County Attorney's Office to explore the feasibility of interim county funding assistance for Lee Memorial Trauma Center operations. The Board's general direction in December, 2002 related to county funding assistance for the Trauma Center operations as an interim one-time measure until Lee Memorial Hospital Systems could obtain a long-term solution. The Hospital is apparently looking at various long-term funding scenarios, to include recommendations from a Financial Review Advisory Board. A Special Act in 2003, which would provide for a referendum on taxing authority to support Trauma Center operations has been removed from consideration at this time. The direction referenced funding assistance by the County's and Hospital's participation in the State of Florida Supplemental Medicaid Payment Program (SMP) administered by the Florida Agency for Health Care Administration (AHCA). As of the drafting of this blue sheet, several details have not been resolved relative to the use of the SMP Program which should be addressed by the Board's meeting date, at which time this office can provide you with an analysis for proceeding based upon the information and documents received.

**8. MANAGEMENT RECOMMENDATIONS:**

**9. RECOMMENDED APPROVAL:**

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>[Signature]</i>	OA	DM	RISK	GC	<i>[Signature]</i>
					<i>RK 2/5</i>	<i>2/5/03</i>	<i>2/5/03</i>	<i>2/5/03</i>	<i>1-6-03</i>

**10. COMMISSION ACTION:**

APPROVED

DENIED

DEFERRED for 2 weeks to 03-11-03

OTHER --CONTINUED 10

2/25/03

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
2-9-03

RECEIVED BY  
COUNTY ADMIN. RK  
2-5-03  
2:00  
COUNTY ADMIN.  
FORWARDED TO: RS  
2/10/03  
3/10/03

**BOARD OF COUNTY COMMISSIONERS  
CARRYOVER AGENDA ITEMS  
MEETING DATE: February 25, 2003**

<b>CO #</b>	<b>DATE &amp; TIME DISTRIBUTED</b>	<b>DESCRIPTION</b>
<b>#1</b>	<b>02-18-03 4:00 PM</b>	<b>ACTION REQUESTED:</b> Consideration of providing county funding for assisting Lee Memorial Health Systems Trauma Center operations through the State Supplemental Medicaid Payment Program; approval of related agreements and/or direction on other county funding options. <b>WHY ACTION IS NECESSARY:</b> Provides Board approval of county funding mechanism or direction on other options to assist Lee Memorial Trauma Center. <b>WHAT ACTION ACCOMPLISHES:</b> Provides Board approval for and/or consideration of providing county funding for assisting Lee Memorial Health Systems for Trauma Service purposes. (#20030129-County Attorney) <b>REASON FOR WALK ON:</b> Directed at the 02-18-03 BOCC meeting.

**BOARD: ALBION COY JUDAH JANES ST. CERNY  
DONALD STILWELL, COUNTY MANAGER  
BILL HAMMOND, DEPUTY COUNTY MANAGER  
ANTONIO MAJUL, BUDGET SERVICES  
JIM LAVENDER, PUBLIC WORKS  
JIM YAEGER, COUNTY ATTORNEY**

**PUBLIC RESOURCES OFFICE  
LISA PIERCE, MINUTES DEPT  
COMMISSION RECEPTION DESK  
BETTY SPENCER, FINANCE**

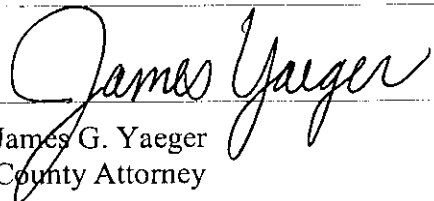
**Distributed by: Kathy Geren  
Division of Public Resources  
Phone: 335-2215**

MEMORANDUM  
FROM THE  
OFFICE OF COUNTY ATTORNEY

DATE: February 24, 2003

TO: Board of County Commissioners

FROM:

  
James G. Yaeger  
County Attorney

RE: **FLORIDA MEDICAID UPL PROGRAM / BOARD "CARRY-OVER" ITEM,  
FEBRUARY 25, 2003**

Last Friday afternoon, the Chairman received a facsimile transmission from Kenneth Thurston, Assistant Deputy Secretary, Florida Medicaid Division of AHCA, which consisted of a cover letter dated February 20, 2003 and two copies of a "Letter of Agreement" (attached), for the County's proposed participation in the UPL Program on behalf of Lee Memorial Health Systems (LMHS).

