



Final Report

Federal Opportunities Workgroup

Agency Council on Coordinated Transportation

Prepared for:

Joint Transportation Committee

3309 Capitol Blvd SE

PO Box 40937

Olympia, WA 98504-0937

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Acknowledgements

The Team That Pulled it All Together

Federal Opportunities Workgroup Members

Don Chartock, Washington State Department of Transportation
Alfie Alvarado, Washington State Department of Veterans Affairs
Michael Lopez, Washington State Department of Health
Todd Slettvet, Washington State Department of Social and Health Services
Allen Jones, Washington Office of Superintendent of Public Instruction
Madelyn Carlson of People for People, representing Community Transportation Association of the Northwest (CTA-NW)
Park Woodworth of King County Metro, representing Washington State Transit Association
Lynn Moody of Hopelink, representing the Agency Council on Coordinated Transportation (Workgroup Chair)
Casey Stevens of Stillaguamish Tribes, representing Indian Tribes
Marge Tully of Pierce County Local Coordinating Coalition, representing local coalitions
Page Scott of Yakima Valley Conference of Governments representing MPO/RTPOs

Supporting Participants

Ann Kennedy, Paratransit Services
Bob Sahm, King County Metro
Christie Scheffer, Paratransit Services
Darren Brugmann, Snohomish Senior Services
Marilyn Mason-Plunkett, Hopelink
Melony Joyce, King County Metro
Michelle Zeidman, Hopelink & King County Mobility Coalition
Paul Meury, Department of Social and Health Services
Renee Biles, People for People

Ryan Warner, Agency Council on Coordinated Transportation
Teresa Williams, Paratransit Services
Tim Renfro, Pierce Transit
Walter Neal, Department of Social and Health Services

Federal Opportunities Workgroup Executive Committee

Representative Deb Wallace (District 17), Washington State Legislature
Katy Taylor, Public Transportation Division Director, Washington State Department of Transportation
John Lee, Director, Washington State Department of Veterans Affairs
Doug Porter, Medicaid Purchasing Administration Director, HealthCare Authority Administrator, Washington State Department of Social and Health Services
Advisory:
Rick Krochalis, Region 10 Administrator, Federal Transit Administration
Vacant, Federal Centers for Medicare and Medicaid Services

Consultant Team and Contributing Authors

FLT Consulting, Inc.

Faith Trimble, CEO
Liz DuBois, Principal
Meagan Eliot, Principal
Shannon Barnes, Business Associate

Nelson\Nygaard and Associates

Connie Soper, Principal
Will Rodman, Principal
George Patton, Senior Associate

Executive Summary

Findings of the Federal Opportunities Workgroup

This report responds to Washington State legislation, Engrossed Substitute House Bill 2072 [ESHB 2072], which seeks to overcome barriers to collaboratively providing transportation services for persons with special transportation needs¹.

In particular, the 2009 legislation directs the creation of a workgroup to focus on removing federal and state barriers to sharing costs between transportation funders, safely sharing client information, streamlining performance and cost reporting systems, and establishing consistent terms and definitions. The Agency Council on Coordinated Transportation (ACCT) established the Federal Opportunities Workgroup (FOW) in June 2010 to conduct this work.

Chapter 1: Purpose and Background

Chapter 1 outlines the scope of work for the Federal Opportunities Workgroup as defined by legislation and the background which led to the passage of ESHB 2072. This chapter also summarizes the workgroups understanding of the overall 15-year vision for the Washington's Coordinated Transportation System, relates it to their scope of work, and recommends that ACCT considers adopting the vision as part of their overall strategic planning and performance reporting.

Chapter 2: Pilot Projects and Partner Programs

Pursuant to the legislation, the Federal Opportunities Workgroup designed three transportation pilot projects that take on key identified barriers to coordination. They are:

- King County Pilot – Transit as a Medicaid Provider
- Olympic Peninsula Pilot – Simple Cost Share for Medicaid and Veteran Trips
- Yakima Valley Pilot – Technology that supports cost allocation

In three different ways, these projects seek to test cost allocation models and other barriers to coordinated transportation. The collective intent of the projects is to gain efficiencies to the overall administration and delivery of transportation services without sacrificing the quality of trips for the people whose lives depend on it.

¹ Defined as individuals, and their attendants, that are unable to transport themselves do to their income, age, or disability (RCW 47.06B.6.d.i-ii)

Chapter 2 and Appendices B, C, D provide information about the pilot projects and their current status; as well information about how each of the partner transportation programs are funded and operated.

Chapter 3: Cost Sharing and Allocation

Grouped or shared-ride vehicles can be a cost-effective method to transport groups of clients with similar trip origins and destinations, similar to an airport shuttle.

Whenever two or more customers are being transported in a vehicle at the same time and those customers are sponsored by different funding streams, each sponsoring organization is interested, and sometimes required, to make sure that it only pays for its share of the service and that it is not subsidizing the transportation of the other riders.

Chapter 3 focuses on current cost sharing practices in Washington for Medicaid non-emergent medical transportation (NEMT) and American with Disabilities Act (ADA) paratransit services provided by transit agencies.

Chapter 4: Barriers Analysis

The Federal Opportunities Workgroup identified 29 barriers to coordinated transportation services. They researched and analyzed federal, state and local laws, regulations and rules, specifically as they relate to the implementation of the pilot projects. They compared requirements for multiple funding sources, including service requirements, driver and vehicle requirements, eligibility requirements and cost sharing requirements.

Of the 29 identified barriers, the majority (22) were rated as low or no impact, and two were identified as medium impact. Five were rated as having a high impact to coordinating or sharing trips.

Most of the high impact barriers were related to cost allocation and reimbursement methodologies.

- Usual and Customary Federal Regulations
- Payer of Last Resort Federal Regulations
- Dual Eligibility
- Shared Seat Cost Allocation
- Mileage Reimbursement

Chapter 4 discusses the high impact barriers and includes recommendations that will resolve, once and for all, the ongoing debate on who should pay for what, and how to fairly allocate costs.

Chapter 5: Sharing Client Information

The Health Insurance Portability and Accountability Act – otherwise known as HIPAA, is frequently cited as a barrier to coordinating transportation between Medicaid and other agencies. While HIPAA certainly needs to be considered when sharing client information for the purpose of providing more efficient transportation, the workgroup believes it does not preclude agencies from sharing trip information or grouping trips. Certain procedures must be followed under defined circumstances, which are outlined and managed by the Department of Social and Health Services (DSHS).

Chapter 5 summarizes a very complex piece of legislation and regulations as it relates to the coordination of transit and human service transportation, and specifically, as it relates to the three transportation pilots that are striving to overcome barriers to coordination. Recommendations request additional clarity in implementation of the federal law as it relates to transportation providers.

Chapter 6: Cost and Performance Systems, Requirements and Definitions

Chapter 6 provides an overview of the cost and performance systems and requirements for transit agencies and Medicaid non-emergent medical transportation (NEMT) is provided. The scope of this study was unable to cover the cost and performance systems and requirements for other transportation programs, including senior and veteran transportation.

Based on known cost and performance systems and requirements, the Federal Opportunities Workgroup developed performance measures for the pilot projects and also defined the performance terminology. In some cases the terms were already defined by existing reporting systems and the data is being collected systematically. In other cases, the Federal Opportunities Workgroup defined new terms that pilot projects will need to collect and report independently. Recommendations primarily focus on the lessons learned from the pilot projects after they are completed.

Key Recommendations

It's not just federal

The purpose of the Federal Opportunities Workgroup is to identify solutions to streamline requirements and increase efficiencies in transportation services provided for persons with special transportation needs. Following is a summary of the recommendations of the 2010 Federal Opportunities Workgroup.² While the primary focus of the work was on federal requirements, the recommendations also require the attention of the state.

VISION

Transportation services are coordinated to decrease barriers to accessing employment, medical and social services, or critical activities of daily living.

GOALS

The recommendations that follow are attached to specific strategic goals.

- 1) Support accessible, people centric transportation systems that are simple, flexible, and safe
- 2) Transportation costs among federal, state, and local programs are shared fairly
- 3) Increase trips, fill empty seats, and reduce vehicle miles traveled
- 4) Eliminate unnecessary redundancies and streamline processes to improve the efficiency of our transportation systems

RECOMMENDATIONS TO THE WASHINGTON STATE LEGISLATURE

FOW Vision Recommendation: The Federal Opportunity Workgroup recommends that the Agency Council on Coordinated Transportation be renewed and consider the formal adoption of the 15-Year Vision for Washington State Coordinated Transportation System (Diagram 1) as part of ACCTs overall strategic planning and performance reporting. ACCT should focus on the implementation of the pilots outlined in this report and report back on the performance along with

² NOTE: In preparing the cost sharing recommendations, the FOW agreed upon the following set of principles:

- Before implementation, recommendations are supported by a fiscal analysis and a State Plan Amendment, which are approved by the Centers for Medicare and Medicaid Services and funded by the State Legislature.
- Transit agencies should be compensated more than the public fare when providing a NEMT paratransit trip arranged by a NEMT broker.
- NEMT trips should continue to be brokered to the lowest cost, most appropriate providers.
- The competitive process remains intact. The role of private and non-profit transportation providers is highly valued in the NEMT provider pool.
- The impact on passengers should be minimized.

recommendations on performance measures and whether the pilots should be extended into the future and to other regions.

Each recommendation that follows is related to the specific goal and desired feature of the 15-Year Vision. The desire of the Federal Opportunities Workgroup is that the successful implementation of the following recommendations will bring the state closer to reaching the overall vision and Goals.

FOW Comparable Rate Recommendation: The Federal Opportunities Workgroup recommends that ACCT's enabling legislation be expanded to direct the council to work on providing technical assistance for negotiating a comparable state human services rate, if needed. This is dependent on the response that ACCT gets from the Federal Medicaid Program on its proposed pilots.

FOW Pilot Recommendation: The Federal Opportunities Workgroup recommends that ACCT be renewed and that they work with the pilot projects to track and report the project results in the terms defined in this study, and make recommendations where appropriate. Recommendations could include clarity of definitions or improvements to the cost and performance systems and reporting requirements of the Federal Transit Administration, the Washington State Department of Transportation, the Washington State Department of Health and Human Services, and the Washington State Veteran's Administration.

FOW HIPAA Recommendation: The Federal Opportunities Workgroup recommends that ACCT's enabling legislation be expanded to work with the Washington Department of Social and Health Services (DSHS) to gain clarity from the U.S. Department of Health and Human services to:

- Confirm whether transportation providers are a business associate of a covered entity.
- Clarify how transportation providers can group trips efficiently while maintaining the privacy of protected health information.

ACCT will work with DSHS to communicate the clarified procedures with transportation brokers and providers.

FOW Funding Recommendation: In any future transportation funding decision package, the Federal Opportunities Workgroup recommends that special needs transportation be considered with funds that could be used for:

- Increased funding to the NEMT program for transit referrals to the NEMT brokers.
- Increased basic level of community transportation funding for critical unfunded transportation needs
- Funding for technical assistance and technology that supports cost sharing and coordinated scheduling.

RECOMMENDATIONS TO WASHINGTON STATE ADMINISTRATIVE BRANCH

FOW Medicaid and ADA Transit Recommendation: The Federal Opportunities Workgroup recommends that the NEMT program pursue an ADA referral policy where all NEMT paratransit services that are arranged by brokers be funded by the Medicaid Program, and transit agencies may pursue a NEMT referral policy where all NEMT trips be referred to NEMT brokers. The key benefit of this recommendation is that it leverages as much federal funding for human service transportation as possible, and provides more capacity for transits to provide services for people with disabilities.

FOW Reporting Recommendation: The Federal Opportunities Workgroup recommends that state agencies assess their data reporting requirements, identify which data elements are used to measure performance or used to allocate costs, and eliminate collection of unused data.

FOW Reporting by Type Recommendation: The Federal Opportunities Workgroup recommends that the following characteristics of trips should be taken into account when reporting performance information.

Population:	Rural, small urban, urban and/or population density
Mode:	Demand response, fixed-route, volunteer,
Trip Type:	Curb to curb, door to door, door through door

Assumptions should be clearly highlighted when comparing performance data between systems or projects.

FOW Executive Order Recommendation: The Federal Opportunities Workgroup recommends that the Washington State Governor's Office issues an executive order to all state agencies that encourage federal, state and locally-funded transportation programs to share trips when cost effective.

RECOMMENDATIONS TO THE FEDERAL GOVERNMENT

FOW CMS Response Recommendation: The Federal Opportunities Workgroup recommends that the Centers for Medicare and Medicaid immediately respond to the September 2010 letter, and respond within 6 months to any state plan amendment regarding changes to the NEMT program.

FOW CMS and VA Recommendation: The Federal Opportunities Workgroup recommends that the Centers for Medicare and Medicaid Services and the Veteran's Administration allow more flexible cost allocation methodologies as long as it is more cost efficient for participating programs.

FOW Data Recommendation: The Federal Opportunities Workgroup recommends that federal and state agencies assess their data reporting requirements, identify which data elements are used to measure performance or used to allocate costs, and eliminate collection of unused data.

FOW Volunteer Driver Recommendation: The Federal Opportunities Workgroup recommends supporting legislation that will adequately cover the costs incurred by volunteer drivers, thereby encouraging volunteerism and promoting coordination of special needs transportation in our communities. Any legislation should:

1. Exempt from a volunteer's taxable income any reimbursement by a charity for mileage up to the business rate;
2. Give the Treasury Department authority to change the volunteer mileage deduction rate, which has been fixed in statute at 14 cents per mile since 1997; and
3. Raise the volunteer mileage deduction immediately to 70 percent of the standard business deduction rate.

1. Purpose and Background

Overcoming Transportation Barriers

This report responds to Washington State legislation passed in 2009 which seeks to overcome barriers to collaboratively providing transportation services for persons with special transportation needs³. In particular, the legislation focuses on removing barriers to sharing costs between transportation funders, safely sharing client information, streamlining performance and cost reporting systems, and establishing consistent terms and definitions.

Background

For the last 10 years, the Agency Council on Coordinated Transportation (ACCT), which is housed in the Washington State Department of Transportation, has sponsored many coordinated transportation projects that have demonstrated the value of working together to achieve more mobility, more efficiently. ACCT received a 2004 United We Ride Leadership Award in recognition of Washington's work promoting coordination and improving transportation options for people who depend on public transportation or who have few transportation options.

In 2000, ACCT facilitated the formation of 18 coordinated transportation coalitions covering 23 counties by providing technical support and limited startup funding.

Starting in federal Fiscal Year 2007, new planning requirements were specified under the Safe, Accountable, Flexible, Efficient Transportation Equity Act or "SAFETEA-LU" [PL 109-59], which was signed into law in August 2005 and authorized \$52.6 billion for federal community transportation programs over six years. In order to be eligible for specified funds, projects are required be included in a locally developed, coordinated public transit-human services transportation plan.

The ACCT coalitions provided the foundation for seamlessly integrating 14 regional groups to meet new federal public transit and human services planning requirements.

³ Defined as individuals, and their attendants, that are unable to transport themselves do to their income, age, or disability (RCW 47.06B.6.d.i-ii)

The coalitions have collectively worked to fill the most critical transportation gaps by leveraging resources, thinking outside the box, and coordinating their services. That said, ACCT and the local coordinated transportation coalitions continue to “hit the wall” in achieving maximum efficiencies.

Coalitions struggle with what appears to be insurmountable challenges, such as equitably and easily sharing and allocating the costs of trips funded by multiple agencies, identifying and sharing the costs of dually eligible program participants, consistently tracking quality performance data across transportation programs, and balancing the cost and benefits of consistent standards. The Washington State Legislature responded by passing Engrossed Substitute House Bill 2072 (ESHB 2072).

The Legislation (ESHB 2072)

Engrossed Substitute House Bill 2072 (ESHB 2072) requests the Agency Council on Coordinated Transportation (ACCT) to appoint a work group which has as its purpose to identify solutions to streamline requirements and increase efficiencies in transportation services provided for persons with special transportation needs.

To advance this purpose, the state legislature directed the work group to:

- Identify transportation definitions and terminologies used in the various relevant state and federal programs, and establish consistent transportation definitions and terminology;
- Identify restrictions or barriers that preclude federal, state and local agencies from sharing client lists or other client information, and make progress towards removing any restrictions or barriers;
- Identify relevant state and federal performance and cost reporting systems and requirements, and work towards establishing consistent and uniform performance and cost reporting systems and requirements; and
- Explore, subject to federal approval, opportunities to test cost allocation models that: (i) Allow for cost sharing among public paratransit and Medicaid non-emergency medical trips; and (ii) Capture the value of Medicaid trips provided by public transit agencies for which they are not currently reimbursed with a funding match by federal Medicaid dollars.

In June 2010, ACCT appointed a workgroup. In anticipation of overcoming federal barriers to coordinating transportation, this workgroup was named the “Federal Opportunities Workgroup” (FOW). The workgroup is tasked with reporting back to the Legislature key findings resulting from its deliberations.

Staffing to support the workgroup is provided through the ACCT and Washington State Department of Transportation. Through a competitive process, ACCT contracted with FLT Consulting, Inc., in cooperation with Nelson\Nygaard Consulting, to facilitate the workgroup tasks and write the report.

ACCT’s Vision and the FOW

The Federal Opportunities Workgroup began their work in June 2010 with a report due in December 2010. Believing the Legislature’s desire was to get coordinated transportation in Washington “unstuck”, the workgroup’s mantra was to be bold, be smart, and be quick.

