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University of Montana Rural Institute
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Research Report August 2011

Transportation's Section 5310 Where are we going?

People with disabilities, particularly in rural areas, report lack of transportation as one of their most significant barriers to community participation and employment opportunities. Clear, cohesive policies are needed to reduce public transportation barriers. Before effective policy changes can be made, we need a baseline understanding of how accessible transportation options are handled and where we are headed in addressing national transportation goals. The 1970 amendments to the 1964 Urban Mass Transportation Act established as national policy that

...elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services; that special efforts shall be made in the planning and design of mass transportation facilities and services so that the availability to elderly and handicapped persons of mass transportation which they can effectively utilize will be assured; and that all Federal programs offering assistance in the field of mass¹ transportation (including the programs under this Act) should contain provisions implementing this policy.

Since 1975, states have sought to fill the gaps in accessible transportation services through the Federal Transit Administration's (FTA) *Elderly and Persons with Disabilities Program* (Section 5310)². The program provides federal funding to states to assist private non-profit groups meet the transportation needs of people with disabilities and elderly individuals when public transportation services are *unavailable, insufficient, or inappropriate*. Federal funds are apportioned based on the number of people with disabilities and elderly individuals within the state. Each state, as grantee, describes how it will implement the 5310 program in a State Management Plan (SMP).

While state-wide long-range transportation plans have been previously evaluated (Noerager & Lyons, 2002), an assessment of each state's Section 5310 management policy was lacking. Our research of the SMPs establishes a baseline against which changes in national transportation policy might be assessed.

¹ "Mass" was changed to "public" throughout SAFETEA-LU (2005-2009).

² Online at http://www.fta.dot.gov/funding/grants/grants_financing_3556.html

Since its passage in 1990, the Americans with Disabilities Act (ADA) has guided national policy. We approached the study with the view that the desired outcome of the Section 5310 program is an integrated transportation system, accessible to all.

We collected state management plans and related documents from all 50 states and the District of Columbia. The SMPs reviewed were the state's most recent operating document prior to the passage of SAFETEA-LU (legislation that authorized most federal surface transportation spending from 2005 to the present). The states' documents dated from 1998 to June 2005.

The full report (358 pages, with extensive appendices) shows similarities and differences in the approaches states have taken in the kinds of policies they enact; what they emphasize; and how transportation services are organized, planned, designed, and carried out to meet the special needs of elderly individuals and people with disabilities. The recommendations in Table 1 are linked with the study findings and conclusions in the full report: http://rtc.ruralinstitute.umt.edu/transportation_publications.asp.

Key Findings

We found considerable variation among states in how policy was interpreted and how programs were implemented. These variations impact the eligibility of riders and service providers, the implementation of services, the accessibility of procured vehicles, and the extent to which services are coordinated. Surprisingly, our plan review identified considerable ambiguity about expected program outcomes, and even about which services and systems are expected to be coordinated. Almost 20 years post-ADA, we were surprised to find ourselves raising the issue about state interpretations of whether or not "special" transportation services are included in development and coordination of public transportation systems.

Service Eligibility. States determined rider eligibility using varying definitions of *disability*. Not one used the exact definition in the Federal Transportation Act or in the 2000 Census, which determines how Section 5310 funds are apportioned among the states.

Of the states that defined *elderly*, 22 states said 60 years of age. Four states said 65 years of age, and two said 55 years. Iowa's system is open to all riders, regardless of age.

Establishing Need. Few states appeared to have criteria for assessing the extent to which a proposed project met the three critical dimensions established in law: *unavailable*, *insufficient*, or *inappropriate*. Neither federal statute nor FTA guidance defines these words, which are used to determine need. Only 14 SMPs included any criteria for these three key terms, and only one, California, had detailed operational descriptions and tied each term to scoring criteria.

Twenty SMPs included criteria for how potential providers should document transportation need. Some states required applicants to describe the urgency of the agency's need; others were asked to document transportation need within their communities, i.e., not just in terms of the organization's need.

Programmatic Intent and Orientation. The review found considerable ambiguity about the relationship between the states' programs and national transportation goals. While some states appeared to be heading purposefully toward integrated transportation systems, others were using Section 5310 funds to maintain separate specialized human services transportation programs. The pathway taken appeared to depend on whether a state interpreted the Section 5310 program as a mechanism to strengthen and coordinate human services transportation, or as a resource to improve a community's overall transportation systems in the process of meeting the needs of the elderly and people with disabilities.

