

### RESPONDING TO COURT ORDERED EVALUATIONS THROUGH JUVENILE/FAMILY COURT

#### Statutory Authority

Both the Divisions of Comprehensive Psychiatric Services and Developmental Disabilities by statutory authority are responsible for completion of evaluations under the juvenile code, 211.202 and 211.203 respectively.

Under 211.202 RSMo the court can request an evaluation to answer the following questions:

- 1) **Does the child have a mental disorder** (*any organic, mental or emotional impairment which has substantial adverse effects on a person's cognitive, volitional or emotional functioning and which constitutes a substantial impairment in a person's ability to participate in activities of normal living - 630.005 RSMo*) **other than DD?**
- 2) **Does the child require inpatient treatment for protection of self or others?**
- 3) **Does the mental health facility offer a program suitable for the child's needs?**
- 4) **Is the mental health facility the least restrictive environment** (*reasonably available setting particularly suited to the level and quality of services necessary to implement a person's treatment plan and maximize the person's functioning potential to participate as freely as feasible in normal living activities, considering potential harmful effects on the person - 630.005 RSMo*)?

Under 211.203 the court can order an evaluation by a regional office of the Dept. of Mental Health to "determine the appropriateness of a referral to a developmental disability facility operated or funded by the department of mental health."

For both 211.202 and 211.203 there are common requirements for the Department of Mental Health:

- 1) To respond within **20 days** of the receipt of the order for the evaluation;
- 2) For the evaluation to be done on an "**outpatient basis if practicable**" (it is the opinion of the Department that the location of the evaluation should be determined by the Department based on clinical need);
- 3) **IF** the respective evaluations recommend admission for inpatient care or to a mental retardation facility, **THEN** the court can order the child "committed to the custody of the Department of Mental Health for "inpatient care and treatment" OR "residential care and habilitation". (It is the department's opinion that "committed to the custody of..." relates only to physical custody and NOT legal custody).
- 4) If the CPS administrative agent by its initial screening determines that the child requires immediate inpatient admission, the administrative agent should contact the DJO, and facilitate admission to the hospital (note that if any individual is enrolled with a MC+

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provider, the DMH is still mandated to provide the evaluation however admission to a hospital should be arranged with the MC+ provider). If the youth is admitted to a DMH C&Y inpatient facility/unit, the 211.202 should be completed jointly by the AA and inpatient unit/facility.

- 5) If at anytime the inpatient care facility or mental retardation facility feel that the child is appropriate for placement, the head of the facility shall refer such child for placement, and place that child **subject to availability of an appropriate placement**. If no appropriate placement is available the department shall discharge the child or make such arrangements, as it may deem appropriate and consistent with the child's welfare and safety.
- 6) **211.206 RSMo** outlines the requirements/responsibilities of the department and the respective facilities when a child is committed to the department. Within this statute are reporting and discharge guidelines in coordination with the juvenile court.

Under **211.161 RSMO** the court may cause any child under its jurisdiction to be examined by a physician, psychiatrist or psychologist appointed by the court which **may** include the Department of Mental Health. No specific statutory questions are outlined under 211.161 RSMo. It is only noted that the court can use this evaluation "in order for the condition of the child [to] be given consideration in the disposition of his case". Supreme Court Rule 123.01 provides more guidance on the type of questions that can be raised by the court for consideration in the disposition of the case. Any party responding to a 211.161 RSMo order should have a clear understanding of the issues the court wishes to be addressed and be qualified by the Department to offer such opinions/recommendations.

### **Process**

#### A. Receiving Office

1. Children and Youth Area Directors' offices for the Division of Comprehensive Psychiatric Services will function as the Receiving Office for each geographic region to receive and coordinate all juvenile court orders for evaluations.
2. The Receiving office is responsible for maintaining the court orders, and notifying the appropriate DMH providers of receipt of order and timelines with which to respond.
3. If the order is for both a 211.202 AND 211.203, the Receiving Office should notify both division providers that this is a JOINT evaluation that will require the necessary coordination process.
4. The Receiving Office is also responsible for notifying the Attorney General's Office in that region of receipt of the order. If the order does not appear valid (i.e. goes beyond the statutory authority of the court in regards to the Department) the AG's office should be immediately notified and a plan of action developed through the Receiving Office and AG's office.

5. Each area should educate the juvenile court on where all orders should be sent and note that orders that are not forwarded to the Receiving office may impact timeliness of response.

