

A stylized map of New York State is positioned behind the title text. The map is filled with a gradient of green, matching the background's color scheme.

New York **Makes Work Pay**

Developing a path to employment for New Yorkers with disabilities

www.NYMakesWorkPay.org

Medicaid Infrastructure Grant (MIG)
Brief

**Transportation For People
With Disabilities in New York State**

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OVERVIEW

Reliable, timely, accessible transportation is essential to allow people with disabilities to seek, obtain, and maintain employment. Having access to accessible transportation is essential to states' implementation of their "Olmstead" community integration obligations under the Americans with Disabilities Act (ADA). Because many people with disabilities have low incomes (particularly when they are receiving public benefits or transitioning off public benefits), personally owned automobiles are often not an option. In addition, some people with disabilities, such as those who are blind, cannot drive and many with physical disabilities cannot drive without expensive vehicle modifications. Therefore, public transportation is particularly important to people with disabilities.

The status of transportation for persons with disabilities living in New York mirrors the status of transportation for persons with disabilities throughout the country. Public transportation systems vary widely from county to county, and even from town to town, with little centralization. Most counties in New York provide some bus service and paratransit service.¹ Many cities also have local government human services agencies, community based organizations or employers who provide transportation for particular clients or specific purposes. However, outside New York City and its surrounding area, few counties provide other methods of transportation, such as rail or taxis. Particularly in rural areas, public transportation is very limited.

The New York City area provides more options for persons with disabilities as it supplements its bus and paratransit service with a subway system and commuter rail system; however, these options are not completely accessible and therefore cannot consistently accommodate persons with disabilities.

The following paper examines trends in transportation services being provided to persons with disabilities in New York and makes recommendations as to how to increase the access of persons with disabilities to different methods of transportation.

PUBLIC TRANSPORTATION

The New York State Department of Transportation has a website – 511NY - with links to public transportation resources, including paratransit services, serving various regions throughout the state.²

A. Accessibility

1. Fixed Route Bus Service

Most counties in New York are served by some form of public, fixed route bus service.³ These services are offered by a combination of county, city, and local organization

¹ Hamilton, Delaware, Yates, Chenango, Herkimer, Washington, Lewis, and Warren counties have little or no public transportation. See New York Public Transit Association, www.nytransit.org.

² <http://www.511ny.org/travellinks.aspx#public>.

³ See Appendix A. See, e.g., Capital District Transit Authority, <http://www.cdfa.org/> (last visited Jul. 10, 2009)(Bus service serving Saratoga, Schenectady, Albany and Rensselaer Counties); Centro, <http://www.centro.org/> (last visited Jul. 10, 2009)(Bus service serving Oswego, Oneida, Onondaga and Cayuga Counties); Chemung County Transportation System, www.chemungtransit.com. (last visited

providers. Most local fixed route services now provide physical access for persons with mobility disabilities, but may not meet the needs of persons with other disabilities.

Many New York fixed route bus services are wheelchair accessible. New York City's Metropolitan Transportation Authority (MTA), for example, currently employs a "simple powered, single-platform, flip-over ramp"⁴ on all of its 1,359⁵ buses, which serve 35 express routes and 47 local routes. New York City Transit's 4,700 buses are also accessible,⁶ as are Long Island Bus' 333 buses.⁷

Many other local bus systems similarly note that some or all their buses are wheelchair accessible.⁸ A few provide that accessible buses are available upon request.⁹

However, even when accessible buses are provided, inaccessible bus stops, especially in areas that experience snowfalls, inaccessible or nonexistent sidewalks and routes to bus stops, and inaccessible or nonexistent curb cuts often make buses inaccessible to people with various disabilities.¹⁰

2. Rail Service

Rail service in New York State is not as prevalent as bus or paratransit service; however, it is present throughout the state in varying forms. The state boasts one of the busiest subways in the nation in New York City and a subway running through Staten Island (the Staten Island Railway). It also has commuter rail services running from New York City to Long Island (Long Island Railroad) and from New York City to Dutchess, Putnam, Westchester, Orange and Rockland Counties (Metro-North Railroad). Furthermore, the state has light rail services running through Erie and Niagara Counties (the Niagara Frontier Transportation Authority) and Amtrak lines which run throughout the state (the Adirondack service running from New York City to Montreal and the Empire service running from New York City to Niagara Falls).