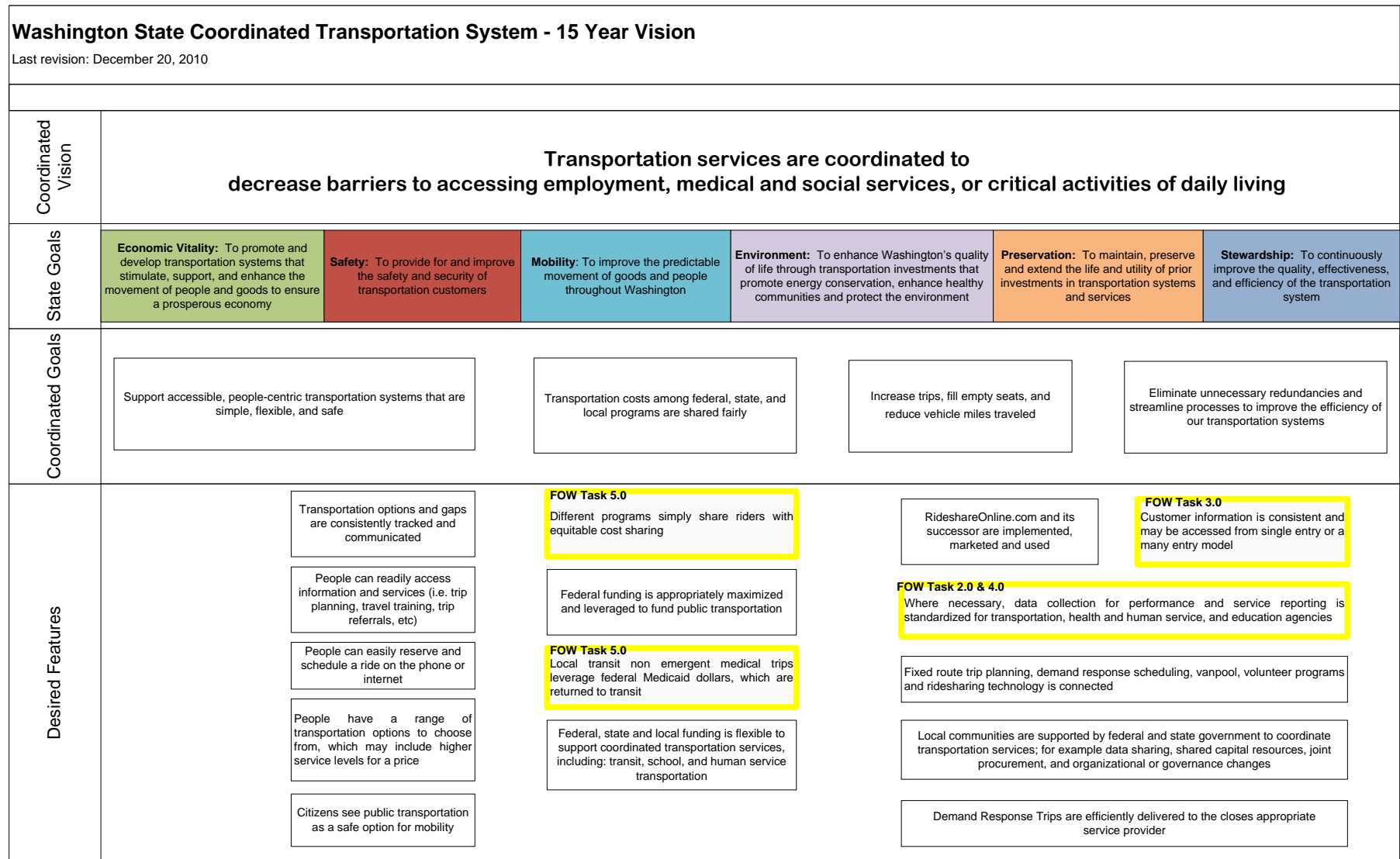
To keep their work focused and relevant, they aligned their work with the overall goals and objectives of the Washington State Department of Transportation (WSDOT) and ACCT. The yellow highlighted desired features in Diagram 1 are the objectives in which the pilot projects of this report are designed to address.

Since strategic goals and objectives for coordinated transportation was not documented, the workgroup developed a 15-year vision, goals and desired features of a coordinated transportation system and identified the key objectives related to their scope of work.

Recommendation

FOW Vision Recommendation: The Federal Opportunity Workgroup recommends that the Agency Council on Coordinated Transportation be renewed and consider the formal adoption of the 15-Year Vision for Washington State Coordinated Transportation System (Diagram 1) as part of ACCTs overall strategic planning and performance reporting. ACCT should focus on the implementation of the pilots outlined in this report and report back on the performance along with recommendations on performance measures and whether the pilots should be extended into the future and to other regions.

Diagram 1: Washington State Coordinated Transportation System – 15 Year Vision⁴



⁴ Yellow highlighted features relate to the specific work plan of the Federal Opportunities Workgroup. Task 2 Establish Consistent Definitions; Task 3 Identify Barriers/Restrictions to Sharing Client Information; Task 4 Identify Performance and Cost Reporting Systems and Requirements; Task 5 Test Cost Allocation Models for NEMT and Transit.

2. Pilot Projects and Funding Partners

Partner agencies team to overcome barriers

Summary

Pursuant to ESHB 2072, Section 1(6)(d)⁵, the Federal Opportunities Workgroup (FOW) designed three transportation pilot projects that take on key identified barriers to coordination. In three different ways, these projects seek to test cost allocation models and other barriers to coordinated transportation. The collective intent of the projects are to gain efficiencies to the overall administration and delivery of transportation services without sacrificing the quality of trips for the people whose lives depend on it.

Each of the federal, state and local funding sources for the pilot project partners bring different rules about various service aspects of providing transportation to populations in need of assistance. The success of each of the Federal Opportunities Workgroup pilot projects is dependent upon overcoming the barriers that arise from these differences. Key barriers are outlined and analyzed in Chapter 4.

This chapter covers the objective of each pilot project and how the partner transportation programs are funded and operated. More detailed pilot project descriptions and status reports are provided in Appendices B, C, and D.

Pilot Projects

The Federal Opportunities Workgroup (FOW) determined that the best way to identify and address coordination barriers is to design, plan, and begin implementation of projects that challenge the status quo. After analyzing and prioritizing key barriers to coordination transportation (see Chapter 4), the workgroup designed and began work on the following pilots.

King County Pilot – Transit as a Medicaid Provider

King County Metro, the Department of Social and Health Services, and Hopelink partner on this pilot to test whether or not efficiencies for state and local budgets can be found by having transits serve as non-emergent medical transportation (NEMT) subcontractors in Washington State. Specifically, the pilot intends to explore the possibility of reimbursing transits at a fair, competitive rate for demand

⁵ “Explore, subject to federal approval, opportunities to test cost allocation models...that (i) allow for cost sharing among public transit and Medicaid nonemergency medical trips; and (ii) capture the value of Medicaid trips provided by public transit agencies for which they are not currently reimbursed with a funding match by federal Medicaid dollars.”

response, non-emergent medical transportation based on actual costs rather than the fare box rate charged to ADA eligible participants. Additionally, the project seeks to determine whether the investment made by transit for NEMT trips can be used as local match for Federal Medicaid dollars. In a second component to the pilot, tests will be conducted to see if scheduling ADA and NEMT trips together will result in reduced costs.

Olympic Peninsula – Simple Cost Share for Medicaid and Veteran Trips

To increase transportation options for veterans on the Olympic Peninsula, this project would allow veterans to utilize the Medicaid non-emergent medical transportation brokerage service. Project partners - Paratransit Services, Department of Social and Health Services (DSHS), Veteran's Affairs (VA) – propose a simple cost allocation process, such as a flat zone rate.

Yakima Valley – Technology that supports cost allocation

The key objective of this project is to automate the cost allocation process so that multiple eligibility criteria and billing methodologies for multiple contracts with multiple funding sources can be easily accommodated. People for People, the NEMT broker in the Yakima Valley, currently arranges senior transportation with four different funding sources: Yakima County Aging and Long Term Care, Job Access Reverse Commute (JARC) grant, FTA 5311 formula grant for non-urbanized areas, and Washington State Rural Mobility grant. Sources have different eligibility and reporting requirements of which People for People manually tracks.

Funding Partners and Programs

Collectively, the three pilot projects attempt to share trips and allocate costs between seven transportation funding sources: local transit funds, state and federal Medicaid funds, federal Veteran's Administration funds, state and federal senior transportation funds, state and federal employment transportation funds, state and federal funds for rural transportation, and state special needs funds. The funding sources, the transportation programs, and the authorizing legislation are briefly described below.

ADA Paratransit Services and Transit Agencies

DESCRIPTION: For people with disabilities who cannot independently use the fixed-route bus service, even with accommodations, transit agencies are required by federal law – the Americans with Disabilities Act (ADA) - to provide complementary paratransit services.

Although each paratransit provider has unique service characteristics, ADA paratransit services are available for any purpose and there is no limit on the number of trips an ADA-eligible person may take.

The intent of ADA paratransit services is to provide a service that is complementary to the fixed route bus services. This means, for example, that paratransit service is provided where the fixed route service operates, and during the same hours of service. ADA paratransit service is required to meet the minimum following service standards.

- Paratransit service is provided the same days and times that the fixed route operates.
- Service is to be provided within $\frac{3}{4}$ mile of existing fixed route bus routes (excluding commuter service).
- The ADA fare may be no more than twice the regular fare on the fixed route service.
- Basic service standards may be established as “curb to curb,” meaning that the driver is not obligated to go to the passenger’s door.
- A transit operator is not allowed to turn down or deny trips—any trip purpose is considered eligible except when there is a distinct service available
- A transit operator is allowed to “negotiate” the time the trip is delivered up to an hour before or after the trip is requested.

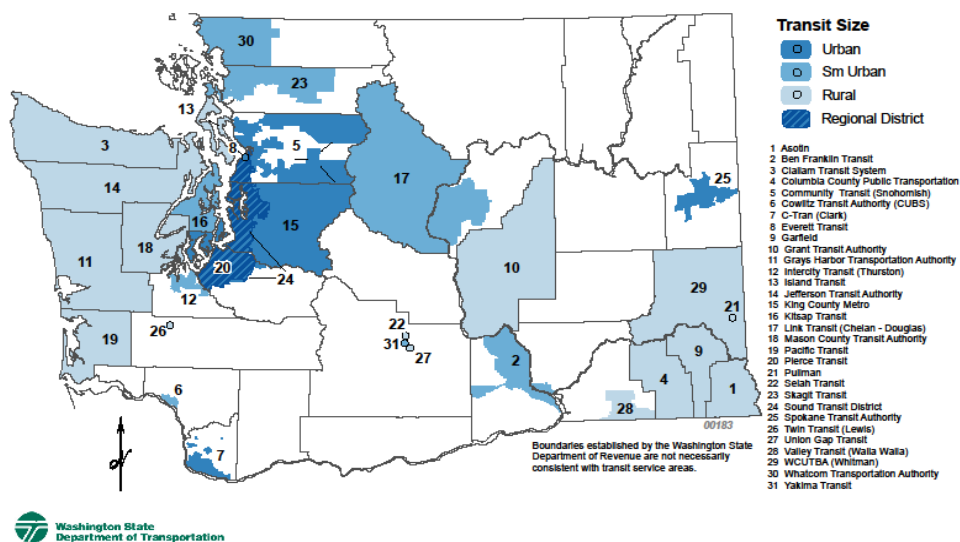
AUTHORITIES: Transit agencies, and all publicly funded, fixed-route transportation, fall under the requirements of the Americans with Disabilities Act (ADA) (42 U.S.C. § 12143). This civil rights legislation guarantees access to services and programs for persons with disabilities. If receiving funding from federal or state sources, transit agencies also must adhere to the rules and regulations of the Federal Transit Administration, and the Washington State Department of Transportation. Transit agencies also operate under locally set policies and procedures.

ELIGIBILITY: Not all persons with disabilities are eligible for ADA paratransit services. Persons are entitled to receive ADA complementary paratransit services only if their temporary or permanent disability prevents independent use of fixed-route services. The transportation provisions of the ADA intended to create integration of services for individuals with disabilities. The expectation of the ADA is that most individuals with disabilities will be able to use regularly accessible fixed route buses. Complementary ADA paratransit service is defined as a safety net, appropriate for those individuals with permanent or temporary disabilities that prevent independent fixed route use. Each public transit provider is responsible for conducting an ADA certification program that at least meets Title II 49 CFR, 37.123-37.125 requirements.

ADMINISTRATION: In Washington state, transit agencies are administered by 21 Public Transportation Benefit Areas (PTBAs), 1 Unincorporated Transportation Benefit Area (UTBAs), and 9 city, county or regional transit authorities. Transit agencies provide services within their boundaries and only exist in parts of the state, as shown in Diagram 2.

Diagram 2: Washington State Public Transit Authorities

Washington State's Public Transit Authorities



Public transit authorities must operate call centers to process trip requests from ADA paratransit customers to schedule trips. The customer service staff verifies eligibility and accepts trip requests. These trips are then assigned to routes through the use of paratransit scheduling software. The reservations are then assigned to a fleet of vehicles for completion. Transit authorities employ a variety of staffing strategies to complete these tasks. Some contract out the call center and driving duties, while others may perform these tasks with agency employees. Still others may utilize a mix of staff and contractors to provide service.

FUNDING SOURCE: Transit agency operations in Washington State are primarily funded by locally approved sales taxes. The state legislature authorized transit authorities to levy sales and use taxes of no more than 0.9%, with voter approval. The Federal Transit Administration provides direct formula grants and competitive grants to public transit agencies, primarily for the purpose of capital purchases. Transit agencies collect a fare, which typically covers no more than 20 percent of the cost of providing the transportation.

The state also provides formula based grants to transit agencies. Paratransit Special Needs Formula Grants provide funding for operating, capital, and program development projects to benefit people with special transportation needs due to age, disability, or income that cannot provide transportation for themselves. Rural Mobility Formula Grants provide funds for operating, capital, and program development projects to improve transportation in small cities and rural areas where sales tax revenue is less than the state average.

Medicaid Funding and NEMT

DESCRIPTION: The federal government mandates that states assure access to healthcare services as a condition of receiving federal funding for Medicaid clients. Most states meet this requirement by providing non-emergent medical transportation (NEMT) for Medicaid clients who have no other way to access medical facilities and healthcare services.

The transportation benefit includes transportation expenses and related travel expenses deemed necessary by the State Medicaid agency to secure medical examinations and treatment for a beneficiary. As an entitlement program, there is

no cap on the number of Medicaid trips that are provided, and services cover 100% of the state, in both urban and rural areas.

The approximate total program costs from July 1, 2009 through June 30, 2010 were \$65 million dollars for the delivery of 3,600,000 trips, providing this service to about 5% of the 1,250,000 Medicaid clients.

The NEMT program budget statewide is significantly less than that of the transits. In 2008, for example, the transit systems in this state had combined operating budgets of about \$1,800,000,000, of which about \$335,000,000 was from federal funding. Their primary service offered is fixed route, resulting in 190,000,000 trips. In response to the ADA mandate, they spent about \$168,000,000 providing about 6,160,000 demand response or route deviated trips.

AUTHORITIES: Per Title XIX of the Social Security Act (P.L. 89-97), Medicaid is a federal entitlement program that funds basic health care services for low-income individuals and certain individuals with a disability that are medically needy. All states that receive federal Medicaid funds are required to assure transportation for Medicaid beneficiaries to and from medical appointments. The Deficit Reduction Act of 2005 [42 U.S.C. 1396a](a) gave States the option to establish a non-emergency medical transportation brokerage program in order to more cost-effectively provide transportation for Medicaid beneficiaries. This non-emergent medical transportation is governed by the U.S. Health and Human Services, Centers for Medicare and Medicaid Services (CMS) (42 CFR Par 440.170(a)) and the State Plan for Medical Assistance. Washington Administrative Code (WAC) specific to NEMT are chapters/sections 388-546-5000 through 5500.

ELIGIBILITY: NEMT services are provided for all people who meet Medicaid eligibility requirements, do not have any other available transportation resources, and still need transportation to access Medicaid eligible health services. Approximately five percent of eligible Washington State Medicaid clients use NEMT services in any given month.

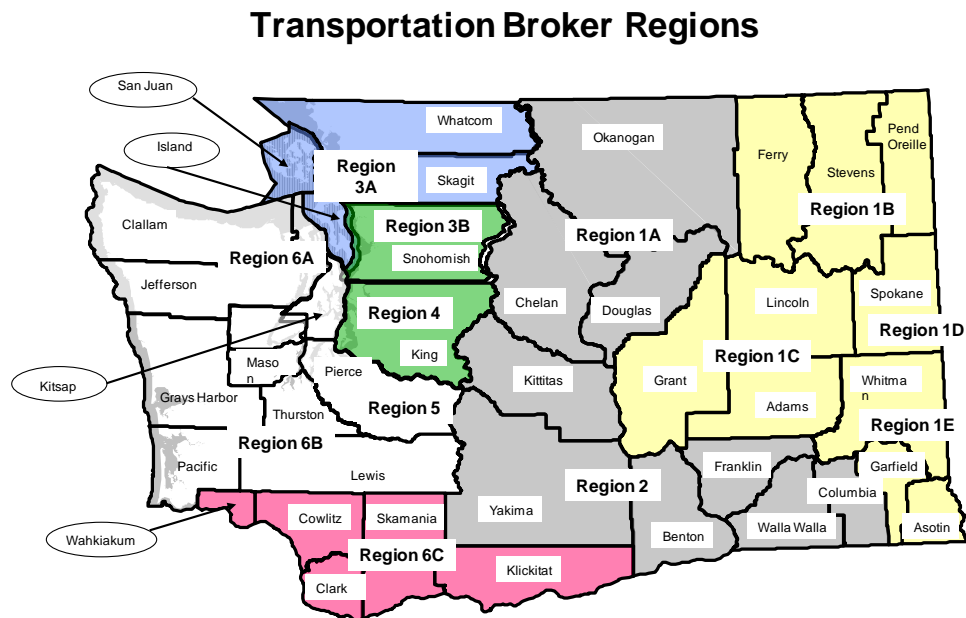
ADMINISTRATION: The federal Centers for Medicare & Medicaid Services (CMS) administer the national Medicaid program. Each state administers its Medicaid program in accordance with either a CMS-approved State Plan or Cost Allocation Plan. Although states have considerable flexibility in designing and operating its

Medicaid program, it must comply with applicable federal requirements. The Washington State Department of Social and Health Services was required to submit a state plan amendment for CMS review and approval to claim medical match for the NEMT program. If the NEMT were under administrative match, DSHS would be required to submit a Cost Allocation Plan for CMS review and approval. All changes to the NEMT must occur through the State Medicaid Plan and approved by CMS.

The Washington State Department of Social and Health Services, Medicaid Purchasing Administration (MPA) administers Washington's Medicaid program, including the non-emergent medical transportation (NEMT). Washington operates the NEMT program transparently following CMS federal guidance, Priorities of Government (POG), and Government Management and Accountability Principles (GMAP).

Since 1989, Washington's NEMT services have been managed by transportation brokers for the state's 13 transportation service regions. DSHS contracts with the transportation brokers, which are selected through a competitive procurement process.

Diagram 3: Medicaid NEMT Transportation Broker Regions



In conjunction with CFR and state cost containment initiatives, NEMT brokers assign trips to the most appropriate and cost-effective available transportation service subcontractor based on each client's mobility status and personal capabilities. This results in a nationally-recognized system in which the transportation broker receives an average of less than \$3 per trip for administration: only 15% of the total cost, while aggressively working to control fraud and misuse.

NEMT brokers assign approximately 3.6 million trips per year. Major transportation services by assigned medical program group include: 825,000 trips per year - Mental Health; 450,000 trips per year – Methadone; 315,000 trips per year - Kidney Dialysis.

The broker is responsible for and performs all administrative functions of the NEMT program including receiving transportation requests, verifying client eligibility, screening clients for mobility status and existing transportation resources, verifying eligibility and coverage of medical events, arranging for transport, billing and payments.

The following methods are used to provide transportation to eligible persons:

- Public transit bus passes, including ADA paratransit services if eligible
- Gas vouchers
- Client and volunteer mileage reimbursement
- Taxi or Cabulance
- Ferry, commercial bus, air

DSHS pays the brokers an administrative fee to arrange the transportation services, and for the direct cost of the trips. Brokers pay for the service delivery to the appropriate individual, agency, or subcontractor. Transportation rates are determined by the competitive market based on safe, high quality services at the lowest cost. DSHS invoices the federal government for partial reimbursement.

FUNDING SOURCE: As of October 2008, funding for non-emergent medical transportation (NEMT) in Washington State consists of up to 62% federal funds and 38% state funds. Prior to 2008, the federal match rate was 50 percent. With CMS approval of the state plan amendment, the NEMT program received the enhanced medical match (ARRA) rate from October 2008 to present resulting in \$9 million savings to the state. If Washington returned to operating the NEMT program under

administrative match, the State would receive 50% federal matching funds, losing \$8,000,000-9,000,000 from the enhanced medical match, and a new Cost Allocation Plan must also be submitted to CMS for review and approval.