#### B. Responsibility of the CPS Administrative Agent and Regional Office

1. It is important to note that by statute DMH has 20 days to respond to the order. This is 20 days, NOT 20 working days, therefore timely responses are absolutely necessary.
2. Each agency/facility should identify one position/individual (court coordinator) that receives the orders forwarded by the DMH Receiving Office. This position must be able to respond immediately to receipt of orders for both existing and new clients. It should be made clear to ALL agency/facility care managers that court orders should be immediately forwarded to the receiving office.
3. The court coordinator should note if both a 211.202 AND 211.203 have been ordered. If so, the court coordinator should immediately contact the other agency/facility court coordinator to coordinate the completion of the evaluations. The first decision should be to note who should be contacted to arrange for the evaluations.
4. If the child is in detention, the DJO should be contacted to facilitate the evaluation.
5. If the child is in DFS custody and in an out-of-home placement, the DFS caseworker should be contacted to facilitate the evaluation.
6. If the child is living at home, the parent should be contacted to facilitate the evaluation.
7. Court coordinators should make every effort to share all available information with the other facility/agency Court Coordinator. One coordinator should be assigned to contact the DJO to note if there are any expectations or special issues related to the disposition of the child's case through the court.
8. If any unusual circumstances (notice that the court may order services/placements that are not recommended, court is considering giving legal custody, etc) are identified by either agency/facility the other agency should be notified, and the Receiving Office and AG's office immediately notified.
9. Every effort should be made to conduct the evaluations jointly so the child and parent do not have to repeat information. If a youth has been admitted to a DMH inpatient unit/facility or habilitation center for completion of the 211.202 and/or 211.203 RSMo evaluation(s) that unit/facility or habilitation center should conduct the evaluation for its respective division. If a joint evaluation has been ordered the provider for the other division will need to coordinate with the unit/facility or center to complete its evaluation. The unit/facility or center staff and respective division providers for services should then develop the recommendations and response to the court jointly.

10. Documentation of all contacts, information received and actions taken in completion and coordination of the respective evaluations should occur and be placed in the medical record.
11. It should be noted that although the statute specifically outlines the purpose of the evaluations, in reality the courts really want recommendations for, and access to, services. The statutory questions should always be initially and clearly addressed. However to cooperate with the courts, recommendations beyond need for inpatient care or placement in a developmental disability facility should be developed and provided to the court. It is the determination of eligibility for services and specific services to be provided that must clearly be worked out between the two divisions **PRIOR TO** any recommendations being provided to the court or juvenile office.
12. Upon completion of the respective evaluations, a meeting should be held between the involved agencies to develop consensus on a proposed service plan. The consensus should include eligibility for services, access to services and funding of services.
13. If consensus is reached, the agencies/facilities should draft a joint letter that denotes the answers to the statutory questions AND outlines a single, proposed service plan signed by the representative from both agencies. The individuals signing the joint letter to the court do not have to be the same individuals who completed the evaluation but should be individuals who have the authority to commit services for their respective agency.
14. If consensus is not reached by the agency representatives the respective Children's Area Director and Regional Office Director should be informed within 24 hours and a meeting convened within 48 hours between these parties and all other involved agency/facility staff to attempt to reach consensus.
15. If consensus is reached, a joint letter that denotes the answers to the statutory questions AND outlines a single, proposed service plan should be developed and signed by the respective agency designees.
16. If consensus is not reached, the Children's Area Director and Regional Office Director should contact the Regional Administrator and District Deputy Director respectively within 24 hours. Within 48 hours a meeting should be convened with all involved agency/facility staff to attempt to reach consensus.
17. If consensus is reached, a joint letter that denotes the answers to the statutory questions AND outlines a single, proposed service plan should be developed and signed by the respective agency/facility designees.

18. If consensus is not reached, the Regional Administrator and District Deputy Director will reach a decision and present it to the involved agency/facility. A joint letter will be developed outlining the plan and signed by the respective agency/facility designees.
19. When the Regional Administrator and District Deputy Director become involved in helping to reach consensus or in making the final decision, the Chair of the Workgroup for Children, Youth and Families will be notified of the involvement and the final decision.
20. The joint letter and evaluations should be sent to the court.
21. If the evaluations cannot be completed and/or the joint letter cannot be drafted and sent to the court within the statutory timeframes, the AG's office should be contacted to send a letter requesting an extension.
22. If legal representation is needed at the court hearing, a DMH employee must also attend the hearing. The AG should receive a copy of the evaluations and letter when representation is requested. As AG representation is only necessary when the potential for a conflict arising between what DMH can provide and what the court may order, a meeting/phone conference should be held between the parties and AG's office representative prior to the court hearing to develop a plan of action or response.
23. If a joint evaluation is not ordered by the court but the division ordered to complete an evaluation completes a clinical screen and an eligibility screen that determines the youth is eligible for services under the other division, the Court Coordinator should immediately contact the division provider that was not ordered to do an evaluation, to request an **assessment** be completed within the timeframes of the order. A joint meeting should be held to obtain consensus and develop a single, proposed service plan. If consensus is not reached, the above steps should be taken until consensus is reached.

**FLOW FOR COMPLETION OF JOINT DMH EVALUATIONS**