There are remaining legal issues with respect to the texts of both the letter and the Agreement due to a notable lack of facts being included in either document that relate directly to the County's particular proposal, other than a reference to the County's January 15, 2003 letter to Robert Sharpe, Deputy Secretary, AHCA.

What remains at issue, and what has not been answered with any specificity by any representatives of the agencies administering the Program (State or Federal), is the question of "Whether the use of County reserve funds in the form of a loan to LMHS for the Parties' participation in the Florida Medicaid UPL Program is a lawful submittal and use of those funds in order to receive the Federal Medicaid supplement dollars?"

As has been articulated earlier in this process, the UPL Program is generally designed to obtain Federal funds in order to enhance or supplement local Medicaid funds destined to be provided to local hospital Medicaid programs. In our case, none of the County funds are being used for that purpose; in point of fact, no local Medicaid dollars are being provided to LMHS to enhance the hospital's Medicaid Programs. All of the County's reserve funds submitted to the State are projected to be returned to the County once all funds are received by the hospital from the State with the UPL enhancement.

With respect to the State's proposed Agreement for the County's participation in the UPL Program, there are significant facts that are conspicuously absent in the document that relate to the County's particular situation, especially in view of the statement made in Paragraph 1. a) of the Agreement:

- a) The County and State have agreed that these funds will only be used to increase the provision of Medicaid funded health services to the people of the County and the State of Florida at large.

**RE: FLORIDA MEDICAID UPL PROGRAM / BOARD "CARRY-OVER" ITEM,  
FEBRUARY 25, 2003**

A plain reading of Paragraph 1. a) of the Agreement clearly indicates that the County's proposal for the UPL funding is not consistent with the terms of that provision, which calls into question the legality of the County's participation in the Program in the manner being considered. This is the crux of the matter.

Without clear agency representations being made to the County with respect to the legality of the County's particular proposal, the County remains at risk. Neither the February 20, 2003 letter from Ken Thurston, nor the Agreement itself, make representations that would adequately address the County's particular proposal for its UPL participation.

As the matter is being discussed by you at tomorrow's meeting, please keep in mind that our office was asked to provide you with a risk analysis and recommendations for this proposal, which we have done. Our recommendation to you not to proceed in this fashion at this time due to unanswered legal questions, is, as always, not a prohibition to your taking action if you so desire, it is only our recommendation.

This morning (February 24, 2003), we had the opportunity to discuss our scenario with a representative of the Center for Medicare and Medicaid Services, Atlanta, who advised that the Medicare and Medicaid office in Baltimore, Maryland, would need to be contacted in order to clarify the Federal perspective on this matter. He advised that he would attempt to have something back to us by the end of this week. In our discussion, he expressed some concerns about what was being proposed by the County, and that he needed further input from his counterpart(s) in Baltimore before advising as to the appropriateness of the County's proposal.

As the result, this office is of the opinion that we cannot recommend your proceeding with the Medicaid UPL Program at this time, despite the opinion of others that are also interested in this matter.

We will discuss our position further with you at tomorrow's meeting and as additional information becomes available. The time spent in the due diligence of this proposal is time well spent.

JGY/dm

xc: Donald D. Stilwell, County Manager  
Karen Hawes, Director, Human Resources  
Robert W. Gray, Deputy County Attorney  
David M. Owen, Chief Assistant County Attorney  
Lisa Pierce, Supervisor, Minutes Department  
Libby Walker, Director, Public Resources

**FLORIDA  
MEDICAID**



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FAAFP, SECRETARY

**FAX COVER PAGE**



Medicaid Director's Office  
Office of Assistant Deputy Secretary for Medicaid Finance

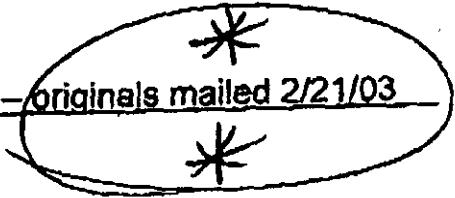
Date: February 21, 2003

To: Ray Judah, Chairman

Company: Lee County Board of County Commissioners

Fax Number: 239-335-2321

Regarding: FL Medicaid UPL Program - originals mailed 2/21/03



From: Ken Thurston

Telephone Number: 850-488-3560

Total Pages (Including Cover Page): -6-

If there are any problems receiving this transmission, please call  
850/488-3560