Jul. 10, 2009) (Bus service serving Chemung and Schuyler Counties); Tompkins Consolidated Area Transit, <http://www.tcatbus.com/> (last visited Jul. 10, 2009) (Bus service serving Tompkins and Tioga Counties);

⁴ See ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD, COMMENTS OF METROPOLITAN TRANSIT AUTHORITY ON DRAFT REVISIONS TO ACCESSIBILITY GUIDELINES FOR TRANSPORTATION VEHICLES (2007), <http://www.access-board.gov/transit/comments/mta-ny.htm>.

⁵ <http://www.mta.info/accessibility/transit.htm#buses>.

⁶ Id.

⁷ Id.

⁸ See Appendix A for information concerning accessibility of bus systems in New York State. See, e.g., Otsego Express, <http://www.otsegoexpress.com/> (last visited Jul. 10, 2009) (noting that all vehicles serving Otsego County are wheelchair accessible); Capital District Transit Authority, <http://www.cdfa.org/riding/accessible.php> (last visited Jul. 10, 2009) (noting that CDTA utilizes low floor, lift equipped buses that are wheelchair accessible).

⁹ Ulster County Area Transit, <http://www.ulstercountyny.gov/ucat/senior.html> (last visited Jul. 10, 2009) (noting that a request must be made in order to be picked up by a wheelchair-accessible vehicle serving Ulster, Orange or Dutchess County).

¹⁰ <http://www.nyc.gov/html/dot/html/sidewalks/pedramps.shtml>

The ADA requires key subway stations to be accessible, all commuter rail stations to be accessible and that seats, sleeper cars and dining cars on long-distance trains be accessible. New York's rail systems do a varied job of meeting these requirements.

a. Subway Service

The Metropolitan Transit Authority New York City Transit (MTA) has 110 accessible stations (out of 468) as of February 2010. The MTA has equipped each of these stations with gates that enable service animals and wheelchairs to enter and exit the station safely, as well as elevators or ramps, handrails, accessible booths and ticket vending machines.¹¹ Furthermore, all accessible stations have Braille signage located throughout the station and accessible telephones and text telephones. Gaps between station platforms and train floors continue to pose an accessibility barrier, as the distance between the platform and the train can be wide and train floors and platforms are often at different levels. Accessible stations have gap modifications or bridge plates to reduce the gap in some areas. In addition to the accessible stations, 120 additional stations have elevators or ramps. As part of an out-of-court settlement of a suit brought by the United Spinal Association (formerly Eastern Paralyzed Veterans), NYC Transit has agreed to make 100 key subway stations accessible by 2020.

However, the National Council on Disability cited New York's Metropolitan Transit Authority as an example of an older subway system having difficulty making itself accessible to passengers with disabilities. Indeed, the Bureau of Transportation Statistics shows New York's transit systems as being some of the least accessible in the country.¹² In 2007, New York's system was the least accessible subway system in the country, being 84% inaccessible to persons with disabilities.¹³ New York's Staten Island Railway was the second most inaccessible system in the country, being 78% inaccessible to persons with disabilities.¹⁴ Finally, the Port Authority Trans-Hudson Corporation (PATH) was fifth worst in the country in 2007 with 46% of its system inaccessible to persons with disabilities.¹⁵

A common complaint about subway stations in New York City and elsewhere is that elevators are frequently out of service. Transit providers tend to take elevators out of service for maintenance on a rotating schedule designed to leave as many elevators in service in a given station as possible. Some transit providers have recognized that taking an elevator out of service essentially makes the entire station inaccessible to wheelchair users. Therefore, rather than take elevators in a station out of service serially (elevator #1 is out in March, elevator #2 is out in April, and elevator #3 is out in

¹¹ New York Metropolitan Transportation Authority, <http://www.mta.info/accessibility/>. For list of accessible stations, see <http://www.mta.info/accessibility/stations.htm>

¹² National Council on Disability. *The Current State of Transportation for People with Disabilities*. Washington DC: National Council on Disability, 2005, 37.