Iowa has used Section 5310 funds to build inclusive, accessible transportation systems for the general public. Some states, where human service agencies provide the only available rural transportation for seniors and people with disabilities, have developed or are developing a general transportation system (e.g., Idaho and Nevada). States have also used the funds to supplement rural and/or regional transportation systems, enhancing system accessibility (e.g., North Carolina, Iowa, and Rhode Island).

Table 1: Recommendations

Issue	Possible Action Steps
1.0 Program Development in an Evolving Transportation Program	<ul style="list-style-type: none"> 1.1 Congress should review the framework, background, and premise of the Section 5310 program, providing direction for FTA to supply programmatic guidance on the goals of this and other evolving transportation programs. 1.2 Congress should specifically clarify that the intent of transportation coordination is among all providers, including human service providers in an integrated public transportation system; and the FTA and other federal agencies that support transportation programs should provide guidance for the states so they can fully operationalize congressional intent. 1.3 States should place Section 5310 goals into context of overall agency transit goals and should be required to describe this relationship in their state management plan. 1.4 Establish national, state, and local expectations for "conversion planning." FTA and other federal agencies should work with states and advocates to develop mechanisms that not only permit, but also actively facilitate the Section 5310 program to evolve. Mechanisms should be developed to reward states and local communities when they increase transportation system accessibility, integration, and accountability. 1.5 Each federal and state funding cycle should include a requirement for analysis and identification of federal and state codes and regulations, as well as local practices, which create barriers that interfere with the development of more inclusive, integrated public transportation service systems. A model practices center should be established to assist states. 1.6 In order to prevent perpetuating siloed programs, which lack flexibility, Congress and federal agencies should re-evaluate statutes and guidance, especially policies that allow a funding stream to continue indefinitely in its initial form. 1.7 Both federal and state agencies should develop transportation program evaluation goals that reflect the program's actual objectives. 1.8 SMPs should include discussion of how tension between human service transportation and the rest of the transportation system is recognized, addressed, and managed. 1.9 Both federal and state transportation agencies should explicitly express the expectation that grant subrecipients will act as part of the overall transportation system.
2.0 Identifying Needs	<ul style="list-style-type: none"> 2.1 FTA should develop guidance, and states should develop operational definitions of the three essential criteria for establishing need – transportation that is “<i>unavailable, insufficient, or inappropriate.</i>” 2.2 FTA and other federal agencies should provide incentives and resources for conducting state transit needs surveys using standardized categories, geographies, and terminology.
3.0 Fair and Equitable Distribution	<ul style="list-style-type: none"> 3.1 FTA should develop operational guidance on how the fair and equitable distribution of funds in the Section 5310 program could be evaluated at the state and community level. This should be done in collaboration with other federal agencies, states agencies, and advocates and may be an issue in which the Transportation Research Board could lend assistance. 3.2 SMPs should describe the resource distribution process inside the regions when a regional distribution approach is used.
4.0 Data Collection and Reporting	<ul style="list-style-type: none"> 4.1 Section 5310 program data should be included in the National Transit Database. Data reporting modules for Section 5316 and Section 5317 grant programs could be developed at the same time. 4.2 FTA should work with states to develop categorical consistency for Section 5310 rider categories.
5.0 Resource Distribution Patterns	<ul style="list-style-type: none"> 5.1 States should develop mechanisms to include data on the service areas of Section 5310 subrecipients for accurate portrayal of geographic distribution of transportation system resources. 5.2 States should develop mechanisms to include data on accessible vehicles, including those supported by Section 5310, for accurate portrayal of geographic distribution of transportation system resources. 5.3 States should include the address and zip code of each Section 5310 subrecipient in the Program of Projects (POP), which the state submits annually to the regional FTA office. Where regional entities are involved, the physical location of subrecipients should also be included.