Veteran's Transportation

DESCRIPTION: The U.S. Department of Veterans Affairs (VA) funds transportation to and from VA or VA authorized care. There are two levels of transportation assistance provided for eligible veterans – mileage reimbursement and special mode transportation, which can include accessible vehicles, ambulance, taxi, inter-city commercial bus and air and bus fare. The scope of transportation assistance for people who are eligible for special transportation assistance includes mileage, parking fees, reasonable fee for a driver, and transportation by a rehabilitation facility and other “reasonable expenses which may be incurred in local travel.”

Eligible veterans are reimbursed directly for their transportation expenses. Mileage reimbursement is set at \$.415 per mile. There are no other specific service requirements associated with these transportation benefits. However, if transportation is provided through the Disabled American Veterans volunteer driver program, there are rules for the volunteer driver including undergoing background checks and attending a training program.

AUTHORITIES: 38 CFR 21.154 and 21.370 through 21.376

ELIGIBILITY: Veterans must meet eligibility requirements to access travel benefits. Authorization for a veteran's transportation benefit is determined by the Department of Veteran Affairs . Administrative eligibility for mileage reimbursements is established by various factors, including having a service-connected (SC) condition, meeting income limits and demonstrating inability to pay. Special mode transportation is provided to individuals who are both administratively eligible and who have additional transportation expenses due to their disability.

ADMINISTRATION: The US Department of Veterans Affairs administers the transportation benefit program for veterans. The Washington State Department of Veterans Affairs is a separate agency that serves to advocate on behalf of veterans and help them access the benefits provided at the federal level.

FUNDING SOURCE: The U.S. Department of Veterans Affairs (VA) is authorized to provide eligible veterans with mileage reimbursement or “special mode” transportation for travel to and from VA or VA authorized care. The Veterans Equitable Resource Allocation (VERA) provides the funding. The amount of funding is determined by the Veterans Integrated Service Network (VISN) based on anticipated patient demand and other budget considerations.

Senior Transportation

DESCRIPTION: The federal Older Americans Act (OAA) provides for access to nutrition, medical and other essential services required by an aging population. Transportation is one of the services eligible for funding under the OAA. Transportation services are designed to transport older persons to and from medical and health care services, social services, meal programs, senior centers, shopping and recreational activities so such service will be accessible to eligible individuals who have no other means of transportation or are unable to use existing transportation. Personal assistance for those with limited physical mobility may be provided.

AUTHORITY: Senior transportation must be compliant with the Older Americans Act (Titles II & III of OAA, 42 U.S.C. Chap. 35), the Senior Citizens Services Act (Chapter 74.38 RCW) and the Washington Utilities and Transportation Commission (WACs 480-30 and 31). Washington Utilities and Transportation Commission prescribe the insurance requirements, and the Washington State Department of Transportation provides guidance on volunteer driver qualifications.

ELIGIBILITY: Senior transportation is for persons age 60 and over who:

1. Need transportation to medical and health care services, social services, meal programs, senior centers, shopping and recreational activities; and
2. Cannot manage their own transportation because they do not have a car; or they cannot drive; or they cannot afford to drive; or they cannot use public transportation; or public transportation is not available or accessible.
3. Service will target the senior population that includes the following characteristics: minority, low-income, age 75 and over, limited English, and living alone.

ADMINISTRATION: The Older Americans Act established the federal Administration on Aging (AoA) within the U.S. Department of Health and Human Services to advocate on behalf of an estimated 46 million Americans 60 or older and to implement a range of assistance programs for older adults, especially those at risk of losing their independence. AoA distributes funds to state and area agencies on aging (AAA), which are fully responsible for the administration and oversight of OAA funds.

The transportation of passengers using provider-owned vehicles utilizing special equipment may be used when required or necessary to accommodate those with limited physical mobility. Drivers are usually paid, but volunteer drivers may also be utilized. Volunteer drivers are generally reimbursed for expenses incurred. These services may be used along with or as an alternative to regular specialized transportation.

FUNDING SOURCE: Title III of the Older Americans Act (federal) and the Senior Citizens Services Act (state) may fund this senior transportation. The criteria for senior transportation service are for individuals age 60 and over who cannot manage their own transportation. The transportation service targets the following senior populations: minority, low-income, age 75 and over, limited English proficient, and those living alone.

Older American Act funding is allocated to each state based on the number of older persons in the state, to plan, develop and coordinate systems of supportive in-home and community-based services, including transportation. The federal funds, plus matching funds from the state, are distributed to each region based upon a formula distribution.

Although no funding is specifically designated for transportation, funds can be used for transportation under several sections of the OAA, including Title III (Support and Access Services) and the Home and Community-Based Services (HCBS) program. A local transportation provider receiving Title III funds for transportation services may only use such funds for the transport of seniors and caregivers who are escorting seniors.

Employment Transportation

DESCRIPTION: The Federal Transit Administration’s Job Access and Reverse Commute (JARC) Program is intended to fund local programs that improve access to transportation services to employment and employment related activities for welfare recipients and eligible low-income individuals. Also included are programs that transport residents of urbanized areas and non-urbanized areas to suburban employment opportunities. Funds from the JARC program are available for capital, planning, and operating expenses that support the development and maintenance of transportation services designed to transport low-income individuals to and from jobs and activities related to their employment.

AUTHORITY: The authorizing legislation for the Federal Transit Administration (FTA) Section 5316 Job Access Reverse Commute (JARC) funds is the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU) (Pub. L. 109–059), enacted on August 10, 2005, and codified in 49 U.S.C. Chapter 53. The basic grant management requirements for state and local governments are contained in the US Department of Transportation (DOT) regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR part 18.

ELIGIBILITY: States and local government entities are eligible designated recipients of JARC funds. Eligible subrecipients are private non-profit organizations, state or local governments, and operators of public transportation services including private operators of public transportation services.

ADMINISTRATION: The Washington State Department of Transportation (WSDOT) has the principal responsibility for administering the Job Access and Reverse Commute (JARC) program in urbanized areas under 200,000 in population and nonurbanized areas. In urbanized areas over 200,000 in population, a designated recipient of JARC, such as regional transportation authorities, has the principal authority and responsibility for administering the JARC program funds.

FUNDING SOURCE: The Federal Transit Administration, Section 5316, Job Access and Reverse Commute (JARC) funds are distributed to states on a formula basis, depending on the state’s rate of low-income population. JARC funds will pay up to 50% of operating costs and 80% of capital costs. The remaining funds are required to

be provided through state or local match sources. The Washington State Department of Transportation awards these funds through the competitive transportation consolidated grant program.

Rural Transportation

DESCRIPTION: Eligible projects must serve the general public in rural areas (typically under 50,000 population). Projects that primarily serve elderly persons and persons with disabilities are eligible as long as they do not restrict service to other members of the public.

AUTHORITY: FTA Section 5311; SAFETEA–LU; the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; 49 CFR Part 655, *Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations*. The State’s Rural Mobility Program receives its authority from the state transportation budget (2009-10 Engrossed Substitute Senate Bill 6318, Section 222(2)).

ELIGIBILITY: Eligible recipients/subrecipients for 5311 funds include state agencies, local governments, Indian tribes, private nonprofit organizations, and operators of public transportation services. Regarding the state funds, priority for the competitive funding is given to rural areas, and the formula program is for small urban and rural public transit systems only.

ADMINISTRATION: The Washington State Department of Transportation (WSDOT) administers the federal rural funds through a competitive grant program serving the general public in rural areas of the state. The Federal Transit Administration (FTA) regional offices review and approve grant applications and obligate funds. The State also provides both competitive and formula-based grant funds through its Rural Mobility Program, which provide funding to support rural and small urban areas statewide.

FUNDING SOURCE: FTA Section 5311 is a rural program that is formula based and provides funding to states for the purpose of supporting public transportation in rural areas with populations of less than 50,000.

The Rural Transit Assistant Program (RTAP) and the Tribal Transit Program are separate programs funded within the Section 5311 program. The RTAP program provides training and other resources for rural transportation providers, and the Tribal Transit Program provides grants directly to designated Indian Tribes for transportation purposes. The State's Rural Mobility Program is funded by the state's transportation budget.

Special Needs Transportation

DESCRIPTION: Three funding sources are available for other Special Needs Transportation purposes:

1. Paratransit Special Needs Formula Grants are state funded and intended to benefit people with special transportation needs due to age, disability, or income that cannot provide transportation for themselves. Paratransit Special Needs grants provide a lifeline for people who rely on public transportation to get to jobs and maintain independence. The funding is to be used for operating, capital, and program development projects.
2. **FTA Section 5310** A federally funded, competitive grant program administered by WSDOT that provides capital assistance to private, nonprofit corporations, tribal governments, and selected county governments who provide transportation services to elderly persons and/or persons with disabilities. The funding assistance is for capital purposes and consists of an 80 percent federal contribution requiring a 20 percent local match.
3. **FTA Section 5317** The New Freedom program is a federally funded, competitive, grant program administered by WSDOT to overcome existing barriers facing Americans with Disabilities seeking integration into the work force and full participation in society. Otherwise known as the New Freedom funds. Funding assistance is available for capital and operating assistance purposes. Capital funding consists of an 80 percent federal share matched by a 20 percent local share. Operating assistance consists of a 50 percent federal contribution and a 50 percent local match.

AUTHORITY: The state's Paratransit Special Needs program receives its authority from the state transportation budget (2009-10 Engrossed Substitute Senate Bill

6318, Section 222(1)). The New Freedom funds (FTA Section 5317) and the Capital Assistance funds (FTA Section 5310) are authorized under SAFETEA–LU.

ELIGIBILITY: Recipients are limited to transit organizations, private non-profits, tribes, and general or local government. No one agency may receive more than thirty percent of total funding.

ADMINISTRATION: WSDOT administers these programs. Metropolitan Planning Organizations (MPOs) administer the FTA 5310 and 5317 funds for urban areas.

FUNDING SOURCE: State funding through the transportation budget and federal funding through the Federal Transit Administration.

Table 1: Funds Distributed through MPO or WSDOT Consolidated Grant Program

Organization Type	FTA 5310	FTA 5311	FTA 5316	FTA 5317	Paratransit/ Special Needs Competitive	Rural Mobility Competitive
Urban Public Transit	X ₃	X	MPO ₁	MPO		
Small Urban Public Transit	X ₃	X	X	X		
Rural Public Transit	X ₃	X	X	X		X
Private Non-profit Organizations	X	X	X	X	X	X
Private for Profit Transportation Providers			X	X		X
Tribal Governments	X ₃	X	X	X	X ₂	X
Other General or Local Governments	X ₃	X	X	X	X ₂	X

¹Transit agencies and other organizations in large urbanized areas must apply for FTA 5316 and/or FTA 5317 funding through the Metropolitan Planning Organization (MPO) in their area.

²Requires non-profit status, 501(c)(3), must be approved by the state to coordinate services for elderly and persons with disabilities, or certified to the Governor that no other non-profit agency is available in the area to provide services to the elderly and persons with disabilities.

³Transit systems and other governmental agencies may receive remaining FTA 5310 funds if eligible non-profit organizations have already been funded and no other non-profits are available to provide the proposed service.

Table 2: Pilot Project Transportation Programs - Funding, Administration, Authority

	Administration	Funding Source	Authority
ADA Paratransit Transportation	Local transit authorities (PTBAs/UTBAs)	Locally approved sales tax	Americans with Disabilities Act (ADA) and Federal Transit Administration
Special Needs Program	WSDOT	State transportation budget	2009-10 Engrossed Substitute Senate Bill 6318, Section 222(1).
Medicaid Non-Emergent Medical Transportation (NEMT)	DSHS; Medicaid Purchasing Administration (MPA)	Federal and state Medicaid funds	42 CFR 431.53
Veterans Transportation	US Department of Veterans Affairs	VERA	38 CFR 21.154 and 21.370 through 21.376
Senior Transportation	State and area agencies on aging	United States Department of Health and Human Services, Administration on Aging	Older Americans Act (OAA); Senior Citizens Services Act (SCSA)
Employment Transportation	FTA, WSDOT or designee for urban areas	FTA section 5316 funds (JARC)	FTA Section 5316; SAFETEA-LU, 49 U.S.C. Chapter 53; 49 CFR parts 18 and 382
Rural Transportation - Federal	WSDOT	FTA Section 5311 (federal programs)	FTA Section 5311; SAFETEA-LU, 49 U.S.C. Chapter 53; 49 CFR parts 18, 382 and 655
Rural Transportation - State	WSDOT	State transportation budget	2009-10 Engrossed Substitute Senate Bill 6318, Section 222(2)

Table 3: Pilot Project Transportation Programs - Requirements

	Medicaid	ADA Paratransit	Older Americans Act	Veterans
Basis for client eligibility	Eligible for Medicaid (low-income)	Disability; unable to use fixed-route transit	65+, or 60+ and unemployed or working less than 20 hrs/week, and who need physical assistance to enable them to live at home	Mileage reimbursement: Administrative eligibility includes having a service-connected (SC) condition, meeting income limits, demonstrating inability to pay Special transportation: Administratively eligible and VA clinician determination that a special mode of transportation is medically required
Eligible type of trip	Medical only	No restriction as to type or number of trips	Medical, health, and social services, meal programs or shopping assistance.	VA or VA approved medical appointment only
Service area	Any	Within ¾ mile of a fixed route	Any	
Time of day/days of week	Any	Same hours as fixed route	Any	Any
Customer fare	None	Twice the fixed route fare	Clients asked, and sometimes required to contribute	None
Mileage Reimbursement	Medicaid rate – OFM rate which is currently \$.55 or \$.35 for client-owned vehicle, as appropriate. IRS-set medical mileage reimbursement rate is \$.165.	None	No mileage rate established by OAA. IRS-set charitable organizations/ volunteer driver rate is \$.14 per mile.	\$.415 per mile after deductible (\$3 one-way, \$6 round-trip)

3. Cost Sharing & Allocation

Sharing transportation costs between NEMT and ADA Paratransit

Summary

Grouped or shared-ride vehicles can be a cost-effective method to transport groups of clients with similar trip origins and destinations, similar to an airport shuttle.

Whenever two or more customers are being transported in a vehicle at the same time and those customers are sponsored by different funding streams, each sponsoring organization is interested in making sure that it only pays for its share of the service and that it is not subsidizing the transportation of the other riders.

Chapter 3 focuses on current cost sharing practices in Washington for Medicaid non-emergent medical transportation (NEMT) and American with Disabilities Act (ADA) paratransit services provided by transit agencies.

Appendix A details alternative cost sharing and allocation practices. Chapter 4 identifies the barriers to sharing costs and provides recommendations.

Cost Sharing in Washington

Cost sharing is not new for Washington State transportation programs. The primary transportation brokers and providers in Washington - transit agencies for ADA paratransit and DSHS brokers for NEMT services - have been sharing and allocating trips with a variety of funders since their inception.

However, the NEMT program and transit agencies are still working to overcome their differences in the interpretation of federal law to support these cost sharing strategies with each other.

STATE TRANSPORTATION BROKERS

By design, the Washington State transportation brokerage system is a mechanism to share trips among various funders. They arrange for the lowest cost, most appropriate method of transportation, which can include public transit bus passes, gas vouchers, client and volunteer mileage reimbursement, taxi, cabulance, ferry, commercial bus, and air.

For NEMT trips, brokers pay transportation provider's based on a pre-negotiated rate, which may include mileage, time, a flat fee, or other factors. The costs are allocated equitably to the clients' specific medical program account codes. There are currently over 90 program account codes that are used to allocate costs for NEMT trips.

In addition to brokering NEMT trips for Medicaid eligible clients, NEMT brokers also can and do contract with other programs to arrange for transportation, such as seniors, veterans, students, and employment transportation. When appropriate, these trips can be shared and costs allocated by trip, miles, service hours and/or a combination of all methods.

NEMT brokers or their providers who arrange trips for multiple programs typically assign grouped or shared ride trips only if the assigned group or shared ride trip is more cost-effective to the funding source than it would be in comparison to providing separate individual trips, or when it is not possible to provide separate trips. When arranging for shared trips, each funder is invoiced for their rider's portion of the trip. These trip costs may include reduced shared ride rates that transportation providers include in their negotiated rates.

Dually eligible clients are not typically identified, and as such, dually eligible passengers choose which transportation program they will use and that program then pays for the trip. If the broker does determine the client is dually eligible, it is required that Medicaid is the payer of last resort. Some brokers will screen to see if a passenger has any other transportation resources, which includes ADA paratransit.

The following table lists the state transportation brokers in Washington State, and the variety of transportation services they provide.

Table 4: Current Types of Services Provided by Several NEMT Brokers
Effective January 1, 2011

	Service Areas	NEMT Broker ⁶	Other Brokered Services	ADA Paratransit Provider	Other Demand Response	Fixed or Deviated Route Provider
Hopelink	King	✓	State Disability Determination Services, Harborview Medical Center, Seattle Children's Hospital, Lifelong AIDS Alliance, Northwest Kidney Centers, McKinney-Vento students in 5 school districts		✓	✓
	Snohomish	✓	Harborview Medical Center, Seattle Children's Hospital			
Paratransit Services	Clallam	✓		✓		
	Cowlitz			✓		
	Grays Harbor	✓				
	Jefferson	✓				
	King				✓	
	Kitsap	✓			✓	
	Lewis	✓				

	Service Areas	NEMT Broker ⁶	Other Brokered Services	ADA Paratransit Provider	Other Demand Response	Fixed or Deviated Route Provider
	Mason	✓				
	Pierce	✓			✓	
	Snohomish				✓	
	Thurston	✓				
People for People	Adams				✓	✓
	Benton	✓				
	Chelan	✓				
	Columbia	✓				
	Douglas	✓				
	Franklin	✓				
	Grant			✓	✓	✓
	Lincoln				✓	✓
	Kittitas	✓				
	Okanogan	✓				
	Walla Walla	✓				
	Yakima	✓			✓	✓

	Service Areas	NEMT Broker ⁶	Other Brokered Services	ADA Paratransit Provider	Other Demand Response	Fixed or Deviated Route Provider
Northwest Regional Council	Island	✓				
	San Juan	✓				
	Skagit	✓				
	Whatcom	✓				
Human Services Council	Cowlitz	✓	Employment Transportation Services			
	Clark	✓	Reserve-a-Ride Service serving low income and seniors			
	Wahkiakum	✓	Sponsor-a-Ride serving seniors			
	Skamania	✓				
	Klickitat	✓				
Special Mobility Services	Ferry	✓	Secured transportation for Mental Health clients and facilities			
	Stevens	✓	Rural Mobility transportation offering fixed and deviated routes. 2 year grant			
	Pend Oreille	✓				

	Service Areas	NEMT Broker ⁶	Other Brokered Services	ADA Paratransit Provider	Other Demand Response	Fixed or Deviated Route Provider
	Spokane	✓				
	Adams	✓				
	Grant	✓				
	Lincoln	✓				
	Whitman	✓				
	Asotin	✓				
	Garfield	✓				

Federal Options for Funding NEMT Services

To fully understand the challenges of the past and opportunities for the future when sharing trips - especially between ADA paratransit services with Medicaid NEMT services - it is necessary to provide some background to Washington's application of federal Medicaid NEMT rules and regulations.