¹³ BUREAU OF TRANSPORTATION STATISTICS, NATIONAL TRANSPORTATION STATISTICS 2009, TABLE 1-9, ADA ACCESSIBLE RAIL TRANSIT STATIONS BY AGENCY 31 (2009), http://www.bts.gov/publications/national_transportation_statistics/pdf/entire.pdf.

¹⁴ *Id.*

¹⁵ *Id.* PATH notes that 7 out of 13 stations in New York and New Jersey are now accessible. <http://www.panynj.gov/path/accessibility.html>.

May), leaving the station unusable for several months, some providers take all the elevators at a station out of service for maintenance at the same time, leaving the station unusable by people with disabilities for a shorter period of time. It is essential to provide accessible bridge shuttle service to and from the surrounding accessible stations while a station's elevators are out of service.

The MTA and the Niagara Frontier Transportation Authority (NFTA) offer paratransit services which supplement their subway and light rail services.¹⁶ The MTA's Access-A-Ride is a shared ride, door-to-door service that "provides transportation for people with disabilities who are unable to use public bus or subway service for some or all of their trips."¹⁷ It serves New York City and areas of Nassau and Westchester Counties that are within ¾ of a mile of MTA's fixed route service.¹⁸

b. Commuter Rail Service

The Bureau of Transportation Statistics reported that New York's commuter rail systems were inaccessible to persons with disabilities. The Long Island Rail Road¹⁹ has 95 accessible stations, including 18 key stations and is 20% inaccessible.²⁰ The Metro-North Railroad has 54 accessible stations within New York state lines,²¹ including 32

¹⁶ See generally Metropolitan Transit Authority, Guide to Access-A-Ride, <http://www.mta.info/nyct/paratran/guide.htm> (last visited March 3, 2010)(describing the MTA's paratransit service); Niagara Frontier Transportation Authority, Transportation Services for Individuals With Disabilities, http://www.nfta.com/metro/special_services.asp (last visited Aug. 5, 2009)(describing NFTA's Metro Paratransit service).

¹⁷ See Metropolitan Transit Authority, Guide to Access-A-Ride, <http://www.mta.info/nyct/paratran/guide.htm> (last visited March 3, 2010)(describing the MTA's paratransit service).

¹⁸ *Id.*

¹⁹ Long Island Railroad (LIRR) serves Nassau and Suffolk Counties, NYC
Accessibility: <http://www.mta.info/mta/ada/stations.htm>. TOTALS (without duplicate stations): 95/122 stations at least wheelchair accessible; 18/95 key stations are ADA compliant.

Port Washington Branch: 11/13 stations accessible; 4/ 11 key stations are ADA compliant.

Hempstead Branch: 10/18 stations accessible; 5/10 key stations are ADA compliant.

West Hempstead Branch: 10/16 stations accessible; 4/10 key stations are ADA compliant

Far Rockaway Branch: 14/20 stations accessible; 4/14 key stations are ADA compliant.

Long Beach Branch: 12/16 stations accessible; 6/12 key stations are ADA compliant.

Oyster Bay Branch: 13/23 stations accessible; 7/13 key stations are ADA compliant.

Port Jefferson Branch: 19/25 stations accessible; 8/19 key stations are ADA compliant.

Babylon Branch: 16/20 stations accessible; 5/16 key stations are ADA compliant.

Montauk Branch: 24/28 stations accessible, 8/24 key stations are ADA compliant.

Ronkonkoma Branch: 13/19 stations accessible; 7/13 key stations are ADA compliant.

Greenport Branch: 11/18 stations accessible; 7/11 key stations are ADA compliant.

²⁰ See Metropolitan Transportation Authority, map of Long Island Railroad stations, <http://www.mta.info/lirr/html/lirrmap.htm> (last visited Jul. 10, 2009). See also BUREAU OF TRANSPORTATION STATISTICS, NATIONAL TRANSPORTATION STATISTICS 2009, TABLE 1-9, ADA ACCESSIBLE RAIL TRANSIT STATIONS BY AGENCY 31 (2009), http://www.bts.gov/publications/national_transportation_statistics/pdf/entire.pdf.

