

CR 82-15

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C E R T I F I C A T E

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Owen Ayres, Secretary of the Wisconsin Department of Transportation and custodian of the official records of the department, do hereby certify that the annexed rule amending TRANS 1 (CR 82-15) was duly approved and adopted by this department on May 19, 1982.

I further certify that this copy has been compared by me with the original on file in this department and that the same is a true copy thereof and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation in the City of Madison, Wisconsin, this 19 day of May, 1982.


Secretary
Wisconsin Department of Transportation

9/11/82

STATE OF WISCONSIN
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY

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CR 82-15

AN ORDER to amend Trans 1.01 and 1.02(1); to repeal and recreate Trans 1 (title), 1.03, 1.05 and 1.08; and to create Trans 1.015 and 1.035 relating to the local use of state aid received under the specialized transportation assistance program for counties.

Analysis Prepared by the Department of Transportation

General summary of rule. The 1981-83 state budget act (Chapter 20, Laws of 1981) amended the statute authorizing the specialized transportation assistance program for counties by renumbering the statute; introducing a requirement for copayment from the users of services receiving this program aid; and allowing counties the discretion to transport the general public with their specialized services vehicles on a "space available" basis.

In addition, the "budget adjustment" act (Chapter 93, Laws of 1981) further amended the authorizing statute by creating statutory trip purpose priorities; permitting waivers of the copayment requirement for the prioritized trips; and deferring the requirement for copayments until January 1, 1983.

These amendments to Trans 1 not only respond to these statutory changes but also restate and clarify the ways in which program aid may be used, lessen the frequency of reporting by local recipients of program aid, limit the use of passenger revenue, more precisely describe those sources of funding which may not be used for the county match and allow counties to encumber program aid in one year for a planned expenditure in a subsequent year.

Sections 1, 2 and 4 of these amendments only make technical changes, so that references in the rule to the statutory number and title of the program are consistent with corresponding changes made to the authorizing statute.

Section 3 creates a new section of rules, Trans 1.015, which consists simply of a small group of definitions.

Section 5 recreates Trans 1.03, which pertains to the permitted uses of program aids. The existing rules require counties to use state aids provided under s. 85.21 to expand rather than to supplant other funds. The Department has found that funding for specialized transportation from other sources largely consists of federal aids for human services and that there is no practical way for it to control the expenditure of these funds at the county level. In addition, there is no specific statutory language in s. 85.21 which mandates a "maintenance of effort" requirement. However, there is a need to explain how program aids may be used in terms of permitted activities or service types. These amendments therefore change the thrust of Trans 1.03 from "maintenance of financial effort" to functional definitions of what is eligible for program aid.

Another amendment under this section expands the definition of specialized transportation from services that may only be used by the elderly or the handicapped to services that must be designed for use by the elderly and the handicapped, but which may also serve the general public if there is extra space available. This change will bring the rule into conformance with specific statutory language contained in s. 85.21(4)(b).

Section 6 creates a second new section of rules, Trans 1.035, which establishes ways in which counties may satisfy the new statutory requirement that they give priority to trips for medical, nutrition and work-related activities. An incidental feature of these new rules is a requirement that projects not discriminate among potential passengers on the basis of age when service is being offered for the prioritized purposes.

Section 7 contains amendments to Trans 1.05 which change its title from "Required county share" to "Financial standards" and then amends and expands the rules under it. These amendments specifically exclude passenger revenue and federal and state categorical aids from the county matching share. These amendments are needed to clarify the requirement that the 10% matching share be a financial contribution derived from county taxpayers.

The amendments to Trans 1.05 also establish seven points of guidance concerning the new statutory requirement for passenger copayment, and they require that all passenger revenue be used to help offset the current expenses of a specialized transportation service.

Finally, the amendments under this section permit counties to encumber allocated aids for the purpose of making future purchases of capital equipment such as vans or buses. Counties will be allowed to make contributions to special funds from their allocated aids in order to spread the financial burden of equipment purchases over several years rather than concentrating the burden in the year that equipment is acquired. State aids which remain otherwise unspent or unencumbered at the end of a year must be returned by counties to the Department.

Section 8 recreates Trans 1.08, which specifies the program's reporting requirements. These recreated rules will reduce the reporting frequency from quarterly plus an annual report to semi-annually plus an annual report. Otherwise, this section is designed to streamline and shorten the rules.

Authority for rule. Section 85.21(3), Stats., authorizes the Department to administer a state specialized transportation assistance program. Sections 110.06(1) and 227.014, Stats., grant the Department general rule-making authority.

Fiscal estimate. Local fiscal effects could be produced by the removal of the maintenance of effort rule, the exclusion of passenger and state or federal categorical revenues from the local matching share, the requirement that passenger revenue offset current transportation expenses, and the increase in administrative effort needed to manage the new requirements for copayments and trip purpose priorities.

The maintenance of effort requirement has seldom been a significant determinant of local expenditure levels. Therefore, terminating this requirement will produce no significant fiscal effect.