Federal Medicaid rules, administered under the federal Medicaid agency, Centers for Medicare and Medicaid Services (CMS), allow state Medicaid programs to fund its NEMT services as a medical service or an administrative service.

Historically, if a state opted to fund their NEMT program as an administrative service, they had more flexibility in designing their program (such as utilizing transportation brokerages), but received less in federal match dollars (50% match). Until recently, Washington State funded their NEMT service as an administrative service.

Historically, if a state opted to fund their NEMT program as a medical service, they had less flexibility in how to deliver services, but received a slightly higher federal match. The Federal Medical Assistance Percentage (FMAP) rate for medical services can range from 50-83%, according to the state's demographics, and is recalculated annually. States were required to give eligible passengers the freedom of provider choice, which negated one of the main benefits of a brokerage. Some states were able to apply and were granted a federal 1915 (b) waiver, which allowed them to broker trips. The waiver process is fairly onerous and time consuming, and has to be updated every two years.

In 2005, changes to the Social Security Act were enacted through the Deficit Reduction Act (DRA) that allows states to provide transportation brokerage services and still qualify for the higher federal medical match rates, under the following conditions: the brokerage selection process is competitive; adequate oversight procedures are in place; the service is subject to regular auditing and oversight by the State; and the contract prohibits conflicts of interest.

The two primary advantages of operating the NEMT program under medical match under the DRA are: no waiver renewal (a very time consuming and expensive administrative process), and increased fiscal integrity, reducing fraud and misuse. With increased federal emphasis on fiscal integrity, this increased control is very important.

Washington Opts to Fund NEMT as a Medical Service

In October 2008, the Washington State Department of Social and Health Services (DSHS) submitted to CMS an amendment to the State Medicaid Plan. The amendment requested approval to convert qualified transportation brokerage regions from an administrative service to a medical service. CMS approved the State Plan Amendment in 2010.

This action resulted in savings to the state Medicaid program of approximately \$8 to 9 million per year, and is easier for the state to manage and less susceptible to fraud and abuse. This is especially timely given the state budget cuts to social services and the increased federal attention given to Medicaid fraud and misuse.

Washington is one of the 20 plus states that operate some regions under the medical services match rate and have taken advantage of the Deficit Reduction Act waivers provision for NEMT services.

The 13 broker regions and their federal match status as of January 1, 2011 is provided in Table 5.

Table 5: Washington State Transportation Brokers by Type
Effective January 1, 2011

Region	County Coverage	Broker/Broker Type	Federal Match Type
#1A	Chelan, Douglas, Okanogan	People for People/Non-governmental	Medical
#1B	Ferry, Pend Oreille, Stevens	Special Mobility Services/Non-governmental	Administrative
#1C	Adams, Grant, Lincoln	Special Mobility Services/Non-governmental	Administrative
#1D	Spokane	Special Mobility Services/Non-governmental	Administrative
#1E	Asotin, Garfield, Whitman	Special Mobility Services/Non-governmental	Administrative
#2	Benton, Columbia, Franklin, Kittitas, Walla Walla, Yakima	People for People/ Non-governmental	Administrative
#3A	Island, San Juan, Skagit, Whatcom	Northwest Regional Council/Governmental	Medical
#3B	Snohomish County	Hopelink/Non-governmental	Medical
#4	King County	Hopelink/Non-governmental	Medical
#5	Pierce County	Paratransit/Non-governmental	Medical
#6A	Mason-north, Clallam, Jefferson, Kitsap	Paratransit/Non-governmental	Administrative
#6B	Grays Harbor, Lewis, Mason-south, Pacific, Thurston	Paratransit/Non-governmental	Medical
#6C	Clark, Cowlitz, Klickitat, Skamania, Wahkiakum	Human Services Council/Non-governmental	Medical

TRANSIT BROKERS

Transit agencies that operate public paratransit, demand response, dial-a-ride or other specialized transportation programs also broker trips to other providers.

In particular, transit agencies operating in urbanized areas may have numerous program resources to call on in delivering services. For example, King County Metro's ADA paratransit program, ACCESS, makes use of supplemental taxi services and has also developed a comprehensive community van program to divert some trips from the more expensive ACCESS program. ADA paratransit programs in other areas may be able to make use of volunteer programs, or otherwise make decisions on a daily basis about grouping trips to promote efficiency and cost effectiveness.

The criteria used to decide how best to assign trips are, for the most part, similar to those considered by NEMT brokers; that is, decisions may be based on:

- The most appropriate mode of travel for the customer
- The most cost-effective mode of travel
- Program eligibility

Transit agencies may also be influenced in how they assign a particular trip because of ADA compliance. For example, a supplemental taxi may be used in order to avoid a missed trip which would be considered a trip denial, or capacity constraint, which is not allowed under the ADA.

Large systems such as that operated by King County Metro also have infrastructure in place to support their services, such as a call center with staff to receive and refer trip requests, and computerized scheduling software.

Rural or smaller systems may not have access to these resources, and may not also have as many mobility options available for their customers.

National Examples of NEMT and ADA Cost Sharing

Provided below are four examples of states that allocate costs for shared NEMT and ADA trips, and reimbursing transit for the actual cost of providing a NEMT service – the desired objectives of the King County pilot project.

These examples are provided as illustrative purposes only. States have considerable latitude in how they design and provide Medicaid non-emergent medical

transportation (NEMT) services, and as outlined earlier in this chapter, operate under different federal match and waiver rules. As a result, there is wide variation in how states provide medically necessary transportation.

To avoid audit risk, the Washington State Department of Social and Health Services (DSHS) has been careful to ensure that all changes to Washington's NEMT program be approved by the federal Centers for Medicaid and Medicare Services (CMS).

For this study, CMS was contacted to verify if the below cost sharing examples in other states were approved. CMS did not respond.

OREGON NEMT AND LANE COUNTY

The state Medicaid NEMT transportation program in Oregon is administered by the Department of Medical Assistance Program, within the Department of Human Services (DHS). The state has opted to fund NEMT transportation statewide as a medical service with a 1915 (b) waiver. Through intergovernmental agreements, eight transportation brokers arrange for NEMT statewide. Five of the brokers are public transit agencies and three are council of governments.

DHS negotiates a single average cost per trip with each broker, which includes both direct services and administrative and overhead costs. Brokers reimburse the provider for the actual cost of providing the trip, which may be more or less than the negotiated rate. At the end of the year, the accounts are reconciled.

In Lane County, Lane Transit is both the ADA service provider and the Medicaid NEMT broker. All customers call the same number into the same call center to arrange for their ADA and/or NEMT trip. The coordinated transportation center, known as RideSource, integrates ADA and Medicaid trips. In 2009, they developed a cost-sharing methodology to distribute direct service and administrative/overhead costs to the sponsoring agencies. The approach has recently been approved by Oregon DHS.

The cost allocation methodology in Lane County is based on:

1. "Random Moment Time Sampling", which assigns brokerage staff costs to appropriate program
2. Vehicle time shares—considers time of passenger on vehicle and assigns to appropriate program

3. Direct costs—assigns direct costs to appropriate program for exclusive trips.
4. Square footage costs—assigns proportionate share of facilities costs to appropriate program

FLORIDA NEMT AND ORLANDO REGION

The state Medicaid NEMT transportation program in Florida is administered by the Transportation Disadvantaged Commission (TD) per an interagency MOU between the TD commission and the agency responsible for Medicaid NEMT services. The state has opted to fund NEMT transportation statewide as a medical service with a 1915 (b) waiver.

The TD commission's statewide cost allocation method/model is based on grant accounting principles used in the TD Program. The method is built upon three years of both historical and projected budget data, and provides fully allocated rates with local ability to adjust rates in mid-period.

In Orlando and three surrounding counties, Lynx transit agency is the region's Community Transportation Coordinator and retains a contractor to operate its coordinated paratransit services. In this system, Medicaid NEMT trips are shared with ADA trips, as well as other agency-funded trips. The rates charged to Medicaid and the other funding agencies are based on the TD's statewide cost allocation and rate methodology.

NORTH CAROLINA NEMT AND WINSTON-SALEM

In North Carolina, the local county-based Medicaid offices are directed to utilize the predominantly county-based Community Transportation Program (CTP) for NEMT needs, per Executive Order and interagency MOU. The state has opted to fund NEMT transportation in some regions as an administrative service, and in some regions as a medical service with a 1915 (b) waiver.

The statewide cost allocation method/model is based on grant accounting principles used for the CTPs, and is built upon historical data (from an analysis of service) and projected budget data. This end product is a fully allocated per trip rate for demand responsive service, noting that the locals have the ability to adjust the rate based on subsidy considerations.

The Winston Salem Transit Authority (WSTA) provides countywide fixed route and paratransit service in a large urbanized area (Forsyth County, NC – 330,000 pop; 410 sq. mi). The paratransit service includes ADA paratransit, Medicaid NEMT, and senior transportation funded by Title III-B.

The paratransit service is operated by WSTA, augmented by overflow taxi vendors. The paratransit service is completely integrated: ADA paratransit, Medicaid trips and senior trips are shared when it is lowest cost and most appropriate. Client eligibility is determined by Forsythe County Department of Social Services (DSS), which is electronically submitted to WSTA. Rates are annually negotiated between the City (Winston-Salem) and Forsythe County DSS. Per trip rates are based on fully allocated cost of paratransit service, using the statewide model.

PENNSYLVANIA NEMT AND PITTSBURGH ACCESS

ACCESS is a brokerage that manages Americans with Disabilities Act (ADA) paratransit service and a senior shared-ride program, on behalf of the Port Authority of Allegheny County (the local transit provider). ACCESS has entered into sponsorship agreements with over 120 different human service agencies, including the State's Medical Assistance Transportation Program – the non-emergent transportation service. The state has opted to fund its NEMT transportation as an administrative service.

For all but three high volume programs, agency sponsors are charged the zone-to-zone fare, which is based on fully-allocated historic costs of the brokerage as a whole. In the case of three high volume sponsors (including Medicaid), a statistically relevant number of trips are selected and costed out. This process considers the degree to which trip is or isn't shared, the time in which those trips are shared, and the carriers' hourly rate. These costs are then averaged to calculate an average cost per trip for each of the three sponsoring agencies. This cost, plus their share of the fixed administrative cost, becomes the rate for the ensuing 6 months, when the process is repeated.

4. Barriers Analysis

Some significant, some small, some perceived

Summary

The Federal Opportunities Workgroup identified barriers to coordinated transportation services and compared and analyzed federal, state and local laws, regulations and rules, specifically as they relate to the pilot projects. In particular, they reviewed requirements for multiple funding sources, including service requirements, driver and vehicle requirements, eligibility requirements and cost sharing requirements.

Of the 29 identified barriers, the majority (22) was rated as low or no impact, and two were identified as medium impact. Five were rated as having a high impact to coordinating or sharing trips. Most of the high impact barriers were related to cost allocation and reimbursement methodologies.

- Usual and Customary Federal Regulations
- Payer of Last Resort Federal Regulations
- Dual Eligibility
- Shared Seat Cost Allocation
- Mileage Reimbursement

This chapter discusses the high impact barriers and includes recommendations that will resolve, once and for all, the ongoing debate on who should pay for what, and how to fairly allocate costs.

Scope of Barriers Analysis

At one of their first meetings, the workgroup brainstormed a list of known or perceived barriers, challenges, or disincentives to coordinating transportation. This list was used as the premise for developing the pilot projects and conducting the barriers analysis.

Two additional reports were used to identify and analyze barriers, including the **2009 Special Needs Transportation Coordination: Final Report** conducted by Nelson\Nygaard and Associates⁷, and the **2006 Transit Agency Participation in Medicaid Transportation Programs, Transit Cooperative Research Program (TCRP), Synthesis 65**, conducted by the KFH Group⁸.

From their brainstorming session and the studies, the workgroup identified 29 potential barriers to further analyze. They reviewed multiple federal, state, and local legislation, regulations, and contracts to analyze if the potential barriers actually exist, and if so, what level of impact do they have on coordinating transportation services.

The sources researched were limited to the funding partners involved in the pilot projects, which includes:

FEDERAL SOURCES

Federal Transit Administration funded programs: FTA paratransit regulations (49 CFR Part 37-38) and FTA Circulars for Job Access Reverse Commute (JARC, 5316), New Freedom (5317), Urbanized Area Formula (5307), Elderly and Individuals with Disabilities (5310), and the Non-Urbanized Area Formula (5311) programs.

U.S. Health and Human Services, Centers for Medicaid and Medicare Services: Regulations related to the provision and funding of Non-Emergent Medical Transportation (NEMT). Regulations reviewed included 42 CFR Part 440.170(a) and federal statute Sec. 1902. [42 U.S.C. 1396a](a) related portions of the Social Security Act that provided states with the option to create state NEMT brokerages. Also reviewed was Federal Register Volume 73, Number 245, p. 77526, from Dec. 19, 2008, related to the final rule implementing section 6083 of the 2005 Deficit Reduction Act.

Americans with Disabilities Act: Federal statute 42 U.S.C. § 12143 that discusses policy related to how paratransit must complement and provide comparable service to fixed route transit service. This is the portion of the Americans with Disabilities Act related to FOW scope of work. Also reviewed were 49 CFR Part 37-38, which relate to implementation of the ADA by public transit agencies.

⁷ Special Needs Transportation Coordination: Final Report, State of Washington Joint Transportation Committee, January 2009

⁸ Transit Agency Participation in Medicaid Transportation Programs, Transit Cooperative Research Program (TCRP), Synthesis 65, 2006

Deficit Reduction and Social Security Acts: Section 6038 of the Deficit Reduction Act (DRA) made changes to the original Social Security Act - Sec. 1902. [42 U.S.C. 1396a](a). A new section (70) was added which provided states with the option to create state NEMT brokerage systems in a different way than the existing 1915 (b) waiver. Also reviewed was Federal Register Volume 73, Number 245, p. 77526, from Dec. 19, 2008, related to the final rule implementing section 6083 of the 2005 Deficit Reduction Act.

Older Americans Act: Titles II and III of the OAA, primarily sections 208, 212, and 321, as codified in 42 U.S.C. Chap. 35.

Veterans Administration: Federal regulations pertaining to veteran transportation assistance (38 CFR §21.154 and §§21.370-376). VA Health Care Fact Sheet 16-2: Beneficiary Travel Benefits.

Health Insurance Portability and Accountability Act (HIPAA): 45 CFR 160.102.

WASHINGTON STATE SOURCES

Washington State Department of Transportation funded programs: WSDOT Guide to Managing Your Public Transportation Grant, M3046, July 2009; WSDOT Quarterly Progress Report.

Washington State Department of Social and Health Services: Medicaid brokers contract and scope of work (for both the current and pending contracts), and sample monthly reports from several brokers. Also reviewed were DSHS WACs 388-546-5000 through 5500 that provide rules for the brokering and provision of NEMT services.

Chapters 74.36 and 74.38 of the RCWs related to funding for community programs for the aging, passage of the State Senior Citizens Services Act (SCSA) and creation of the Area Agencies on Aging. WAC 388-71-0726 related to Adult Day Health transportation and WAC 388-106-1110 related to SCSA eligibility.

LOCAL SOURCES

King County Metro: Reviewed county ordinances in KCC 28.94.035 related to the provision of ADA paratransit services and supplemental community transportation services.

Southeast Washington Office Aging and Long Term Care: Grant agreement between WSDOT and People for People, Yakima; Southeast Washington Office of Aging and Long Term Care (ALTC) RFP for 2010 services; 2010 service contract between ALTC and People for People.

Findings of Barriers Analysis

Due to time constraints, the Federal Opportunities Workgroup focused on the highest priority barriers for the scope of this effort and the pilot projects.

The differences in legislation and regulations were discussed by the workgroup for 29 identified barriers. Each requirement was assigned a rating of high, medium, or low in terms of their potential to prevent or complicate the delivery of a coordinated or shared trip. Impact ratings are defined as:

High Impact: Changes are needed to federal and/or state laws, regulations or policies before coordinating or sharing trips.

Medium Impact: Changes to broker and/or operator contract requirements, and possibly state WACS, may be needed before coordinating or sharing trips.

Low Impact: Minor inconsistencies among operator practices that may impact coordination of services or shared trips. A factor that can easily be addressed before coordinating or sharing trips.

No Impact: No conflicts or discrepancies in federal, state or local regulations. No changes needed.

Of the 29 regulatory requirements reviewed, 5 were identified as having a high impact to coordinating or sharing trips. There were 2 rated as a medium impact, and the majority was rated as low impact (18) or no impact (4).

A summary of the impact rating is provided below.

Table 6: Summary of Barrier Impact Ratings by Requirement Type

	High Impact Barriers	Medium Impact Challenges	Low Impact Challenges	No Impact
Service Delivery Requirements	None	None	<ol style="list-style-type: none"> 1. Service areas 2. Pickup/drop off windows 3. Trips lengths and times 4. Service levels/standards 5. Advance notice 6. Service hours 	None
Driver Requirements	None	<ol style="list-style-type: none"> 1. Background checks and fingerprints 	<ol style="list-style-type: none"> 2. Training requirements 3. Medical regulations 4. Drug and alcohol testing 	<ol style="list-style-type: none"> 5. Licensing
Vehicle Requirements	None	<ol style="list-style-type: none"> 1. Lift/ramp requirements 	<ol style="list-style-type: none"> 2. Child seats 3. Vehicle insurance coverage 	<ol style="list-style-type: none"> 4. Vehicle specifications 5. Securement 6. Maintenance and operations
Eligibility Requirements	None	None	<ol style="list-style-type: none"> 1. Program eligibility 2. Definitions of senior 3. Definition of disability 4. Definition of income 5. Ability to ride the bus 6. Trip purpose 7. Attendants and escorts 	None
Cost Sharing and Reimbursements⁹	<ol style="list-style-type: none"> 1. Usual and customary fares 2. Payer of last resort 3. Dual eligibility 4. Shared seat cost allocation 5. Mileage reimbursement 	None	None	None

⁹ Not a regulatory barrier, but workgroup identified a technology barrier in that the ability to allocate costs of shared trips is not currently a feature of any of the trip software.

Discussion of High Impact Barriers

All five of the high impact barriers or regulatory challenges are found at the federal level, and are related to restrictions in allocating or reimbursing the costs of shared trips. They are:

- Usual and Customary Federal Regulations
- Payer of Last Resort Federal Regulations
- Dual Eligibility Cost Allocation
- Shared Seat Cost Allocation
- Mileage Reimbursement

USUAL AND CUSTOMARY REGULATIONS

In the past, NEMT brokers were restricted to only pay transit the usual and customary rate charged to the general public for both fixed route and ADA paratransit. FTA regulations¹⁰ limit the amount ADA paratransit providers can charge its riders to no more than twice the fare charged for the same or similar trip on the transit provider's fixed route system.

Therefore, reimbursing transit for a NEMT trip at the rate of an ADA paratransit fare (typically around \$2.00) is grossly under the actual cost of providing the trip (typically around \$40.00).