2727 Mahan Drive • Mail Stop #8  
Tallahassee, FL 32308

Visit AHCA online at  
[www.fdhc.state.fl.us](http://www.fdhc.state.fl.us)

**FLORIDA  
MEDICAID**



JEB BUSH, GOVERNOR

RHONDA M. MEDOWS, MD, FAAP, SECRETARY

February 20, 2003

Mr. Ray Judah, Chairman  
Lee County Board of County Commissioners  
P.O. Box 398  
Ft. Myers, FL 33902-0398

Re: Florida Medicaid Upper Payment Limit Program

Dear Mr. Judah:

We received your letter of inquiry dated January 15, 2003, regarding participation in the Florida Medicaid Upper Payment Limit program. Enclosed you will find our standard Letter of Agreement that specifies the terms of the program and funding requirements. If you are in agreement with the terms of the program and can meet the funding requirements, please execute two original copies of the Letter of Agreement and return to my attention at the address listed below. Upon receipt, the Agency will execute the two original copies and return one to you.

Agency for Health Care Administration  
2727 Mahan Drive - Mail Stop #8  
Tallahassee, FL 32308

If you have any questions, please contact Genevieve Carroll of my staff at (850) 414-2759.

Sincerely,

Kenneth L. Thurston  
Assistant Deputy Secretary  
for Medicaid Finance

~~Confidential Health Information - Florida Medicaid Program Analysis~~

Enclosure



2727 Mahan Drive • Mail Stop #8  
Tallahassee, FL 32308

Visit AHCA online at  
[www.fdhc.state.fl.us](http://www.fdhc.state.fl.us)

## Letter of Agreement

THIS LETTER OF AGREEMENT made and entered into in duplicate on the \_\_\_\_ day of \_\_\_\_, 2003 by and between Lee County, (the County) and the State of Florida, through its Agency for Health Care Administration,

1. Per House Bill 27E, the General Appropriations Act of FY 2002-2003, passed by the 2002 Florida Legislature, Lee County and the State of Florida, through the Agency for Health Care Administration, agree that Lee County will remit to the State \$11,000,000.

a) The County and State have agreed that these funds will only be used to increase the provision of Medicaid funded health services to the people of the County and the State of Florida at large.

b) The increased provision of Medicaid funded health services will be accomplished through the following Medicaid programs:

1. The removal of inpatient and outpatient reimbursement ceilings for teaching, specialty and community health education programs hospitals.
2. Increase the annual cap on outpatient services for adults from \$500 to \$1500.
3. Special Medicaid payments to rural hospitals, trauma centers, graduate medical education programs, primary care services and other Medicaid participating hospitals.
4. Special Medicaid payments to hospitals that provide enhanced services to low income individuals.

2. The County will pay the State in the amount of \$11,000,000. The County will transfer payments to the State in the following manner:

- a) The first payment of \$3,666,666 for the months of July, August, September, October, November and December is due on February 1, 2003. *NEEDS TO BE REVISED.*
- b) The County will pay, in two installments, the remaining balance of \$7,333,334. An installment of \$3,666,667 is due no later than the end of the third quarter, March 31, 2003. The remaining amount of \$3,666,667 is due no later than the end of June 30, 2003.
- c) The State will invoice Lee County each quarter payments are due.

3. The County and the State agree that the State will keep adequate records and supporting documentation applicable to Medicaid health services covered by this Letter of Agreement. Further the County and State agree that the County shall have access to these records and the supporting documentation by requesting the same from the State.
4. The County and the State agree that any modifications to this Letter of Agreement shall be in the same form, namely the exchange of signed copies of a revised Letter of Agreement.
5. This Letter of Agreement covers the period July 1, 2002 through June 30, 2003.

**WITNESSETH:**

**IN WITNESS WHEREOF** the parties have duly executed this Letter of Agreement on the day and year above first written.

County

State of Florida

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Ken Thurston  
Assistant Deputy Secretary for Medicaid Finance  
Agency for Health Care Administration

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title