²¹ The Metro-North railroad runs through Connecticut and New Jersey as well as New York. See Metropolitan Transportation Authority, map of Metro-North Railroad stations, <http://www.mta.info/mnr/html/mnrmap.htm> (last visited Jul. 10, 2009). Metro-North Railroad serves Dutchess, Putnam, Westchester, NYC, Orange and Rockland Counties. Totals: Not including double-

key stations, and is 65% inaccessible.²² The MTA still has a lot of work to do in order to fulfill the ADA's mandate of making *all* commuter rail stations accessible to persons with disabilities.

c. Light Rail Service

The Niagara Frontier Transportation Authority (NFTA)'s light rail system consists of 15 stations. In 2007, it was found to be 53% inaccessible to persons with disabilities. In 2009, NFTA states that all trains and stations are accessible. NFTA also provides Braille lettering on ticket machines and Braille and raised directional signage at some locations. Some stations also provide telecommunications devices for the Deaf, video monitors and volume control phones to assist disabled passengers.²³

Like the MTA's Access-A-Ride service, NFTA's Metro Paratransit service is a curb-to-curb service that extends up to $\frac{3}{4}$ of a mile "from the end of Metro's bus and rail fixed route service."²⁴ NFTA notes that "to qualify, you must be unable to board, ride or disembark from a Metro Bus or Rail vehicle, or travel to and from a bus stop."²⁵

d. Amtrak Service

The ADA requires that seats, sleeper cars and dining cars on long-distance trains be accessible to people with disabilities. While Amtrak's trains include these accommodations, the reservation system does not guarantee that people with disabilities will get accessible seating on trains. The ADA requires all station facilities in the U.S. (other than flag stops) to be readily accessible to individuals with disabilities next year, that is by July 26, 2010. Amtrak asserts it is responsible for accessibility for approximately 35-55% of station structures, 70-85% of the platforms, and 30-50% of parking facilities. According to a report by Amtrak to Congress in February 2009, as of October 1, 2008, of its 481 stations, forty-eight (48) stations are 100% compliant with the ADA. Amtrak adds that planning, design and construction work is underway at another 100 stations in 30 states, and the District of Columbia, to improve ADA compliance and customer service. In its federal transmittal letter, Amtrak asserts it can

counted stations, or stations outside of NY state borders, 54/87 stations are at least wheelchair accessible and 32/54 stations are considered key stations that are ADA compliant. <http://www.mta.info/mta/ada/stations.htm>
Hudson Line: 19/30 stations accessible; 15/19 key stations are ADA compliant.
Harlem Line: 25/38 stations accessible; 12/25 key stations are ADA compliant.
New Haven Line: 9/16 stations in NY state (remainder of line in CT) accessible; 8/9 key stations are ADA compliant in NY state
Port Jervis Line: 5/10 stations in NY state (remainder of line in NJ) accessible; 2/5 key stations are ADA compliant in NY state
Pascack Valley Line: 3/4 stations in NY state (remainder of line in NJ) accessible; 2/3 key stations are ADA compliant in NY state

²² See BUREAU OF TRANSPORTATION STATISTICS, NATIONAL TRANSPORTATION STATISTICS 2009, TABLE 1-9, ADA ACCESSIBLE RAIL TRANSIT STATIONS BY AGENCY 31 (2009), http://www.bts.gov/publications/national_transportation_statistics/pdf/entire.pdf.

²³ Niagara Frontier Transportation Authority- Special Services, http://www.nfta.com/metro/special_services.asp (last visited Jul. 10, 2009).

²⁴ See Niagara Frontier Transportation Authority, Transportation Services for Individuals With Disabilities, http://www.nfta.com/metro/special_services.asp (last visited Aug. 5, 2009)(describing NFTA's Metro Paratransit service).

²⁵ *Id.*

only reach what it refers to as “practicable compliance” with the ADA by September 30, 2015 and asks for at least \$250 million more in funds for this purpose.²⁶

3. ADA Paratransit Service

When a public transportation provider operates a fixed route, the ADA also requires complementary “paratransit” service for people who, because of their disabilities, cannot use the general fixed route service. These ADA paratransit systems are generally curb-to-curb services,²⁷ rather than door-to-door or door-through-door, and all require the passenger to make advance reservations.²⁸ The ADA paratransit services run similar schedules to the fixed route services and require passengers to be on time.²⁹ Paratransit generally serves only individuals who live within ¼ mile of the fixed route, which is the minimum required by the ADA. Some paratransit systems provide extended geographic coverage for a premium fare.