The Deficit Reduction Act clarified that the Medicaid program, when using a governmental broker, "pays no more for **fixed route public transportation** than the rate charged to the general public and no more for **public paratransit services** than the rate charged to other State human services agencies for comparable services."¹¹ In Washington State, there is currently one governmental broker in region #3A serving Island, San Juan, Skagit and Whatcom counties.

¹⁰ CFR Part 37.131 (c)

¹¹ CFR 42.440.170 (a)(4)(ii)(B)(4)(iii)

For non-profit brokers, there is no restriction from “negotiating rates with public transportation providers” and “it is appropriate and consistent with current practice for Medicaid to pay more than the rate charged to disabled individuals for a comparable ride.”¹² In Washington State, all of the remaining brokers in the thirteen regions are non-government, non-profit brokers.

Based on recent conversations between DSHS and CMS, it is not clear that the FOW interpretation of the federal regulations is consistent with the CMS interpretation. To avoid audit risk, the FOW submitted a letter to CMS in September 2010 (see Appendix E). The letter notified CMS of the pilot projects and the FOW interpretation of the federal regulations, and requested their approval and participation. The letter also invited CMS to be included in the workgroup. To date, CMS has not responded to the letter nor participated in FOW meetings.

PAYER OF LAST RESORT REGULATIONS

Per federal statute¹³, CMS regulations¹⁴, state law¹⁵ and DSHS rule¹⁶, Medicaid funds are to be used after all third party liability coverage for medical services has been exhausted (e.g. health insurers).

This so-called “payer of last resort” rule has historically created barriers to coordinating transportation and sharing trips between NEMT and transit agencies. DSHS has taken no official position on the issue, and allows the NEMT brokers to develop solutions with transit agencies that work for their region as long as they meet the contractual requirements of their funding sources. Some brokers interpret the rule to mean that ADA paratransit is a third party available to provide NEMT services, and therefore financially responsible for the NEMT trips.

Transits maintain that they are not required by the ADA to meet specific specialized transportation needs. In cases where there is a distinct system set up to address a designated need, such as school districts, public transit is not required to provide services. NEMT paratransit services, arguably, fits this category.

¹² Page 77524-5 of 42 CFR Part 440

¹³ Sec.1902. [42 U.S.C. 1396a](a)(25)(A) (portion of Social Security Act)

¹⁴ CFR 433.139 Title 42 (b-f)

¹⁵ RCW 74.09.185

¹⁶ WAC 388-501-0100 and WAC 388-505-0540

As discussed in the prior section on the Usual and Customary rule, the Deficit Reduction Act attempted to clarify that brokers can compensate transits for NEMT paratransit trips.

The primary challenge in Washington State is that a clear and consistent application of financial responsibility by trip is not applied statewide.

DUAL ELIGIBILITY

Publically funded paratransit programs have established both eligibility criteria for their clients and service standards for providers that are not always consistent with each other. For example, ADA paratransit services are provided based on a disability that makes it impossible to use a fixed-route bus, whereas Medicaid transportation eligibility is income-based and restricted for medical purposes. NEMT brokers operate off of statewide Medicaid performance standards, while the 30 public transit systems have latitude in the implementation of eligibility criteria for their ADA complementary paratransit system.

For persons who are eligible for more than one transportation program (i.e. a low-income person with a disability going to a medical appointment), there is no standard practice for determining which program has primary responsibility for covering the cost of that trip.

Nationally, while some states have established a cost sharing model to encourage shared uses of a vehicle by two (or more) clients, there are few, if any, examples, of cost sharing arrangements should a person be eligible for more than one transportation program.

In most of the NEMT regions that have a substantial transit presence, transit agencies provide up to 10 to 30 percent of the total NEMT paratransit trips. It is unknown how many ADA eligible passengers are carried by the NEMT program, but DSHS normally considers that the dually eligible passenger costs were being properly shared between NEMT and the ADA service if it falls within the 10 to 30 percent range.

The debate over who is the “payer of last resort” is particularly relevant for dually eligible passengers. In identifying a range of coordination opportunities, it is important to establish a clear method for determining where dual eligibility exists (by sharing

client database information or through some other mechanism) and establishing an equitable method for sharing costs among responsible agencies.

Impacts of Policy Changes

In addition to identified barriers, policy changes to any transportation program affects the ability of other transportation programs to effectively deliver services. For example, policy changes to the delivery of transportation to Adult Day Health has had an extremely impacted many transit agencies.

Adult Day Health (ADH) is a vital program that helps individuals with significant disabilities, including medically fragile adults, remain in the community and avoid more costly nursing care or hospitalization. It is also among the largest sources of special needs transportation in Washington State. The individuals who attend ADH have a wide range of disabilities and serious chronic medical conditions. Many are seniors, and many are also individuals with low incomes who are unable to provide their own transportation.

For many years, public transit ADA service and Medicaid NEMT paratransit, were splitting the provision of ADH trips. However, in July of 2009, the Centers for Medicare and Medicaid Services (CMS) required Washington State to remove ADH from the Medicaid State Plan. CMS agreed to allow the Aging and Disability Services Administration (ADSA) to provide ADH under a home and community based waiver (Section 1915(i) of the Social Security Act); as a waived service, any transportation is provided under the requirements of the waiver.

ADSA developed contracts with ADH providers, which included \$15.00 per day per client for transportation. Although the scheduled effective date of the change was 07-01-2009, a court decision resulted in a delay to 01-01-2010.

SHARED SEAT ALLOCATION

Whenever two or more customers are being transported in a vehicle at the same time and those customers are sponsored by different funding sources, each sponsoring organization is obligated to ensure that it only pays for its share of the service and that it is not subsidizing the transportation of the other riders. This requirement starts at the federal level, according to 42 CFR Part 440.170.

Many recognize that a shared seat allocation, which can be based on time or miles, is an equitable cost allocation methodology. This also happens to be the most complicated methodology to implement and automate. Diagram 4 below illustrates how costs would be allocated for two riders funded by two sponsoring agencies, based on shared ride miles.

Diagram 4: Example of Cost Allocation

	Pick Up-1	Pick Up-2	Drop Off-1	Drop Off-2	Sponsor Total
Sponsor	A	B	A	B	
Miles	4	10	-	6	
Sponsor Cost@ \$2.50/mile	\$10.00 A	\$12.50 A \$12.50 B		\$15.00 B	A = \$22.50 B = \$27.50

A vehicle in the coordinated system picks up Customer 1 sponsored by Sponsor A, then picks up Customer 2 sponsored by Sponsor B, then drops off Customer 1, and then drops off Customer 2.

Assuming the provider has calculated the cost per mile is \$2.50, customer 1's trips costs 9 miles * \$2.50 = \$22.50 (where 9 = 4 miles + ½ of 10 miles) and Customer 2's trip costs 11* 2.50 = \$27.50 (where 11 = ½ of 10 miles + 6 miles). The mileage in common is split evenly between the two customers. Customer 1's total trip is 14 miles and Customer 2's total trip length is 16 miles.

Sponsor A pays \$22.50 for a shared trip, rather than \$35 for a single trip, and Sponsor B pays \$27.50 for a shared trip, rather than \$40 for a single trip.

The Yakima Valley pilot project has existing technology that currently automates this cost allocation methodology, but does not have technology to determine eligibility by funding source.

The Olympic Peninsula pilot project is seeking to share rides between Veteran and Medicaid transportation programs. In order to minimize the administrative complications of shared seat allocations, the project is recommending a flat rate be established for all non-NEMT riders. The NEMT program would pay for the cost of the trip, less any fares paid by non-NEMT funders.

During the State Medicaid Plan Amendment review process, any proposed cost allocation methodology is be reviewed by the Centers for Medicare and Medicaid Services.¹⁷ During this review, states have to show that Medicaid funds are not utilized to subsidize other agencies.

The flat zone rate, or other simplified cost allocation methodologies, is not currently authorized in the State Medicaid Plan. The FOW included in the September 2010 letter to CMS (see Appendix E) a request to develop an acceptable and flexible cost allocation process for shared rides, including the flat zone rate. To date, CMS has not responded.

MILEAGE REIMBURSEMENT

Current law allows charities to reimburse volunteers, on a nontaxable basis only, up to the charitable mileage rate of 14 cents per mile. What this means is that volunteer drivers are required to report any mileage reimbursement amount beyond \$.14 as income. This law negatively impacts volunteer recruitment and retention, severely impacts the viability of volunteer driver programs and ultimately service to people with special transportation needs who need a higher level of assistance than public transportation provides. The Internal Revenue Service (IRS) has the authority to regulate mileage rates for business and medical/moving purposes, but not for charitable activities. The charitable rate can only be adjusted through legislation, and has remained unchanged since 1997.

¹⁷ 45 CFR 95.517

The Internal Revenue Service (IRS) has released the standard mileage rates used to calculate the deductible costs of operating an automobile for business, medical/moving, and charitable purposes for 2011. Beginning January 1, 2011, the new rates will be:

- 51 cents per mile for business miles driven
- 19 cents per mile for medical/moving purposes

The standard mileage rate for volunteers driving in service of charitable organizations remains at 14 cents per mile.

In addition, the rate at which the Veteran's Administration reimburses veterans is at 41.5 cents per mile.

Recommendations

COST SHARING

The Federal Opportunities Workgroup cost sharing recommendations addresses the identified barriers of “usual and customary fares” and “payer of last resort” federal regulations, dual eligibility, and shared seat cost allocation. In preparing the recommendations, the FOW agreed upon the following set of principles:

- Before implementation, recommendations are supported by a fiscal analysis and a State Plan Amendment, which are approved by the Centers for Medicare and Medicaid Services and funded by the State Legislature.
- Transit agencies should be compensated more than the public fare when providing a NEMT paratransit trip arranged by a NEMT broker.
- NEMT trips should continue to be brokered to the lowest cost, most appropriate providers.
- The competitive process remains intact. The role of private and non-profit transportation providers is highly valued in the NEMT provider pool.
- The impact on passengers should be minimized.

FOW Medicaid and ADA Transit Recommendation: The Federal Opportunities Workgroup recommends that the NEMT program pursue an ADA referral policy where all NEMT paratransit services that are arranged by brokers be funded by the Medicaid Program, and transit agencies may pursue a NEMT referral policy where all

NEMT trips be referred to NEMT brokers. The concept is illustrated in Diagram 5. The details of the procedures would be worked along with the policy development and fiscal analysis.

The key benefit of this recommendation is that it leverages as much federal funding for human service transportation as possible, and provides more capacity for transits to provide services for people with disabilities.

Concerns to consider in implementation

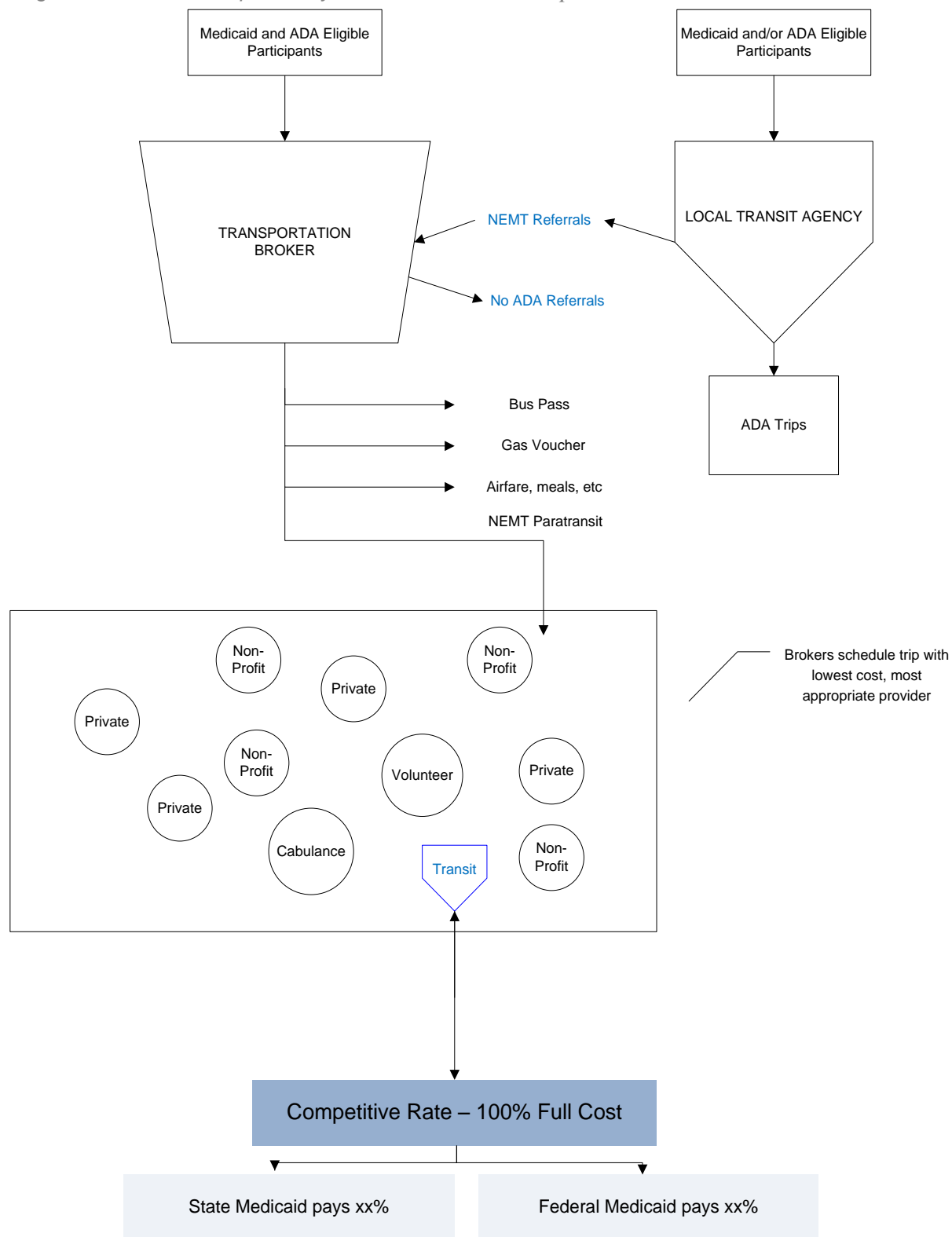
Workgroup members and interested stakeholders raised several concerns regarding potential unintended impacts of implementing of the cost allocation recommendations for non-emergent medical transportation and ADA paratransit.

These concerns should be carefully considered and addressed when pursuing changes to policies and procedures. In summary, these concerns relate to:

- Impact on riders if their transportation provider is different
- Preference given to medical trips if ADA paratransit providers are compensated for NEMT trips at a higher rate than the fare
- Potential to disclose health insurance coverage in order to arrange an ADA paratransit trip
- Impact of uniform practices on local-determination of service delivery
- Impact on private paratransit providers if public paratransit providers receive too many NEMT trips
- Impact on capacity of public paratransit providers if providers receive too many NEMT trips
- Ability or desire of public paratransit providers to take a non-ADA trip

FOW Comparable Rate Recommendation: The Federal Opportunities Workgroup recommends that ACCT's enabling legislation be expanded to direct the council to work on providing technical assistance for negotiating a comparable state human services rate, if needed. This is dependent on the response that ACCT gets from the Federal Medicaid Program on its proposed pilots.

Diagram 5: Financial Responsibility for NEMT and ADA Trips



FOW Funding Recommendation: In any future transportation decision package, the Federal Opportunities Workgroup recommends that the following be considered:

- Increased funding to the NEMT program for transit referrals to the NEMT brokers.
- Increased basic level of community transportation funding for critical unfunded transportation needs
- Funding for technical assistance and technology that supports cost sharing and coordinated scheduling.

FOW CMS and VA Recommendation: The Federal Opportunities Workgroup recommends that the Centers for Medicare and Medicaid Services and the Veteran's Administration allow more flexible cost allocation methodologies as long as it is more cost efficient for participating programs.

FOW Executive Order Recommendation: The Federal Opportunities Workgroup recommends that the Washington State Governor's Office issues an executive order to all state agencies that encourage federal, state and locally-funded transportation programs to share trips when cost effective.

FOW CMS Recommendation: The Federal Opportunities Workgroup recommends that the Centers for Medicare and Medicaid immediately respond to the September 2010 letter, and respond within 6 months to any state plan amendment regarding changes to the NEMT program.

MILEAGE REIMBURSEMENT

FOW Volunteer Driver Recommendation: The Federal Opportunities Workgroup recommends supporting legislation that will adequately cover the costs incurred by volunteer drivers, thereby encouraging volunteerism and promoting coordination of special needs transportation in our communities. Any legislation should:

1. Exempt from a volunteer's taxable income any reimbursement by a charity for mileage up to the business rate;

2. Give the Treasury Department authority to change the volunteer mileage deduction rate, which has been fixed in statute at 14 cents per mile since 1997; and
3. Raise the volunteer mileage deduction immediately to 70 percent of the standard business deduction rate.

5. Sharing Client Information¹⁸

Not a barrier to coordination

Summary

The Health Insurance Portability and Accountability Act – otherwise known as HIPAA, is frequently cited as a barrier to coordinating transportation between Medicaid and other agencies. While HIPAA certainly needs to be considered when sharing client information for the purpose of providing more efficient transportation, it appears that the law does not preclude agencies from sharing trip information or grouping trips. Certain procedures must be followed under defined circumstances, which are outlined and managed by the Department of Social and Health Services (DSHS).

This chapter summarizes a very complex piece of legislation and regulations as it relates to the coordination of transit and human service transportation, and specifically, as it relates to the three transportation pilots that are striving to overcome barriers to coordination.

The author, Shannon Barnes, brings 15 years of HIPAA quality assurance, policy development and delivery of educational seminars working with public and non-profit agencies. However, the language in this chapter has not been adopted by any of the participating agencies. Whether a participating agency may disclose certain information to another or others for a particular purpose is a highly fact-specific determination that must be made on a case-by-case basis.

Health Insurance Portability and Accountability Act (HIPAA)

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 provides a list of standards for the electronic exchange of health care data and protects the privacy of individually identifiable health information. HIPAA also includes a Security Rule, which sets national standards for the security of electronically protected health information and the confidentiality provisions of the Patient Safety Rule,

¹⁸ This chapter responds to ESHB 2072, Section 1(6)(b) stating that the Federal Opportunities Workgroup is to “identify restrictions or barriers that preclude federal, state and local agencies from sharing client lists or other client information, and make progress towards removing any restrictions or barriers.”

which protect identifiable information being used to analyze patient safety events and improve patient safety. The Privacy Rule is located at 45 CFR Part 160 and Subparts A and E of Part 164.

HIPAA regulations are for the most part silent on the impact and responsibilities specifically for public transportation providers. However, in general public transportation providers will be required to comply with HIPAA if it is determined that, in addition to basic client demographic and medical service trip information, a client's protected health information (PHI) is also being shared when consolidating medical transportation trip information. HIPAA does not prohibit the sharing of PHI if it is needed to determine transportation cost efficiencies as long as the providers are in compliance with HIPAA regulations.

HIPAA regulations are not specific to Medicaid or Medicare but to health care providers, clearinghouses and health plans in general. Medicaid is usually considered a health care plan just like any other private health insurance company that pays a provider for health care services.