Financial liabilities may be increased for those counties which have funded their matching shares from the sources to be excluded by the amended rules under Trans 1.05. The Department estimates, however, that the number of affected counties will be small; audits of 11 counties to date have revealed only one county whose local share has been funded from sources to be excluded.

The financial standards under Trans 1.05 may produce a fiscal effect by the prohibition against using passenger revenue to subsidize a non-transportation activity and also by the prohibition against the carry-over of passenger revenue from one year to another. The first part of the effect is expected to be minor, since audits to date have revealed only one county which has used passenger donations to purchase non-transportation equipment. The second part of the effect will be felt by approximately 30 counties which have accumulated passenger revenue in the past, in order to pay capital of operating expenses which occur in subsequent years. Under the amended rules, counties will have to balance their projects' operating expenses and revenues on an annual basis, applying passenger revenue to current expenses. The loss of a county's ability to reserve passenger revenue for capital acquisitions will be compensated, however, by a county's ability to formally encumber allocated aids for this purpose - an ability which the amended rules recognize for the first time.

It appears likely that additional local administrative efforts will be required in some cases to administer projects which have to date been operated without formal requirement for trip purpose priorities or passenger copayments. This effect will not be felt uniformly by all counties, and it is not possible to estimate its magnitude at this time.

This analysis has been prepared by William S. Nanninga of the DOT Bureau of Transit, (608)266-0560.

TEXT OF PROPOSED RULE

Pursuant to authority vested in the department of transportation by ss. 85.21(3), 110.06(1) and 227.014, Stats., the department of transportation hereby repeals, amends and adopts rules interpreting s. 85.21, Stats., as follows:

SECTION 1. Chapter Trans 1. (title) is repealed and recreated to read:

CHAPTER TRANS 1

SPECIALIZED TRANSPORTATION ASSISTANCE PROGRAM

FOR COUNTIES

SECTION 2. Trans 1.01 is amended to read:

Trans 1.01 PURPOSE AND SCOPE OF RULE. The purposes of this chapter are to establish the department of transportation's administrative interpretation of s. ~~85-08(5)~~ 85.21, Stats., and to prescribe administrative policies and procedures for implementing the ~~elderly-and-handicapped~~ specialized transportation assistance program for counties authorized under s. ~~85-08(5)~~ 85.21, Stats.

SECTION 3. Trans 1.015 is created to read:

Trans 1.015. DEFINITIONS. (1) "Allocated aid" means a county's proportionate share of state financial aid as defined in s. 85.21(2)(a).

(2) "Department" means the state department of transportation.

(3) "Medical activities" means the procurement of medical or medically prescribed services or products or participation in medical or medically prescribed activities.

(4) "Nutritional activities" means the consumption, purchase or receipt of food.

(5) "Space available" means passenger carrying capacity which is in excess of the capacity necessary to meet the transportation needs of elderly or handicapped persons.

(6) "Work-related activities" means the performance of work, voluntarily or for compensation, in order to produce goods or services.

SECTION 4. Trans 1.02(1) is amended to read:

Trans 1.02(1) In accordance with the statutory direction in s. ~~85.08(5)(b)~~ 85.21(2)(a), Stats., the department shall determine the amount of each county's proportionate share of moneys appropriated in each year for the operation of this program. The amount of money available for allocation in any calendar year shall be the amount appropriated for the fiscal year in which that calendar year begins.

SECTION 5. Trans 1.03 is repealed and recreated to read:

Trans 1.03 USE OF ALLOCATED AID. (1) A county shall use its allocated aid to provide or assist transportation services designed for use by elderly or handicapped persons. A county may at its discretion make these services also available to any other person on a space available basis.

(2) Subject to the limitations specified in subs. (1) and (3), a county may use its allocated aid and matching contribution required under s. 1.05(1) to:

- (a) Directly provide transportation service;
 - (b) Purchase transportation service from any public or private organization;
 - (c) Directly subsidize elderly or handicapped passengers for their use of transportation service;
 - (d) Reimburse elderly or handicapped persons for use of their personal means of transportation, when prior approval of such transportation has been given by the county based on qualification standards which the county establishes;
 - (e) Perform or purchase planning or management studies on transportation;
 - (f) Coordinate transportation services;
 - (g) Perform or purchase in-service training relating to transportation service;
 - (h) Purchase capital equipment for transportation service; and
 - (i) Encumber funds for future maintenance or purchase of capital equipment to be used for transportation service;
- (3) A county shall not use its allocated aid and matching contribution to:
- (a) Transport goods or freight except as an incidental part of passenger carrying service; or
 - (b) Pay expenses of advisory committees to transportation projects, except where such committees are required by planning or management studies.

SECTION 6. Trans 1.035 is created to read:

Trans 1.035 SERVICE PRIORITIES. (1) Beginning on January 1, 1983 counties shall establish the transportation of elderly and handicapped persons to medical, nutritional and work-related activities as the priority for the specialized transportation services receiving program aid, as required under s. 85.21(4)(a), Stats. These priorities need not be established on a project-by-project basis, if the combined services of two or more projects give priority to the specified trip purposes.