Table 1: Recommendations continued

Issue	Possible Action Steps
6.0 Outcome Measurement	<p>6.1 FTA and other federal agencies, working together with states and advocates, should develop a set of agreed upon performance-based criteria to move beyond vehicle/ride oriented procedural measures, to actual outcome measurement.</p> <p>6.2 FTA and other federal agencies should require and provide guidance on how the Section 5310 program can be periodically evaluated at the local community level, i.e., where the rides happen, not where the program is managed.</p> <p>6.3 FTA and other federal agencies, working together with states and advocates, should develop evaluation measures of transportation’s impact on local community participation.</p>
7.0 Management	<p><i>Most of the following recommendations (7.1 through 7.5) are intended for the FTA and other federal agencies, working together collaboratively with states and transportation advocates:</i></p>
7.1 Increasing Incentives, Reducing Barriers	<p>7.1.1 Federal statute and FTA guidance should use positive language to encourage broader transportation system coordination and integration.</p> <p>7.1.2 Identify what could be improved at the federal level that would enable the states to be more efficient without imposing more reporting requirements on the state or on sub-recipients.</p> <p>7.1.3 Reduce administrative tangles created by federal requirements.</p> <p>7.1.4 Identify where and how generic state and local laws, regulations, policies, or generic lead agency regulations create incentives or disincentives to coordination or program participation, especially policies that could not be administratively modified but would require a formal change in a law or regulation.</p> <p>7.1.5 Provide incentives, and remove disincentives to building a culture of coordination.</p> <p>7.1.6 Use rural models for building rural coordination.</p>
7.2 Managing the Selection Process	<p>7.2.1 SMPs should include the state’s criteria for making decisions and project selection criteria, including scoring/ranking. Items are less arbitrary and subject to administrative change when included in the plan, not just in the application.</p> <p>7.2.2 States should consider use of a minimum score cut-off threshold.</p> <p>7.2.3 Require subrecipients to assure that the organization is not prohibited from coordination activities.</p> <p>7.2.4 States should be required to assure that the source of matching funds does not place restrictions on transportation services or limit system coordination.</p>
7.3 Improving Fiscal Management Capacity	<p>7.3.1 Develop a planning tool, with models and metrics for evaluating the cost benefits, opportunities, etc. that would be useful to an agency considering adding transportation services.</p> <p>7.3.2 Develop a tool for evaluating applicant’s financial management capacity, which would be useful to members of selection panels and advisory boards who do not have a business background.</p> <p>7.3.3 Include the full scope of insurance issues, including liability and responsibility. Conduct a study, at least literature review, and a set of consensus guidance documents, which are vetted by the insurance industry, that go beyond simply a requirement for insuring the federal interest in the vehicle.</p> <p>7.3.4 Identify issues related to vehicle tax related costs, including ways they can be considered part of the actual cost of the vehicle acquisition.</p> <p>7.3.5 Provide more guidance and FTA “blessing” for coordination oriented title transfers.</p>
7.4 Resource Management	<p>7.4.1 States should require grantees to develop and submit a vehicle replacement plan.</p> <p>7.4.2 Use in emergency management, response, and recovery. A provision should be included in the allocation of the federal Section 5310 funds, which would require sub-recipients to agree to the use of these federally supported vehicles for emergency response and recovery.</p> <p>7.4.3 Purchase of accessible vehicles should be the norm.</p>
7.5 Logistics	<p>7.5.1 FTA should enforce the requirement that the SMPs and related public documents developed under the FTA grants be available in electronic formats.</p> <p>7.5.2 States should be required to notify subrecipients that the money is federally funded from the Section 5310 program, and perhaps to inform passengers of the source of federal support, especially when the vehicle does not look like a part of the local public transit fleet.</p> <p>7.5.3 FTA could cross reference its guidance documents, so the flow between the guidance chapter on State Management Plans and the other six chapters could fit into a more logical outline.</p>

Vehicle Accessibility. Section 5310 funding requires vehicle accessibility to accommodate riders who use a mobility device, such as a wheelchair. While all states require that vehicles purchased with 5310 funds must be accessible, most allow exceptions and have criteria for waivers. Seven states do not allow accessibility waivers: California, Delaware, Illinois, Maine, Minnesota, Pennsylvania, and Rhode Island. In these states, 5310 funds must be used to purchase, without exception, accessible vehicles.

Requirements for waiver eligibility varied. Some states required the provider to have and maintain an accessible vehicle within its organization. Other states permitted shared use, or allowed purchase of accessible service instead of buying accessible vehicles. Generally, a lift-equipped vehicle had to be replaced with a lift-equipped vehicle unless there was already another in the fleet.

Coordination. We found a lack of consistency among the states, even when states are using almost identical language to describe activities such as coordination. Some SMPs provided little guidance about coordination or de-emphasized it by pointing out problems with coordination. Others emphasized local coordination only between human service agencies. Considerable ambiguity was apparent about whether coordination was to take place among all transportation providers in an area, or only among the human service agencies that provide transportation.

Discussion

Many areas within the Section 5310 program remain vague and ambiguous, which makes it difficult to understand how well national transportation goals are being achieved.

What counts? When SMPs lack consistency about what constitutes a disability, and even the age of eligibility, it makes it difficult to determine: Who is or is not being included? Where are the unmet or underserved needs? How do we best assess whether existing transportation is *unavailable, insufficient, or inappropriate*? How should outcomes be measured?

Unavailable, insufficient, or inappropriate.