Covered Entities under HIPAA

The Administrative Simplification standards (45CFR 160.103) adopted by the U.S. Health and Human Services apply to any entity that is:

1. A health care provider that conducts certain transactions in electronic form. For example, a physician's office that electronically bills Medicaid and/or other insurance plans for medical services.
2. A health care clearinghouse which is an entity used to process or aid in the processing of information; may also be called a repricing company, billing service, community health information system, community health management information system, or "value-added" switch or network.
3. A health plan which is any group health insurance plan and includes all private healthcare insurers and HMOs, as well as public programs such as Medicaid (DSHS) and Medicare, federal and state employee benefits programs, and military and Veterans Administration programs.

A "Covered Entity" is allowed to share "Protected Health Information" with other entities in limited circumstances. Protected health information encompasses any

health information about a client that would identify that client, regardless of whether it is transmitted electronically or not. The Washington State Department of Social and Health Services is a covered entity.

Protected Health Information

Sometimes it is difficult to discern whether information is protected health information. The best way to determine if information is protected is the “common sense test.” If it seems like health information, pertaining to the “physical or mental condition, or functional status, of an individual,” then it is probably protected health information.¹⁹ Protected health information can be shared under the following circumstances:

1. With a “Business Associate” when a HIPAA Business Associate Agreement is in place. A Business Associate is defined as: a person or organization that performs a function or activity on behalf of a covered entity but is not part of the covered entity’s workforce. The business associates of a covered entity must fully comply with HIPAA’s privacy and security requirements. A business associate is generally a person/agency that provides services to a covered entity. A business associate can also be a covered entity in its own right (Part II, 45CFR 160.103).
2. When an authorization is signed by the client. Clients may consent in writing to allow their protected health information to be shared with others. Clients have the right to restrict what information can be shared and for what purposes. This authorization can be revoked by a client at any time.
3. For the purposes of Treatment, Payment, and Healthcare Operations. Covered entities and their business associates are required to share only the “minimum necessary” information to perform their business (45 CFR 164.502(b), 164.514(d)).

The data sharing agreement required by DSHS to be completed by Business Associates is provided under Appendix F.

Minimum Necessary Standard

The minimum necessary standard, a key protection of the HIPAA Privacy Rule, is derived from confidentiality codes and practices in common use today. It is based on sound current practice that protected health information should only be used or

¹⁹ As described in training by Jan Howell, Office of the General Counsel, State of Kentucky

disclosed when it is necessary to satisfy a particular purpose or carry out a function. The minimum necessary standard requires covered entities to evaluate their practices and enhance safeguards as needed to limit unnecessary or inappropriate access to and disclosure of protected health information. The Privacy Rule's requirements for minimum necessary are designed to be sufficiently flexible to accommodate the various circumstances of any covered entity.

HIPAA Compliance for Transportation Providers/Brokers

Nationwide, there is disagreement on the application of HIPAA Privacy as it relates to public transportation providers and their role as business associates. There is little guidance to determine if non-emergency medical transportation providers meet the business associate requirements or exceptions outlined in (45 CFR 160.103). 45 CFR 164.502(e), 164.504(e), 164.532(d) and (e).

It is the understanding of the Department of Social and Health Services that transportation providers in Washington State are required to comply with HIPAA if it is determined that a client's protected health information, including basic client demographic and medical service trip information, is also being shared when consolidating trip information for medical purposes.

It is the understanding of the Federal Opportunities Workgroup that HIPAA does not prohibit the sharing of protected health information if it is needed to determine transportation cost efficiencies, as long as the providers are in compliance with HIPAA regulations.

SHARING CLIENT INFORMATION

A covered entity's contract (e.g. DSHS) with a business associate (e.g. a transit agency) may not authorize the business associate to use or further disclose the information in a manner that would violate the HIPAA Privacy Rule if done by the covered entity (45 CFR 164.504(e)(2)(i)). Thus, a business associate contract must limit the business associate's uses and disclosures of, as well as requests for, protected health information to be consistent with the covered entity's minimum necessary policies and procedures. Given that a business associate contract must limit a business associate's requests for protected health information on behalf of a covered entity to that which is reasonably necessary to accomplish the intended

purpose, a covered entity is permitted to reasonably rely on such requests from a business associate of another covered entity as the minimum necessary.

SHARING TRIPS

To be in compliance with HIPAA, transportation providers and brokers need to ensure that an evaluation of the shared client's trip information has been done to determine if HIPAA provisions apply. If so, client and patient data can be shared if:

1. The required Business Associate Agreements are in place between the covered entity and the organizations that receive the protected health information;
2. Only the minimum necessary information is shared among the providers and/or brokers;
3. Protected health information is safeguarded according to the providers and/or brokers Privacy Plan and Business Associate Agreements; and
4. Clients have been properly educated about the providers and/or broker's HIPAA policies and practices and have signed authorizations to release information as directed by the client.

Multiple clients can be transported in a single vehicle to different health care provider locations as long the minimum necessary provision is followed. This is not a HIPAA violation and may be correlated to a doctor's office waiting room where numerous clients are waiting for different types of services at the same location.

LIABILITY AND RISK WITH FAILURE TO COMPLY WITH HIPAA REGULATIONS

According to the Centers for Medicare & Medicaid Services (CMS) civil money penalties or fines are only applied when a covered entity has demonstrated willful non-compliance, or has not cooperated with the investigation of a complaint and has been found non-compliant entity (45 CFR 160.402).

Fines are not levied just as a result of a complaint. CMS conducts an investigation of every valid complaint during which the covered entity has significant opportunities to demonstrate their compliance status, or to submit a corrective action plan (45 CFR 160.312). Only when an entity makes no effort to demonstrate compliance, or has committed and overt act of non-compliance, will consideration be given to invoking civil money penalties under HIPAA (45 CFR 160.408).

HIPAA AND THE FOW PILOT PROJECTS

Both the pilot projects in King County and the Olympia Peninsula require the sharing of client information. For the purpose of these projects, the project partners agree that HIPAA is not a barrier to sharing the client information needed to share trips. The project partners will put into place data sharing agreements that will comply with all the necessary requirements of HIPAA.

Recommendations

FOW HIPAA Recommendation : The Federal Opportunities Workgroup recommends that the Agency Council on Coordinated Transportation (ACCT) work with the Washington Department of Social and Health Services (DSHS) to gain clarity from the U.S. Department of Health and Human services to:

- Confirm whether transportation providers are a business associate of a covered entity.
- Clarify how transportation providers can group trips efficiently while maintaining the privacy of protected health information.

ACCT will work with DSHS to communicate the clarified procedures with transportation brokers and providers.

6. Systems, Reporting Requirements²⁰, and Definitions²¹

Consistent Performance and Cost Reporting

Summary

In this chapter, an overview of the cost and performance systems and requirements for transit agencies and Medicaid non-emergent medical transportation is provided. The scope of this study was unable to cover the systems and requirements for other transportation programs, including senior and veteran transportation.

Based on known cost and performance systems and requirements, the Federal Opportunities Workgroup developed performance measures for the pilot projects and also defined the performance terminology. In some cases the terms were already defined by existing reporting systems and the data is being collected systematically. In other cases, the Federal Opportunities Workgroup defined new terms that pilot projects will need to collect and report independently.

Reporting for Transit and Federal Transit Administration Funds

THE NATIONAL TRANSIT DATABASE

The National Transit Database, or NTD as it is commonly called, was designed to collect and disseminate uniform financial and operating data about the nation's public mass transportation providers. It is intended to support public investment decisions and to provide information for mass transportation service planning. About 600 transit operators use this system to report to the Federal Transit Administration on transit activities in more than 400 urbanized areas.

²⁰ This chapter responds to ESHB 2072, Section 1(6)(c) stating that the Federal Opportunities Workgroup is to “identify relevant state and federal performance and cost reporting systems and requirements, and work towards establishing consistent and uniform performance and cost reporting system requirements.”

²¹ This chapter responds to ESHB 2072, Section 1(6)(a) stating that the Federal Opportunities Workgroup is to “identify transportation definitions and terminology used in the various relevant state and federal programs, and establish consistent transportation definitions and terminology.”

The legislative requirement for the National Transit Database is found in Title 49 U.S.C. 5335(a)²². NTD performance data are used to apportion over \$5 billion of FTA funds to transit agencies in urbanized areas (UZAs). Recipients or beneficiaries of grants from the Federal Transit Administration (FTA) under the Urbanized Area Formula Program (Section 5307) or Other than Urbanized Area (Rural) Formula Program (Section 5311) are required by statute to submit data to the NTD. There is no statutory requirement for agencies that do not receive funding through Section 5307 or Section 5311 to submit NTD reports.

NTD's use of common definitions for both financial and operating categories facilitates the comparison of transit operators around the country. Reporting requirements use precise definitions of such things as revenue hours, operating costs, and service interruptions, which were previously defined in differing ways by transit operators. Regulators, academics, and individual operators use this information to gauge the relative success of different operating strategies.

The federal government uses NTD information to assist in allocation of grant funding and determination of program success. Most significantly, NTD is a key factor when the federal government determines the amount of federal assistance to allocate to local transit agencies. Section 5307 funds are apportioned on the basis of legislative formulas that utilize data collected from the NTD. For areas of 50,000 to 199,999 in population, the formula is based on population and population density. For areas with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, fixed guideway revenue vehicle miles, and fixed guideway route miles as well as population and population density. NTD

²² The legislative requirement for the NTD is found in Title 49 U.S.C. 5335(a):

(a) NATIONAL TRANSIT DATABASE — To help meet the needs of individual public transportation systems, the United States Government, State and local governments, and the public for information on which to base public transportation service planning, the Secretary of Transportation shall maintain a reporting system, using uniform categories to accumulate public transportation financial and operating information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(b) REPORTING AND UNIFORM SYSTEMS — the Secretary may award a grant under Section 5307 or 5311 only if the applicant and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

data has also become a widely accepted basis for comparing the operational effectiveness of different transit agencies.

States that receive and distribute Section 5311 funds must also report to NTD. The State Department of Transportation, which administers the balance of Section 5311 program funding in Washington State, is responsible for collecting and providing data to the NTD regarding each subrecipient in the State. Three categories of subrecipients are recognized within the enabling legislation: Regular Public Transit Service Providers, Tribal Transit Recipients, and Intercity Bus Providers. Data for each category must be provided.

This is a continuing requirement. States must submit an NTD Rural report for any Section 5311 subrecipient throughout the minimum useful life of any capital assets purchased with those funds. This may include subrecipients that did not receive any 5311 funds during the current year. Reports must include a complete report of all transit operations for the subrecipient, regardless of the source of funding for that program element.

A variety of operating and financial data is collected under the NTD program. The FTA recognizes rail, bus, demand responsive and vanpools as eligible activities and operating statistics for each activity are included in agencies' NTD submittals. All are subject to the same requirements identified in the federally required NTD reporting system although the level of detail required varies depending upon the size of the reporting transit system.

Summary of the different types of data collected under NTD

- Identification Information - Basic organizational and transit service information about transit agencies filing National Transit Database (NTD) reports. Agencies are also required to identify their key staff members and the contractual relationships used for the delivery of service. (all transit agencies).
- Funding - Both operating and capital by funding by category of funds must be identified. The funding categories cover sources generated by the transit agency and from federal, state and local governments. Agencies are required to identify the total amount earned from each source, as well as the amounts applied to operating and capital expenses. Agencies must identify funding by federal, state, local government and other sources used for operating or capital projects. Any funding that is provided to other public transit operators must also be identified. (all transit agencies)

- Uses of Capital - Capital projects, by type of project and by project need, are identified. These can be an improvement that supports existing transit services or for expansion of transit services. The required data for uses of capital funds are reported on one form by mode and type of service. (required for all transit agencies except those filing a Nine or Fewer Vehicles Waiver)
- Operating Expenses – These must be broken out by object class and function. The required data use standard expense object classes (line items) detailed by function (activity performed), as specified in the Uniform System of Accounts. Transit agencies complete a separate report for each mode and must separate directly operated from purchased services. In addition, agencies are required to submit a separate system wide summary report. (required for all transit agencies except those filing a Nine or Fewer Vehicles Waiver)
- Employees – The number of transit agency employees (person count) and their total work hours is required. Data are reported by mode for directly operated service only. In addition, operators' wages must be detailed, breaking down hours worked and wages paid to employees functioning as operators. This includes the identification of operating and non-operating paid work time. (required for all transit agencies with 150 or more vehicles except demand response and vanpool modes)
- Physical Facilities - Passenger stations and maintenance facilities for both directly operated and purchased transportation services must be identified. (required for all transit agencies except those filing a Nine or Fewer Vehicles Waiver)
- Transit Way Mileage - Transit agencies operating on fixed guideway must identify the amount of service that operates on these facilities. (Does not apply to ferryboat, demand response, jitney, and vanpool modes)
- Revenue Vehicle Inventory – The characteristics of the vehicles (age, miles operated, etc.) in the fleet must be detailed. (required for all transit agencies)
- Maintenance Performed - Systems report data on revenue vehicle system failures and hours spent on inspection and maintenance by the transit agency's service personnel. (all transit agencies)
- Energy Consumption - Vehicle fuel consumption by type of fuel is reported. (all transit agencies)
- System Security - NTD collects information on safety and security-related incidents. The number and nature of incidents such as collisions, fires, and derailments that have occurred, as well as the number of security incidents classified by defined categories. (Reporting requirements vary depending on size of system and type of incident)
- Service Operated - The number of hours and miles (total service and revenue) for each service category Sundays and the number of days service operated each period. (all transit agencies except those filing a Nine or Fewer Vehicles Waiver.)
- Ridership. The number of boarding passengers by service type and day of the week is reported. (all transit agencies except those filing a Nine or Fewer Vehicles Waiver.)

- CEO Certification – All data must be certified by the transit agency's chief executive officer. (all transit agencies except those filing a Nine or Fewer Vehicles Waiver)

A separate Rural General Public Transit Service form is used to collect key financial and non-financial operating information for each rural general public transit provider within the state. Typically, the state agency administering the Formula Program for Non-Urbanized Areas (Section 5311) will be responsible for the data collection and compilation from each rural provider in the state serving the general public.

NTD reports are prepared annually. These are supplemented by monthly reports that summarize ridership and service delivered. All NTD reports are subject to audit.

WASHINGTON STATE REPORTING SYSTEM

The Washington State Department of Transportation collects and/or reports transit and community transportation data on an annual basis.

The process for producing the Summary of Public Transportation has undergone substantive changes in the last 3 years. The data collection for the years previous to the 2008 Transit Data Update was substantially more onerous for WSDOT and the 28 transit providers statewide. The data collection generally started in February or March (prior to the finalization of the annual financial statements for most of the transits) and consisted of multiple rounds of requests for information and then clarifications from each transit followed by reviews and further clarification. For the 2007 Summary of Public Transportation, this process was not completed until October.

For the 2008 reporting year as a cost cutting measure, WSDOT proposed changing the publication for the Public Transportation Summary to every other year. WSDOT also worked with the Washington State Transit Association (WSTA) and a group of stakeholders on trying to streamline the process and make it both easier and less time consuming for every organization involved while still getting the data into the hands of the appropriate decision makers. As a result of this process, WSDOT and WSTA collected just the ridership and financial data for 2008 and published the 2008 Transit Data Update in November of 2010. On December 2, 2010 the request for the 2009 data was sent out to the transit agencies by WSDOT and is on schedule to publish in January of 2011.

The following data is currently collected and reported by WSDOT for all transit agencies.

Annual Operating Information:

- Service Area Population (OFM)
- Fixed-Route/Commuter Rail/Light Rail/Route-Deviated/Demand-Response/Passenger Ferry(Vanpooling/by Type)
 - Revenue Vehicle(Vessel) Hours
 - Total Vehicle(Vessel) Hours
 - Revenue Vehicle(Vessel) Miles
 - Total Vehicle(Vessel) Miles
 - Passenger Trips
 - Diesel Fuel Consumed (gallons)
 - Gasoline Fuel Consumed (gallons)
 - CNG Fuel Consumed (Therms)
 - Electricity Consumed (Kwh)
 - Employees - FTEs
 - Operating Expenses
 - Farebox Revenues
- Annual Operating Revenues
 - Sales Tax
 - Utility Tax
 - MVET
 - Farebox Revenues(total of all farebox by mode)
 - Vanpooling Revenues
 - Federal Section 5307 Operating
 - Federal Section 5307 Preventative
 - Federal Section 5311 Operating
 - FTA JARC Program
 - Other Federal Operating
 - State Rural Mobility Grants – Competitive
 - State Regional Mobility Operating Grants
 - State Special Needs Grants
 - State Sales Tax Equalization
 - Other State Operating Grants
 - County Tax Contributions
 - Sound Transit Operating
 - Other
 - Total
- Total Operating Revenue
 - Total Local Revenue

- Total State Revenue
 - Total Federal Revenue
- Depreciation
 - Depreciation
- Annual Operating Expenses
 - Annual Operating Expenses (Sum of Operating Expenses by mode)
 - Other (not allocated to mode)
 - Total
- Debt Service
 - Interest
 - Principal
 - Total

Annual Capital Expenses/Revenues

- Total Capital Expenses
- Federal Capital Grant Revenues
 - Federal Section 5307 Capital Grants
 - Federal Section 5309 Capital Grants
 - Federal Section 5311 Capital Grants
 - FTA JARC Program
 - Federal STP Grants
 - CM/AQ and Other Federal Grants
 - Total Federal Capital
- State Capital Grant Revenues
 - Rural Mobility Grants
 - Regional Mobility Capital Grants
 - Special Needs Grants
 - Sales Tax Equalization
 - Vanpool Grants
 - Other State Capital Funds
 - Total State Capital
- Local Capital Revenues
 - Local Funds
 - Capital Reserve Funds
 - Operational Revenues
 - Bonds Proceeds
 - Other
 - General Fund
 - Total Local Capital

- Ending Balances, December 31
 - General Fund
 - Unrestricted Cash and Investments
 - Operating Reserves
 - Working Capital
 - Capital Reserve Fund
 - Contingency Reserves
 - Debt Service Fund
 - Insurance Fund
 - Other
 - Total

In addition to the information collected from the transits, WSDOT also collects certain information from all of their grantees. This broadens the reporting base to include grantees that for profit and nonprofit providers and transportation brokers. This information includes:

- Fixed-Route/Commuter Rail/Light Rail/Route-Deviated/Demand-Response by Type
 - Revenue Vehicle Hours
 - Revenue Vehicle Miles
 - Passenger Trips
 - Operating Expenses
- Specialized Information Collected
 - Jobs Targeted for Jobs Access Grants
 - For Mobility Management Projects
 - Contacts Made
 - Trainings Given
 - Web Hits
- Annual Revenues
 - Federal Section 5311
 - FTA JARC Program
 - Other Federal
 - State Rural Mobility Grants – Competitive
 - State Regional Mobility Operating Grants
 - State Special Needs Grants
 - State Sales Tax Equalization
 - All Other if used as match
- Annual Expenses
 - Annual Operating Expenses (Sum of Operating Expenses by grant project)

WSDOT is currently working with the Joint Transportation Commission, Washington State Transit Association, transit general managers and others to determine what the annual transit report should include, how the report should be compiled and by

whom, and the reporting timeline. Discussions on inclusion of Rural, Intercity and Special Needs Transportation are also being considered as a part of this process.