(2) A county shall adopt any of the following approaches to prioritizing services for the activities under s. 85.21(4)(a), Stats.

(a) A county may limit the use of its allocated aid to subsidize only those trips which are made for one or more of the purposes specified under s. 85.21(4)(a), Stats.

(b) If trips for purposes other than those specified in s. 85.21(4)(a), Stats., are to be subsidized with the allocated aid and the amount of trip requests exceed the capacity of subsidized services, then a county must establish service priority according to trip purposes. The trip purposes specified in s. 85.21(4), Stats., shall have the highest priority in whatever order the county determines. Priority according to trip purpose may be established by the following means:

1. Dispatching or advance reservation procedures which defer or deny requests for non-prioritized trips when the total requests for trips exceed available transportation capacity.

2. Preferential rates of copayment which favor the prioritized trip purposes.

3. Reserved capacity which insures service for the prioritized trip purposes. A county may operate part of its transportation capacity under this paragraph without trip purpose prioritization, if it reserves sufficient other capacity to satisfy requests for prioritized trips which cannot be met by the non-prioritized service.

4. Service planning. Transportation service which is operated according to regular routes and schedules shall be designed primarily to serve persons and activities which generate and attract trips for the prioritized trip purposes.

5. Any other technique such that if demand for service exceeds its capacity, then service is discouraged, deferred or denied for those trips not having priority.

(c) A county need not employ techniques to impose service prioritization according to trip purpose, if the transportation projects receiving allocated aid have enough capacity to satisfy all of the demand placed on them.

(d) A county shall not discriminate on the basis of age against passengers requesting service for the purposes specified in s. 85.21(4)(a), Stats. This requirement may be met by each individual project receiving allocated aid or by the combined services of two or more projects receiving allocated aid.

SECTION 7. Trans 1.05 is repealed and recreated to read:

Trans 1.05 FINANCIAL STANDARDS. (1) A county applying for its allocated aid shall make a matching cash contribution equal to 10% of the aid for which it applies. No in-kind services, no federal or

state categorical financial aids and no passenger revenue shall be allowed as part of the matching contribution. The matching contribution shall be an auditable item in the county's system of accounts.

(2) A county may retain its allocated aid for expenditure following the end of the calendar year for which it was received only if the aid is encumbered for future maintenance or purchase of capital equipment. The aid shall be encumbered only when it is deposited into a special fund established by resolution of a county's board of supervisors for the exclusive purpose of purchasing or maintaining equipment to be used for transportation services authorized under s. 85.21, Stats.

(3) All revenue received from passengers for transportation service in a given year shall be applied to transportation expenses incurred in that same year. Counties may solicit revenue from passengers for non-transportation purposes if the solicitation indicates the intended use of the revenue.

(4) Copayment policies, as required under s. 85.21(4)(c), Stats., shall conform with the following rules:

(a) A donation policy which gives the user the option of making or not making a copayment or the option of establishing the amount of copayment shall not be permitted.

(b) Copayments shall be based on a specific schedule of user fees which shall be made known to users.

(c) Fixed or variable rates of copayment shall be permitted. Variation may be based on, among others, trip length, period of time, trip purposes, ability to pay or the cost of individual versus group travel.

(d) Non-cash forms of exchange such as tickets, coupons, vouchers, passes, or billing accounts are permitted. A non-cash form of exchange shall represent an obligation to pay or complete a copayment, unless the requirement for copayment has been waived.

(e) Exemptions or waivers from the requirement for copayment may be granted on an individualized basis for personal emergencies; for extreme disabilities which impair or prevent an individual from competently making a copayment transaction; or for economic inability to pay.

(f) Allocated aid shall not be used to subsidize the users of a service and also directly subsidize that service at the same time.

(g) When allocated aid subsidizes a user, the aid shall not pay the entire fee charged to the user unless the fee has been waived.

SECTION 8. Trans 1.08 is repealed and recreated to read:

Trans 1.08 REPORTING REQUIREMENTS. (1) All grant recipients shall maintain records as required by the department. The following information shall be furnished semi-annually by the recipient to the department on forms provided by the department:

(a) Total number of one-way passenger trips per quarter by passenger type for each project;

(b) Total number of one-way passenger trips per quarter by trip purpose for each project;

(c) A status report describing changes or problems in the services provided.

(2) The following information shall be furnished annually by the aid recipient to the department on forms provided by the department:

(a) A financial report indicating the total annual cost of transportation by budget line-item and the sources and amounts of revenue which offset the annual cost of transportation for each project.

(b) A statement of the amount of allocated aid expended or encumbered and the amount of allocated aid to be returned to the department and a certification that all allocated aid together with the county's matching share have been used in accordance with the terms of this chapter and s. 85.21, Stats.

(End of Rule Text)

This proposed rule shall take effect upon publication as provided in sec. 227.026(1)(intro.), Stats.

Dated at Madison, Wisconsin this
19 day of May, 1982.



OWEN AYRES, P.E.
Secretary
Wisconsin Department of Transportation