As a result of a legal case that focused on high trip denial rates, New York City’s paratransit system - Access-A-Ride³⁰ - has taken steps to address capacity issues. A primary consideration in making these changes is to increase paratransit service while managing costs. The changes included increasing the number of carriers from three to eight, enlisting taxicabs and providers of smaller ambulances to meet overflow needs, and adding more reservationists and dispatchers to the command center staff. As a result of these steps, ridership increased from 735,000 in 1997 to more than 2.5 million in 2003, and denials reportedly dropped significantly during this period. In addition, in order to address problems with riders and drivers missing each other at frequently-used locations, such as hospitals and schools, Access-A-Ride implemented pick-up/drop-off locations with signage.³¹

The Rochester-Genesee Regional Transportation Authority (RGRTA) received federal New Freedom funding to supplement its Lift Line paratransit service to cover individuals living within 2.75 miles of the fixed route.³² In addition, RGRTA used New Freedom funding to reduce its same-day and supplemental reserved service fare from \$10 to \$6.³³

Paratransit ridership and costs have mushroomed nationwide and in New York State, causing many transportation systems to look for ways to shift riders to fixed routes and

²⁶ “Intercity Rail Stations Served by Amtrak: A Report on Accessibility and Compliance with the Americans with Disabilities Act,” <http://www.aapd.com/TTPI/pdf/amtrakreport.pdf> (February 1, 2009).

²⁷ See B.C. Lift, <http://ridebctransit.com/transit/bclift> (last visited Jul. 10, 2009) (information on Broome County’s paratransit service).

²⁸ *Id.* See also Lift Line, <http://www.rgrta.org/LiftLine/Service.aspx> (last visited Jul. 10, 2009) (information on the Rochester-Genesee Regional Transportation Authority’s paratransit service requiring ride reservations be made 1-3 days in advance); Centro Call-A-Bus, <http://www.centro.org/callabus.aspx> (last visited Jul. 10, 2009) (describing the Call-A-Bus service offered to Onondaga, Oswego, Cayuga and Oneida Counties); <http://www.clintoncountypublictransit.com/Paratransit%20Handbook%20031009.pdf> (requiring reservations 24 hours in advance).

²⁹ RGRTA’s Lift Line requires passengers to be ready to ride between ten minutes before and ten minutes after the reservation time. The Lift Line further states that drivers will only wait five minutes after arriving before moving on to the next stop. Lift Line, <http://www.rgrta.org/LiftLine/Service.aspx> (last visited Jul. 10, 2009) (information on the Rochester-Genesee Regional Transportation Authority’s paratransit service requiring ride reservations be made 1-3 days in advance).

³⁰ <http://www.mta.info/nyct/paratran/guide.htm>.

³¹ <http://www.disabledinaction.org/aar.html>.

³² Profiles of New Freedom Services Provided in 2007 and 2008, http://www.fta.dot.gov/documents/NewFreedomProfiles091030_final.pdf, at 107 (2009).

³³ *Id.* See also <http://www.rgrta.org/LiftLine/Service.aspx>.

to reduce costs. From 2000 to 2005, the New York City's Access-a-Ride operating expenses increased from \$85.2 million to \$189.8 million, eligible riders increased by more than 50%, and the number of rides taken more than doubled.³⁴ In 2007, New York City paratransit costs were projected to rise 55% from \$230 million to \$357 million.³⁵

Recent budget problems at city, county, and state levels in New York may lead some transit providers to cut paratransit services back to the statutory minimums, forcing people with disabilities to pay higher costs or go without public transportation if they live more than ¾ mile from a fixed transportation route.³⁶ New York City considered limiting paratransit to taking passengers to and from accessible bus and rail stops, rather than to their final destinations.³⁷

a. Issues with ADA Paratransit Systems

1. Eligibility

Paratransit systems often impose lengthy and difficult eligibility and renewal processes, including medical documentation and in-person interviews and/or functional evaluations. These processes can be a barrier to people with disabilities, particularly those with intellectual disabilities or elderly people. Although complex eligibility and renewal processes are not prohibited by law, they may undermine the spirit of the law and unnecessarily limit paratransit services for people who would otherwise be eligible.