STARFISH PROJECT

The Starfish Project is the development of an online tool called “Starfish” that centralizes data and information pertaining to the Department’s Strategic Plan. It provides the ability to monitor and report on the status of the Department’s progress toward accomplishing its strategic goals. Each “Action” along with the associated Goal, Strategy and Objective, make up a single Departmental Directive. This is the tool that will be used to implement the Department’s Strategic Plan.

Initially, Starfish will be built and tested by the Public Transportation Division, but will be developed for department-wide use. Starfish will also be designed so that it can be re-tailored to be used by any state agency.

Starfish will allow for the creation of performance measures within the system and will include the options of adding photos and/or case studies specific to each Directive. Information pertaining to each Directive will be associated to that Directive, including the Division responsible, the Director and Assistant Director (approving authority), Program/Project Manager, Program Technician, external requirements, due dates, and much more.

Starfish will provide custom and static reports, as well as the ongoing status of each strategic Directive. Once the system is populated, a dashboard on WSDOT’s website will provide access to the data in the form of charts and graphs.

Reporting for Medicaid NEMT Transportation

Federal regulations (42 CFR § 431.53) require each State to ensure that Medicaid beneficiaries have necessary transportation to and from medical providers and to describe, in its State plan, the methods that the State will use to meet this requirement. To safeguard against fraud and abuse, Federal regulations (42 CFR § 455.13) require that each State Medicaid agency establish methods for identifying and investigating suspected fraud and abuse cases and referring them to law enforcement.

States must report monthly to the Medicaid Purchasing Administration (MPA) on expenditures for each client receiving benefits under the NEMT program. Expenditures must be consistent with the State plan. This is part of the monthly billing process presented to the MPA Fiscal Office, which then forwards the appropriate information onto Centers for Medicare and Medicaid (CMS). Per 42 CFR 430.30:

Once CMS has approved a State plan, it makes quarterly grant awards to the State to cover the Federal share of expenditures for services, training, and administration. The amount of the quarterly grant is determined on the basis of information submitted by the State agency (in quarterly estimate and quarterly expenditure reports) and other pertinent documents.

Quarterly estimates. The Medicaid agency must submit Form CMS–25 (Medicaid Program Budget Report; Quarterly Distribution of Funding Requirements) to the central office (with a copy to the regional office) 45 days before the beginning of each quarter.

Expenditure reports. The State must submit Form CMS–64 (Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program) to the central office (with a copy to the regional office) not later than 30 days after the end of each quarter.

This trip expenditure information provides the basis for the on-going review activities of multiple federal oversight programs, including: 1. Medicaid Fraud Control Unit (MFCU); 2. Medicaid Integrity Program (MIP); 3. Payment Error Rate Measurement (PERM).

Concerns raised by any of the oversight programs can lead to an audit of NEMT, performed by the US Office of Inspector General (OIG). The OIG reviews records to ensure that NEMT expenditures are in accordance with the CMS regulations and the CMS-approved State Plan, and that funds are spent appropriately. The accuracy required of the State Plan pertains to all MPA programs, regardless of whether they are federally matched on an administrative or medical match basis. Adherence to their State Plan is one of the methods used by CMS to determine which programs to audit. Per the oversight programs listed above, states must conduct an annual Medicaid Eligibility Quality Control Program Annual Review. Sections 431.800 through 431.865 set forth the regulatory requirements for States to conduct this review. As part of this

review, states must review all active cases selected from the State agency's lists of cases authorized eligible for the review month, to determine if the cases were eligible for services during all or part of the month under review, and, if appropriate, whether the proper amount of recipient liability was computed.²³

DSHS also has monthly reporting requirements for the brokers that are part of its contract scope of work. While the report formats can vary by broker the information required covers documentation of trips requested for clients for medical services, verification of medical service provided, service transportation reports, identifying most costly clients, and accident reports if applicable. The following is a list of information that is collected by DSHS on a monthly basis:

- Number of one-way trips by mode (bus, paratransit, taxi, etc.) and by program (mental health, Adult Day Health, dialysis, etc.) as applicable.
- Total cost of trips
- Average cost per trip
- Total Service and Administrative costs, and average cost per trip of each.
- Number of unduplicated clients
- Percent of trip verifications performed
- Calls answering performance statistics
- Trip denial statistics
- Percentage of pick-ups/drop offs within waiting time
- Number of trips canceled/rescheduled
- Number of complaints
- Ethnic breakdown of recipients
- Lodging and meal costs
- Geographic location of trips, such as within or outside county, state, and country boundaries
- Activities of sub contractors

Monthly reports are due to DSHS by the 20th of each month. In addition to monthly reporting requirements, the DSHS contract requires brokers to maintain detailed client and trip information on a daily basis, such as trip details, eligibility level, cost authorized, and make it available for auditing purposes. Verification of trips is also required to ensure they were used for eligible medical purposes is required to be performed for at least 10 percent of a broker's trips.

²³ 42 CFR § 431.812

Cost and Performance Reporting for Pilot Projects

There is plenty of data being collected for the partner transportation programs in the FOW pilot projects. The question that the Federal Opportunities Workgroup sought to clarify is how the data is going to be used to inform policy makers about the outcomes and performance of the pilot projects.

For each pilot project, the Federal Opportunities Workgroup identified which of the goals for the 15-Year Vision for a Coordinated Transportation System in Washington State (Diagram 1) were being pursued. Combined, the projects aim to address all of the coordinated transportation system goal areas, with the exception of flexibility and safety.

Table 7: Pilot Project Performance Tied to Coordinated Transportation Goals

Goal #	Goal Criteria	Veterans Pilot	Transit/NEMT Pilot	Technology Pilot
#1	Accessible	X		
#1	People Centric	X	X	
#1	Simple	X		
#2	Cost shared fairly		X	
#3	Increase trips	X		
#3	Fill empty seats	X	X	
#3	Reduce vehicle miles traveled	X	X	
#4	Eliminate unnecessary redundancies		X	
#4	Streamline processes	X		X
#4	Improve efficiencies	X	X	X

For each of the goal areas, the workgroup identified performance measures they intend to track that will assess the progress and success of each of the projects. These measures are provided in Table 8.

Table 8: Pilot Project Performance Measures

Performance Measures	Pilot
Change in target population using transportation system	Veterans
Change in ride times	Transit/NEMT
Change in ride lengths	Transit/NEMT
Total revenue from new federal dollars for transit agencies	Transit/NEMT
Change in operating, administrative and capital costs to funders (e.g. DSHS) and providers (e.g. transit and private providers)	Transit/NEMT
Change in state dollars matching non-emergency medical trip dollars	Transit/NEMT
Change of passenger trips provided by transportation providers	Veterans
Change in total vehicle miles	Transit/NEMT
Change in average operating cost per passenger trip	All
Change in average operating costs per in-service miles for all funders, separately	Transit/NEMT
Change of eligible clients that have transportation options	Veterans/Technology
Change in cost-shared passenger trips	All

Performance Terminology - Definitions

Based on the identified performance measures for the pilot projects, the workgroup defined the key performance terms – or performance indicators. The project partners agreed to collect data for each project, as defined below:

COSTS

The Federal Opportunities Workgroup determined that the NTD definition for operating and administrative expenses relates more to fixed-route, not paratransit trips. For the purpose of the pilot projects, the group determined that, at this point, each agency needs to continue to report costs for paratransit trips as they currently

define it. However, when the performance data is reported, it needs to clearly delineate the following;

- Operating/Service Costs, Administrative Costs, and Capital Costs
- Assumptions for each category (i.e. how does each agency define operating, administrative and capital costs)

PASSENGER TRIPS AND/OR BOARDINGS

Definition: One-way, unlinked trips provided to an individual between origin and destination. Includes children and personal care attendants, and each leg of the trip (transfers).

The FOW believes this definition is consistent with the NTD definition. This definition is not the same as a billable trip.

IN-SERVICE MILES OR HOURS:

Definition: Miles or hours of travel operated while a passenger is on board.

This definition is different than the NTD term “revenue service miles or hours” and “passenger miles and hours”. While the concept of revenue hours/miles is well established within the fixed route transit industry, local agencies often employ standards that are not fully consistent with the federal definition. Most especially, some agencies include time/miles traveling between the maintenance base and the beginning/end of route service. This can hamper the comparability of performance statistics. In addition, revenue hours/miles for demand responsive services again exclude travel to/from the garage. When a contract operator uses the same vehicle to operate several different types of service, the calculation of revenue hours/miles may prove challenging. It requires a common understanding about when one type of service ends and another begins. And finally, many vanpool operators do not have an easy way of collecting revenue service information and believe that asking volunteer drivers to collect this sort of information would be onerous and nearly impossible to validate.

For these reasons, the FOW adopted a new term of “in-service” miles/hours, of which project partners will collect independently.

TOTAL VEHICLE MILES

Definition: All miles put on the vehicle, whether a passenger is on the vehicle or not.

This data is collected for dedicated services, such as transit fixed-route.

RIDE TIMES

Definition: Time from pick-up to drop-off

RIDE LENGTHS

Definition: Miles from pick-up to drop-off

Recommendations

FOW Pilot Recommendation: The Federal Opportunities Workgroup recommends that the pilot projects track and report to ACCT the project results in the terms defined in this study, and make recommendations where appropriate. Recommendations could include clarity of definitions or improvements to the cost and performance systems and reporting requirements of the Federal Transit Administration, the Washington State Department of Transportation, the Washington State Department of Health and Human Services, and the Washington State Veteran’s Administration.

FOW Data Recommendation: The Federal Opportunities Workgroup recommends that federal and state agencies assess their data reporting requirements, identify which data elements are used to measure performance or used to allocate costs, and eliminate collection of unused data.

FOW Reporting by Type Recommendation: The Federal Opportunities Workgroup recommends that the following characteristics of trips should be taken into account when reporting performance information.

Population:	Rural, small urban, urban and/or population density
Mode:	Demand response, fixed-route, volunteer,
Trip Type:	Curb to curb, door to door, door through door

Assumptions should be clearly highlighted when comparing performance data between systems or projects.

Appendix A

Cost Sharing and Allocation Practices

Alternative Cost Sharing Practices

Most transportation services that operate service directly²⁴ have defined their unit cost, derived by taking the operations cost or variable costs (any part of the cost structure that is affected by volume of trips) and dividing that total cost by the total number of revenue vehicle hours or revenue vehicle miles. This yields an operational cost per revenue vehicle hour or a cost per revenue vehicle mile.

$$\text{OPERATIONS COST (VARIABLE COSTS)} \div \text{REVENUE VEHICLE HOURS OR MILES} \\ = \text{UNIT COST}$$

In some circumstances, it may be appropriate to include in this total the administrative/management or fixed cost into this calculation. At other times, reimbursement of such costs can be handled differently. For example, in a coordinated system utilizing a fixed amount per month, the portion of the administrative/management/fixed cost amount per month associated with each sponsor is typically determined by using the historic ratio of the annual volume of trips to the total annual number of trips, divided by 12. Each sponsor is then billed this amount each month.

$$(\text{ANNUAL ADMINISTRATIVE/MANAGEMENT/FIXED COSTS} \times \text{HISTORIC RATIO} \\ \text{OF SPONSOR'S TRIPS TO TOTAL TRIPS}) \div 12 = \text{MONTHLY MANAGEMENT FEE}$$

In the case where an entity functions as a broker or retains a broker or call center manager that does not also operate service in the system, the cost of the brokerage or call center functions could be split up into monthly fixed costs, as described above. The operational cost of service, as supplied by the service providers, and invoiced to the broker, can be subject to a cost sharing policy/practice that in part is based on the unit cost of service.

²⁴ It is important to note that examples of cost sharing applies more to dedicated service, where a vehicle is exclusively used in the coordinated system for a certain period of time during the day, and less to non-dedicated service providers (such as taxis and most volunteer drivers) which are used to augment the dedicated service, and are typically used for exclusive rides.

SHARING THE COST OF “DEADHEAD”

In some systems, a provider’s payment for dedicated service will be based on garage-to-garage time or mileage, or even first pick-up to last drop-off time or mileage. In either of these cases, the cost of deadheading, or the time in which the vehicle has no passengers but is starting or ending its service, needs to be included in the costing/payment calculations.

Perhaps the easiest way to do this is to take the time or mileage ratio that applies to each customer in the time block and divvy up the deadhead time preceding the block. In the case of garage-to-garage calculations that are included in revenue service, this leaves out the last deadhead back to the garage. There are two ways to handle this time or mileage attributed to deadheading back to the garage. One way is to apportion it based on the last block. In a way, this is a double whammy to the sponsoring organizations of the trips in the last block, but systems that have employed this method believe that it all evens out in the end. Another (and more visibly equitable) way is to apportion the last-pick-up-to-garage deadhead time/mileage based on the ratios from the collective set of blocks.

Alternative Cost Allocation or Invoicing Practices

The above discussion focuses on methods where by the cost of shared-ride service is apportioned to sponsoring organizations. Once these costs are determined, each lead agency or broker then must invoice the sponsoring organization for the cost of providing this service. The following presents two different alternatives of how this could be done.

Alternative 1: Actual Cost Method

One way to do this is to present the actual cost of service, as determined above. While this is the fairest and most accurate approach, it sometimes causes confusion for the sponsoring organization. For example, a trip may cost \$10 on Monday and \$5 on Tuesday. (On Tuesday, the trip was shared with a trip sponsored by another organization.) Wide swings in cost can therefore occur because of the fluctuating level of inter-agency ridesharing.

Note that flat-rating the trip (see Example 3 above) addresses this issue because the cost of that same trip will always be the same (as long as the unit cost per passenger-mile doesn't change).

Alternative #2: Average per Trip Cost Method

Another way to invoice for the service is to cost out trips based on Example 1 or 2 above for either all trips or a statistically relevant sample, total the cost, and divide the total by the number of trips to arrive at an average cost per trip. This average per-trip cost can then be used as the basis of billing. An average cost per trip is calculated for each sponsor. This facilitates the budgeting process for each sponsor because the sponsoring organization can roughly judge what budget is needed for the coming month or year based solely on the expected demand.

Some organizations using this method adjust their rate every quarter based on the experience in the preceding quarter. Others have been known to adjust their rate every 6 months or every year. The longer the period between adjustments, the more of a need there may be for a reconciliation process. Some sponsors may be willing to accept the concept that any gains or losses using this method (compared to the actual cost of service) will be taken care of during the next period. Other sponsors may require an audited reconciliation, with payments or losses being paid from one part to the other. In some cases, this reconciliation may need to be undertaken a while after the period in question if the sponsors' policies allow payment submittals to trickle in long after the end date of the period.

INCENTIVE PROGRAM

An incentive program, similar to the one utilized in Massachusetts, could also be employed to encourage lead agencies or brokers to improve on efficiencies. In this program, the average cost per trip becomes the "target unit cost." If actual costs, as determined by the cost-sharing practices, indicates that the actual cost is running below the target unit cost, the brokers who elect to participate in this incentive program keep the difference up to the first 3% of the annual projected revenue. After that threshold is reached, the sponsor keeps any additional savings.

MANAGEMENT COST INVOICING

If the administration/management/fixed costs of a lead agency or broker are not included in computing the cost of service, this cost can then be invoiced separately. Most systems that do separate out this from operations costs are reimbursed on a monthly basis.

Appendix B

King County Pilot – Transit as a Medicaid Provider

Pilot Description

PILOT PARTNERS: King County Metro, Washington State Department of Social and Health Services (DSHS); Hopelink

AREA SERVED: King County, replicable in other counties with public transit agencies

PILOT OBJECTIVES: This pilot will test whether or not efficiencies for state and local budgets could be found by having transits serve as non emergency medical transportation (NEMT) subcontractors in Washington State. Additionally, the pilot intends to explore the possibility of reimbursing transits for DSHS eligible rides at a fair, competitive rate based on actual costs rather than the fare box rate. This pilot will:

- Determine the extent to which Medicaid nonemergency medical transportation (NEMT) eligible trips are provided by Metro Transit..
- Determine the cost to local transit authorities for providing these trips
- Develop a cost sharing model for grouped NEMT and ADA trips.
- Determine if efficiencies are gained by scheduling NEMT and ADA paratransit trips together.

PROBLEM STATEMENT: The current number of NEMT trips taken on public transit ADA paratransit services is unknown, as is the number of ADA eligible NEMT trips currently being provided by private NEMT contractors. It will be necessary to use trip data to get an accurate finding of whether or not there are efficiencies to be found.

PROJECT QUESTIONS:

- a. What is the present cost to local transit authorities to provide NEMT trips on ADA paratransit service?
- b. What is the present cost to the state to have NEMT contracted providers transport clients who are also eligible for ADA paratransit service?
- c. Can efficiencies be gained by scheduling NEMT and ADA trips together?
- d. Will CMS allow NEMT to reimburse transits their true costs rather than the “usual and customary” rate for ADA paratransit services?
- e. What are the potential barriers to combining trips?

WORK PLAN:

Step 1: Data Sharing Agreement

To ensure that the data is only used for the purposes of this pilot, both parties agree to the following:

- a. The interests of the state, county, contractors and customers will be considered in the design of the model and the collection of the data
- b. Neither the state nor the county will divert trips to each others programs as a result of increased information about eligibility
- c. Data will be used to develop proposals on cost allocation models to present for federal approval
- d. The state and the county will sign a data sharing agreement to address all HIPAA issues.

Step 2: Dual Eligibility Analysis

Metro Transit will provide DSHS with a list of all riders on the ADA paratransit program in a one month period. DSHS will analyze this list and provide Metro Transit with a list of all the riders who are DSHS eligible.

- a. King County Metro will determine the value of Medicaid trips provided by Metro Transit for which they are not currently reimbursed with a funding match by federal Medicaid.
- b. DSHS/Brokers will determine the value of ADA paratransit eligible trips provided on NEMT contracted providers. If DSHS/Brokers are unable to complete this element of the pilot, the project report under Step 5 will be completed without this element and the information will be provided in a second phase.

Step 3: Efficiencies Analysis

- a. DSHS and King County Metro will provide one week of trip data from the NEMT program and the ADA paratransit program. King County Metro will combine the ADA and NEMT trip data and determine through testing on a secure server the extent to which scheduling NEMT trips and ADA paratransit trips together increases efficiency .
- b. DSHS/Broker will conduct the same test to determine the extent to which adding ADA paratransit trips to NEMT brokered trips increases the efficiency of the NEMT program. If DSHS is unable to complete this element of the pilot, Steps 4 – 5 will be completed without this element and the information will be provided in a second phase.

Each analysis will identify and document potential barriers to combining trips, including the effect of combining trips on the present efficiencies of the NEMT service

Step 4: Cost Sharing Model

If efficiencies are identified in Step 3, DSHS and King County Metro will develop a proposed cost sharing model.

Step 5: Project Report

Submit a report to the Federal Opportunities Workgroup by December 1, 2011 that outlines the status of the project as it relates to a) identifying solutions to streamlining the requirements identified as barriers, b) submitting a cost allocation model for federal approval, and c) exploring a fair and equitable cost allocation model to present for federal approval. If staffing resources are not available to conduct Part B in Steps 2 and 3, the project report will be submitted without that information and a second phase of the project will be added and the timeline extended.