The program's primary rationale is to provide capital assistance for transportation when public transportation is "unavailable, insufficient, or inappropriate." We found that the lack of operational definitions for these key terms is an important factor leading to ambiguity in interpretation and implementation, and may lead to inequitable distribution.

The full report includes a lengthy discussion about demographic categorization because it affects who is and who is not served and identifies where unmet needs are. Demographic issues bring us back to the central question of *unavailable, insufficient, or inappropriate* and adds *unavailable, insufficient, or inappropriate* for whom?

Differences in interpretation lead to different outcomes.

Varying state interpretations are perhaps understandable given that the first Section 5310 capital grants were awarded more than 35 years ago and 15 years before the ADA mandated investment in accessible transportation. It is time to develop national consistency in the intent of this program.

As a nation, are we investing in turning human services agencies into transportation providers or in developing the capacity of public entities to provide/coordinate transportation for the entire community? What transportation should be coordinated? Are special separate transportation systems still acceptable?

The essential question may be how to address "special needs." Do you plan, design, and implement transportation systems to include the "special needs" of elderly individuals and individuals with disabilities? Or do you focus on developing separate systems, e.g., human service transportation models that are not functionally part of the public transportation system? Are these needs and the way they are addressed really "special"? Or are they basic access and functional transportation needs?

Waiving accessibility. Accessibility waivers may maximize an individual human services agency's efficiency. But waivers also hinder the community's overall transportation effectiveness by reducing the overall supply of accessible vehicle resources in a geographic area.

Coordinating outcomes. For the past 15 years, policy makers have increased emphasis on “coordination” of transportation systems and services. But human service agencies and public transportation providers continue to struggle with trying to coordinate systems and still meet their own objectives.

Advocating for performance based outcomes could be a powerful and evolving role for human service agencies involved in transportation. As these organizations participate in planning flexible, coordinated, integrated transportation systems, they could collaborate to develop and use outcome measures that more closely match the agencies’ values and the full range of their clients’ transportation needs in the community.

An evolving system? One might assume that states would use the Section 5310 program as both a safety net and a mechanism for continuous quality improvement – redefining which additional areas need support because existing public transportation is still *unavailable, insufficient, or inappropriate*. Our SMP review showed this to be true in some states, but not in all. Some states’ priority on replacement vehicles could be considered as perpetuating a separate segregated system, when in reality a more integrated approach may have by now reached evolutionary viability. Should 5310 resources be used to maintain existing programs, or should it be used to fill gaps along a continuum leading to fully integrated services?

Recommendations

Programs that distribute public subsidies should continually reassess mechanisms for meeting needs in areas where transportation is *unavailable, insufficient, or inappropriate*, so that we are all headed in the same direction. Our baseline analysis indicates the need for targeted strategies to speed the transformation from segregated human service transportation to integrated transportation systems for all.

Section 5310 may need a thorough review in the context of other federal transportation programs to align it more consistently with national integrated transportation policy goals. It may seem risky to dismantle the current tangled web of procedures and requirements until there is a better replacement. However, states that are not

headed in a direction of integrated accessible transportation for all may need to shift focus even before new guidance is issued. The full technical report identifies many models that could be used for conversion planning.

Table 1 presents recommendations derived from this baseline review.

Conclusion

The road has taken many twists and turns as we’ve traveled from the 1970 national policy “that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services” to the 1990 Americans with Disabilities Act and increased federal investments in public transportation for all Americans.

As transportation systems and services evolve, it is increasingly important to clarify the direction we are taking at the community, state, and federal levels, as well as to measure outcomes not only in numbers of rides and vehicles, but also in shared values. We need to agree on both why and what to coordinate. We need a shared vision of where the vehicles of modern participation are headed in policy and practice. Otherwise, it is unlikely we will reach the intended destination: efficient and effective integrated transportation for all.

Read the full report and executive summary at http://rtc.ruralinstitute.umt.edu/transportation_publications.asp.

The article, Section 5310 Transportation State Management Plans: A Baseline Review, Journal of Public Transportation, is online at <http://www.nctr.usf.edu/wp-content/uploads/2011/07/JPT14.2Enders.pdf>. Access the full journal issue at <http://www.nctr.usf.edu/wp-content/uploads/2011/07/JPT14.2.pdf>.

For additional information please contact:

Research and Training Center on Disability in Rural Communities, The University of Montana Rural Institute, 52 Corbin Hall, Missoula, MT 59812-7056; 888-268-2743 or 406-243-5467; 406-243-4200 (TTY); 406-243-2349 (Fax). enders@ruralinstitute.umt.edu <http://rtc.ruralinstitute.umt.edu>