ESTIMATED TIMEFRAME: This pilot will occur June 2011 through -December 2011.

Progress to Date

DSHS and King County Metro identified their respective Information Technology (IT) Point-of-Contacts (POC) that will work to complete the pilot's assigned tasks. The POC's identified the specific type and format of data that is required by DSHS's Office of Medicaid Systems and Data (OMSD).

Next Steps

DSHS will take all necessary actions to address any HIPAA related issues regarding the sharing of client identifying data with King County Metro.

DSHS will provide King County Metro client identifying information upon approval of the pilot(s) from CMS.

Data exchange for will begin in June 2011 and analysis will be completed by November, 2011.

Performance Measures and Targets

Success will be measured by completion of Steps 1-4. DSHS and King County Metro must analyze the data and identify potential barriers to combining trips; this process is essential to answering all of the pilot's questions. Performance measures by step include:

Steps 1 and 2

Eligibility

of dual eligible riders within DSHS' King County Medicaid eligible clients

of dual eligible riders within King County Metro's ACCESS eligible clients

of dual eligible riders who only use DSHS' King County Medicaid eligible clients

of dual eligible riders who only use King County Metro's ACCESS system

of dual eligible riders who use both systems

Steps 3 and 4 through implementation

Efficiency

change in average trip cost by system

change in average passenger trip miles (revenue miles excludes deadhead)

change in vehicle service hours

Customer Satisfaction

change in transfer rides

change in drop offs occurring half hour prior to the appointment time

change in pick-ups occurring half hour after appointment time

change in ride time

Appendix C

Olympic Peninsula Pilot – Simple Cost Share for Medicaid and Veteran Trips

Pilot Description

PILOT PARTNERS: Paratransit Services, Department of Social and Health Services (DSHS), Veteran's Affairs (VA)

AREA SERVED: Olympic Peninsula as the origination point (Mason, Clallam and Jefferson Counties); Central Puget Sound (King, Pierce and Kitsap Counties) as destination point.

PILOT OBJECTIVES: The key objective is to develop a simple and agreeable cost allocation method that would allow for non-Non-Emergent Medicaid Transportation (NEMT) riders (Veterans) to share an NEMT trip.

PROBLEM STATEMENT: There are significant transportation service gaps throughout Washington State, especially in the rural communities. There are people with special transportation needs without transportation options that require access to essential services, employment-related services, social connections and youth and senior activities. The publicly funded transit systems provide service to a small percentage of Washington State geographically while DSHS serves the entire state through its Non-Emergency Medical Transportation program. The transits do not serve many rural communities as they are outside their taxing jurisdiction and service boundaries. DSHS may be able to help fill the significant service gaps in rural communities by allowing non-NEMT riders to share NEMT trips for an appropriate fee, though there are apparent barriers to identifying a simplified cost allocation model that will be acceptable to CMS.

PROJECT QUESTIONS:

- 1) Can 42 CFR 440 be amended to allow for simplified cost allocation process for shared rides as long as it saves Medicaid money?
- 2) Can a funding source be identified for the direct and indirect cost of the VA portion of trips?

WORK PLAN:

1. Test the ride sharing potential available with NEMT transportation in communities outside of the Public Transportation boundaries.
2. Develop a simplified cost allocation model acceptable to participating funders. (For the purpose of this pilot, the non-NEMT riders will be limited to Veterans).
3. Identify a funding source for the Veterans portion of trip funding.

ESTIMATED TIMEFRAME: Once an acceptable cost-allocation formula is approved, Paratransit Services could launch the program within 30 days. Most of this time would be dedicated to marketing the program to the Veterans.

Progress to Date

Paratransit Services has performed preliminary research, conducted information seeking and brainstorming meetings with Disabled American Veterans Van program (DAV) program staff and Veterans, and surveyed a sampling of veterans attending a Stand Down event on the Olympic Peninsula which indicated there are unmet needs and support a decision to survey all Veterans on the Peninsula as the logical next step.

Paratransit Services has met with a variety of transportation partners: State, Regional and local DAV representatives, VA Puget Sound Social Work, VA Puget Sound Voluntary Services, VA Health Plan Management and the Veterans Beneficiary Travel Program.

The meetings have been positive and collaborative and focused on understanding the existing veteran's transportation system and identifying ways the Non-Emergency Medical Transportation (NEMT) Broker model could support and enhance the existing systems.

Partners are engaged in the process, believe that opportunities for coordination exist and additional data collection and planning work is required.

Next Steps

- Survey the Veterans on the Olympic Peninsula in order to determine the unmet need and provide data for the planning phase of the Project.
- Obtain approved cost allocation method from Centers for Medicare and Medicaid Services
- Create data tracking and reporting procedures for approved cost allocation method.
- Determine business rules for shared ride transportation between Veterans and NEMT Riders.
- Finalize trip request process for Veterans including phone and Paratransit Services shared ride website.
- Receive approval from DSHS and Veterans to proceed with project.

Performance Measures and Targets

Target Outcome 1:

Demonstrate a simple, equitable, cost allocation formula acceptable to all participating funders that will allow Veterans Administration clients to share NEMT trips.

Measure:

1. Centers for Medicaid and Medicare Services approve a cost allocation method.
2. WA State Veterans Administration approves the cost allocation method.

Target Outcome 2:

Increase transportation options for veterans on the Olympic Peninsula.

Measure:

1. Increased trips for Veterans in areas where there are currently no or limited transportation options available to the veteran.
2. Number of trips

Appendix D

Yakima Valley Pilot – Technology that supports cost allocation

PILOT PARTNERS: People For People, Washington State Department of Transportation, and Southeast Washington Aging and Long Term Care, Federal Transit Administration

AREA SERVED: Yakima County – outside of transit service area

PILOT OBJECTIVE: The key objective is to identify and implement technology/software programs that can handle multiple eligibility criteria and billing methodologies for multiple contracts with multiple funding sources. This project will identify how and if the current software used by People for People (Trapeze) can handle the eligibility determination and cost sharing for senior transportation services under three contracts – Yakima County Aging and Long Term Care, Job Access Reverse Commute (JARC) grant, FTA 5311 formula grant for non-urbanized areas, and Washington State Rural Mobility grant.

PROBLEM STATEMENT: People for People (PFP) is a community transportation broker and provider in Yakima County. The non-profit agency manages multiple contracts with multiple funding sources to provide transportation services to the general public and specific populations throughout the county. Each contract has different eligibility requirements and different billing and invoice methodologies. Currently, PFP's software system is unable to accurately determine program eligibility and/or provide multiple billing options. PFP must manually determine eligibility and schedulers have to determine where to record the trip. Many hours each month are spent reviewing data to determine correct coding for eligibility and cost sharing.

PROJECT QUESTIONS:

- 1) Is there a software program that will accurately determine multiple program eligibility and/or provide multiple billing options for four funding sources for senior transportation? If so, what is it? If not, can it be developed?
- 2) After the pilot, can additional funding sources and their eligibility requirements and cost allocation agreements be easily be accommodated by the software?

WORK PLAN:

Step 1: Existing Conditions Analysis

Review current cost-allocation plans, technology, and software programs; and identify eligibility criteria and billing basis for each contract to be included in software.

Step 2: Requirements Analysis

Identify the software requirements needed to accurately determine multiple program eligibility and multiple billing options.

Step 3: Recommendations

Review software options that are compatible to multiple eligibility criteria and billing methodologies. Develop report for the Federal Opportunities Workgroup outlining findings and recommendations.

Step 4: Implementation

After securing funding, develop the technology and modify or create a software system for coordinating and sharing all trip costs equitably across PFP programs (JARC, Older American's Act (ALTC), FTA 5311, and Rural Mobility).

ESTIMATED TIMEFRAME: The project partners anticipate that Steps 1-3 can be completed by December 1, 2010, and that Step 4 – if funded – could be completed by June 2011.

Progress to Date

- A matrix of contracts and requirements for providing transportation to older adults was developed.
- An analysis of the current system for the assignment of trips identified that determining accurate eligibility, cost-sharing, and tracking of trips is complex and requires manual assignment trips to the correct funding source.
- It was identified that there is no known software that has developed the functions to automate the assignment and tracking of trips.
- An Eligibility Matrix was developed to better understand the key criteria that would be necessary for software development to automate the process.

Next Steps

- Identify software functions that can be easily adapted to automate the assignment of trips for cost-sharing and tracking.
- Identify costs to develop the software and any ongoing cost to change/modify criteria or values.
- Identify resources to develop, train, and implement the new software
- Track and evaluate cost-effectiveness and customer satisfaction
- Share software that is adaptable for other agencies to implement

Performance Measures and Targets

It is the goal for People For People's Senior Transportation Project to reduce redundancies and errors in determining eligibility, cost-sharing, and tracking of trips

1. Increase customer satisfaction
2. Decrease the cost per trip

Appendix E

Letter to Centers for Medicare and Medicaid Services



STATE OF WASHINGTON

November 1, 2010

Frances Crystal
Centers for Medicare & Medicaid Services
Mail Stop S2-01-16
7500 Security Blvd
Baltimore, Maryland 21244

Dear Ms. Crystal:

This letter is submitted to you on behalf of the Federal Opportunity Working Group (FOW), created by Washington State legislation (ESHB 2072) in 2009. The FOW has defined several pilot projects intended to test different models that would promote coordination of transit and human service transportation services. We are writing to inform you of some innovative practices that we hope to implement in Washington State, and request your participation in successfully addressing key issues, including:

1. **Reimbursing Transit** - Per CFR 440, Final Rule, Adopted December 2008, Effective January 2009, a Medicaid transportation broker may pay "no more than the rate charged to other state human services agencies for comparable services." As this guidance offers an opportunity to broaden the circumstances under which public transit agencies can be reimbursed for their costs, we propose to establish a rate directly between the transit agency and the state Medicaid program. In the absence of an established rate charged to other state human service agencies, a new one will be developed that would be mutually agreed upon by CMS, the state Medicaid program, the King County Medicaid broker, and King County Metro.
2. **Local Match** - An additional option we are interested in pursuing is to count the investment made by local governments (transit) as match to the federal Medicaid program. If transit agencies carry Medicaid-eligible passengers as a NEMT service (at a higher level of service than ADA paratransit) to medical appointments, we intend to quantify the cost of these trips and allow the state to submit this amount as part of the local match for federal funds.
3. **Flat Zone Cost Allocation** - Per CFR 440, Final Rule, Adopted December 2008, Effective January 2009, Medicaid can only pay for Medicaid trips. A potential cost sharing methodology with other state and federal programs that would provide savings to the Medicaid programs as a whole would be a flat zone rate, which is currently not allowed. We would like to work with you to develop a flexible cost allocation process for shared rides between Medicaid and non

Medicaid trips, such as a flat zone rate, as long as it is more cost efficient for Medicaid.

The Federal Opportunity Workgroup

The Federal Opportunity Working Group (FOW) was created through Washington State legislation (ESHB 2072) in 2009. The FOW is comprised of representatives of state agencies, public transit agencies, regional planning agencies, human service agencies, and other stakeholders with an interest in promoting coordination of human service transportation programs within the State of Washington.

The FOW is tasked with reporting back to the Legislature key findings resulting from its deliberations, including:

- Identification of relevant federal requirements which prevent coordination of special needs transportation;
- Identification of solutions to these barriers; and
- Development of pilot projects intended to test new and creative approaches of service delivery to advance coordination of human service transportation programs within the State of Washington.

The FOW's efforts focus on opportunities to better coordinate transportation services sponsored through the Non-Emergency Medical Transportation (NEMT) Program, public transit agencies and/or other human service transportation programs. The FOW desires to work with CMS to identify and overcome any obstacles that prevent our ability to effectively and efficiently provide transportation for eligible clients from a variety of federal, state, regional, and local programs – including medical transportation funded by Medicaid program dollars. Due to the recent conversion of Washington State's NEMT program via a State Plan Amendment to medical match under the Deficit Reduction Act of 2005, we believe CMS's participation in the FOW is needed to better understand how Medicaid regulations apply to and/or impact our proposed pilots supporting coordinated transportation efforts.

More information about the FOW and its membership is included in the Fact Sheet attached to this letter.

Our Proposal/Pilot Projects

Pursuant to direction established in ESHB 2072, members of the FOW are developing potential pilot projects intended to test different service models to better coordinate Medicaid sponsored trips with other programs. The proposed pilot programs are described briefly below.

King County: The premise of this pilot is that Medicaid is responsible for the transportation of Medicaid clients to medical appointments and not public

transportation ADA service. This pilot seeks CMS clarification to pursue one or more of the following objectives:

- 1) Ascertain the true cost of Medicaid trips being provided by King County public transportation paratransit via ADA service; Consider the true value of these trips as a funding match for federal Medicaid dollars and allow King County to provide the Medicaid Purchasing Administration (MPA) the state match in order to receive federal matching funds; the full cost of these trips would be reimbursed to King County public transportation via a subcontract with the Medicaid broker;
- 2) Allow King County public transportation paratransit to subcontract with the broker as a transportation provider. This model would compensate King County public transportation paratransit just like any other private transportation provider. King County public transportation paratransit would compete against other private transportation providers for medically-related paratransit trips provided for Medicaid clients. The reimbursement rate would be based on actual costs rather than the passenger fare. As long as the rate charged to Medicaid is a rate charged to "another state agency" this is believed to meet Medicaid regulations. In the absence of such a rate, this pilot would create one.
- (3) Demonstrate the level of efficiency gained by placing Medicaid trips on public paratransit vehicles rather than private transportation providers.

Olympic Peninsula: This pilot project will test the ride sharing potential available with NEMT transportation in communities outside of the public transportation boundaries. It would result in development of a cost sharing model acceptable to participating funders and result in lower transportation costs. For the purpose of this project, the non-NEMT riders will be limited to veterans.

Yakima County: This pilot project proposes to identify appropriate technology (i.e. computerized software programs) that can facilitate cost sharing of trips and eligibility determination provided for older adults in Yakima County. The following funding sources are being coordinated: Older Americans Act (ALTC), State of Washington Rural Mobility funds, and two programs funded through the Federal Transit Administration: Section 5316 (JARC) and Section 5311, which provide support for public transit in non-urbanized areas. This project does not involve use of Medicaid funds at this time.

In Summary

In our view, prudent testing of these proposed pilot projects could result in improved mobility by expanding transportation options, and can leverage existing funding more efficiently.

Ms. Frances Crystal
11/1/2010
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Furthermore, these local efforts are consistent with the goals and objectives of the federal Interagency Coordinated Council on Access and Mobility (CCAM), which is working at the federal level to advance human service transportation coordination. Because CMS serves as a member of CCAM, we are confident that it can be an agent of change in the arena of coordinating human service transportation at both the federal and local levels.

We look forward to your response to our proposal so that we can work together to achieve our collective objectives. I invite you to contact either Todd Slettvet or Don Chartock at your earliest convenience.

Todd D. Slettvet, MA
Office Chief
Office of Community Services
Medicaid Purchasing Administration
Department of Social and Health Services
360-725-1626 or SLETTTD@dshs.wa.gov

Don Chartock
Coordinated Transportation Administrator
Public Transportation Division
Department of Transportation
360-705-7928 or ChartoD@wsdot.wa.gov

Both of our representatives are eager to talk more about this initiative, and to respond to any questions you may have. Thank you so much for your attention and response.

Sincerely,



Doug Porter
Administrator
Medicaid Director
Health Care Authority



Lourdes E. Alvarado-Ramos
Deputy Director
Department of Veterans Affairs



Kathryn Taylor
Director
Public Transportation Division
Department of Transportation



Representative Deb Wallace
Washington State, 17th Legislative District

cc: Rick Krochalis, FTA Region X
Tania Seto, CMS Region X
Washington State Congressional Delegation

Appendix F

DSHS Data Share Request Form



Health and Recovery Services Administration Data Share Request

The Department of Social and Health Services (DSHS) has a legal duty to protect and safeguard confidential client information. DSHS can provide outside entities with access to confidential information only under certain limited conditions unless state or federal law requires DSHS to share confidential information with you. Before we can provide you confidential information, you must:

1. Have the legal authority to access the requested confidential information.
2. Be willing to have each client sign a DSHS-approved consent form if it is determined necessary to comply with state and federal law.
3. Provide security measures required by DSHS to safeguard information and limit access.
4. Sign a negotiated data sharing agreement with DSHS. The data sharing agreement will require you to establish and share information technology and privacy/confidentiality policies and standards that address:
 - Employee/user expectations for ensuring confidentiality;
 - Safeguards to prevent access to confidential materials by unauthorized employees;
 - Employee training on confidentiality and privacy issues.

<input type="checkbox"/> Check here if you believe you meet the conditions above and agree to follow them. (This form is not needed for discovery request related to legal actions or public record disclosure requests.)	
Instructions: If you agree to the above conditions, please answer the following questions as completely as possible and return this form to the HRSA:	
Section A: Who is requesting information?	
Who are you representing?	Name of entity: Address: Contact Name and Title: Contact Telephone/Email/FAX:
What type of entity are you?	<input type="checkbox"/> Individual <input type="checkbox"/> Provider <input type="checkbox"/> Corporation <input type="checkbox"/> Government <input type="checkbox"/> Other:
Section B: What information are you requesting?	
What information do you need?	
Are you getting this information another way now?	<input type="checkbox"/> No <input type="checkbox"/> Yes, explain:
Have you obtained information from DSHS in the past?	<input type="checkbox"/> No <input type="checkbox"/> Yes, explain what it was and how you obtained it:
In what format do you need the information?	<input type="checkbox"/> Paper or CD <input type="checkbox"/> Electronic File Transfer <input type="checkbox"/> Other, explain:
How often do you need DSHS to provide the information?	<input type="checkbox"/> Once <input type="checkbox"/> Other, specify:
Section C: Why are you requesting information?	
What will you do with the information?	
Why do you need this information to accomplish your purpose?	
What law allows DSHS to share this information with you?	Citations:

Section D: Who will have access to this information?	
How many employees will access this information?	
What type of employee will access this information?	List all that apply:
How long will you use the information?	
Will any other entities (such as subcontractors) have access to this information?	<input type="checkbox"/> No <input type="checkbox"/> Yes, list:
Section E: How will you protect the information?	
Do you have a plan to protect the information in accordance with HIPAA and other mental/medical health information requirements?	<input type="checkbox"/> No <input type="checkbox"/> Yes, describe:
Are you subject to outside audit?	<input type="checkbox"/> No <input type="checkbox"/> Yes, provide laws or other sources of authority for audit and types of audits conducted:
Section F: Why should DSHS provide you this information?	
Is there a specific law or other authority requiring DSHS to provide you this information (for example, federal or state law, rule, budget proviso, Blue Ribbon Commission recommendation)?	<input type="checkbox"/> No <input type="checkbox"/> Yes, specify:
Will you use the data to integrate chronic health, mental health, and substance abuse concerns?	<input type="checkbox"/> No <input type="checkbox"/> Yes, specify:
Will your use of this data result in reduced risks or improved outcomes in chronic health, mental health and substance abuse concerns?	<input type="checkbox"/> No <input type="checkbox"/> Yes, describe those outcomes/risks:
How else will your use of this data result in benefits to DSHS and its clients?	
What resources will you provide to help DSHS define and provide the requested data?	