2. Lengthened Travel and Reservations Reduce Flexibility

Most paratransit systems require a reservation be made in advance of transit. This reduces the flexibility the passenger has to plan his own travel. This is particularly problematic for appointments whose end time cannot be predicted in advance, such as medical appointments that start later than expected, meetings that finish earlier or later than expected, etc.

Under the Americans with Disabilities Act (ADA), a paratransit provider may schedule a ride up to one hour before or after the requested pickup time and most paratransit providers follow such a policy. As a result, it is very difficult to use paratransit as a means of getting to work on time on a regular basis. Some systems provide for subscription services for this purpose, but subscription service is not permitted to constitute more than 50% of a system's paratransit service, and subscription services may have waiting lists and trip-purpose priorities.³⁸

Additionally, once the reservation is made, the vehicle can come within a window of time up to 15 minutes before or after the scheduled time, potentially lengthening the amount of time it takes for a person with disabilities to travel.³⁹ Furthermore, a

³⁴ <http://www.ibo.nyc.ny.us/iboreports/FBparatransit10306.pdf>.

³⁵ <http://www.ibo.nyc.ny.us/iboreports/WebTaxiVouchersJune07.pdf>.

³⁶ See "Access-A-Ride Cuts Will Leave Disabled Riders Stranded," <http://www.micahkellner.net/tag/people-with-disabilities/> (New York City MTA cutting \$40 million from its paratransit budget in the current year and \$80 million next year) December 17, 2009.

³⁷ http://www.nydailynews.com/news/2009/12/17/2009-12-17_impairing_access_for_the_handicapped.html.

³⁸ 49 C.F.R. § 37.133.

³⁹ RGRTA's Lift Line cites a window of ten minutes on either side of a pickup time; however, windows of time can range up to an hour on either side of a pickup time. See Lift Line, <http://www.rgrta.org/LiftLine/Service.aspx> (last visited Jul. 10, 2009)(information on the Rochester-Genesee Regional Transportation Authority's paratransit service citing window of ten minutes on either side of a

passenger planning for paratransit travel has to account for the unpredictable stops a paratransit vehicle may make for shared rides.⁴⁰ The ADA prohibits paratransit capacity constraints, including “substantial numbers of trips with excessive trip lengths” in comparison to similar fixed route trips.⁴¹ Different transit systems define “excessive” differently based, for example, on percentage of fixed route trip length (e.g., 110% longer than a comparable fixed route trip⁴²), or a set amount of time (e.g., 40 minutes) above the fixed route trip length. However, a passenger using paratransit services may still have the added burden of a trip that can be hours longer than originally intended.

As a practical matter, these timing issues require individuals with disabilities who need to be certain to arrive on time (for work, for appointments, etc.) to be prepared to schedule their rides as much as a 1.25 hours before or after they need them. As a result, a one-hour medical appointment can involve as much as 2 ½ hours of waiting time, in addition to actual travel time. Similarly, employees may end up arriving at work over an hour before the office opens and over an hour after the office closes. For employees without flexible schedules, this can create a very long work day and allow insufficient time at home for personal care and rest.

3. Time Limits Do Not Account for Practical Difficulties Faced by Passengers

Paratransit systems often note that the bus driver will only wait a certain amount of time for a passenger to appear.⁴³ While the passenger does have a responsibility to be ready for his or her ride, the policy ignores the fact that it may be difficult to get around the house (especially if the house is not modified for accessibility), get out the door and get to the curb to get picked up. For a ride deviation service, the passenger may have difficulty transporting himself to the designated location in the allotted timeframe. Waiting at the curb for a paratransit ride that can arrive up to 15 minutes after the scheduled time is not feasible for some individuals, particularly in bad weather. Furthermore, passengers may experience technical problems with mobility devices, especially in the wintertime. These policies, while likely rightfully intended to keep the

pickup time that transportation could arrive). The National Council for Disability's report on the state of transportation cited a 2002 FTA report illustrating the burden on paratransit passengers:

A rider who needs to be at work at 9 a.m. might... request a pickup time of 8 a.m. for a trip of average or short length. If RGRTA schedulers applied the full two-hour scheduling window, though, a pickup time of between 7 a.m. and 9 a.m. could be offered. Further, with a 60-minute maximum ride time policy, it is possible that the ride could be offered a 9 a.m. pickup, ride for 60 minutes and not arrive until 10 a.m. So, to guarantee a 9 a.m. arrival, a rider would have to request a pickup at 7 a.m.... If 7 a.m. were requested, though, a pickup time as early as 6 a.m. could then be offered by the RGRTA. In this example, RGRTA's scheduling procedures could result in the customer arriving one hour late or two hours early for work, or a medical or other appointment. National Council on Disability. The Current State of Transportation for People with Disabilities. Washington DC: National Council on Disability, 2005, 66 (citing Transit Access Report, "Option Urged for ADA Riders to State Desired Arrival Time," (Pace Publications, November 25, 2003)).

⁴⁰ Centro's paratransit system, for example, recommends that passengers "should allow up to one hour [for a trip of up to five miles,] up to 90 minutes [for a trip greater than five miles and up to ten miles, and] should allow up to two hours of travel time [for a trip greater than ten miles]. CENTRAL NEW YORK REGIONAL TRANSPORTATION AUTHORITY, CALL-A-BUS RIDER'S GUIDE 17 (2009), <http://www.centro.org/rideguide.pdf>.

⁴¹ 49 C.F.R. § 37.131(f).

⁴² Settlement, Preston v. City of Tucson, AZ, <http://www.acdl.com/pdfs/Preston%20Settlement%20Agreement.pdf>.

⁴³ See *id.* (noting that a bus driver will only wait five minutes after the scheduled pick up time for the passenger to appear). See also Lift Line, <http://www.rgrta.org/LiftLine/Service.aspx> (last visited Jul. 10, 2009)(information on the Rochester-Genesee Regional Transportation Authority's paratransit service noting that drivers will only wait five minutes after the scheduled pick-up time for the passenger to appear).

paratransit systems on schedule, must be adapted to account for these difficulties faced by passengers.

4. Route Deviation

Route deviation is one approach to expanding the capacity of fixed route services to serve people with disabilities while avoiding the high costs of traditional ADA paratransit. Many counties in New York have their fixed route bus services deviate to pick up passengers with disabilities.⁴⁴ Under a route deviation service, a fixed route bus will deviate a certain distance away from its route. Most route deviation services in New York deviate no more than $\frac{3}{4}$ of a mile away from their fixed route. Like paratransit services, many route deviation services require reservations to be made the day before the planned trip and schedules often mirror those of the fixed route buses.⁴⁵ Some transit providers appear to use route deviation service instead of ADA paratransit service, which may violate the ADA.⁴⁶

5. Taxi Vouchers

In response to a report by the New York City Independent Budget Office in 2007, New York City expanded its use of voucher-based taxi trips during peak paratransit hours.⁴⁷ Taxis now provide approximately 10.7% of ADA complementary paratransit trips.⁴⁸ Taxi sedans are useful for riders who do not use wheelchairs or who can transfer and stow their wheelchairs, but the limited number of accessible taxis limits their utility for many paratransit rides.

6. Demand Responsive Transportation/Feeder Services

A few areas combine limited fixed routes and demand-responsive services that require advance reservations.⁴⁹ These services are often necessary to serve rural areas, where the population is not large enough to justify an ongoing fixed route service.

B. Stop Announcements for People with Vision and Hearing Disabilities

ADA regulations require all public and private entities providing transportation to announce their stops and transfer points and make communication accessible to persons with disabilities, including vision and hearing disabilities.⁵⁰ However, New York's rail services do not consistently comply with these regulations. For example, while LIRR and Metro-North Railroad do make stop announcements on board their trains,⁵¹ NFTA's light rail service makes on board stop announcements at "some" but not all of its stops.⁵² The MTA, over the past several years, has attempted to address this by implementing a system which would provide stop announcements both visually

⁴⁴ See, e.g., Clinton County Public Transit, <http://www.clintoncountypublictransit.com/> (last visited Jul. 10, 2009) (describing the requirements for Clinton County's route deviation service).

⁴⁵ See Tioga County <http://www.tiogacountyny.com/transportation/info.php>.

⁴⁶ <http://www.otsegoexpress.com/>; <http://www.tiogacountyny.com/transportation/info.php>.

⁴⁷ City of New York Independent Budget Office, "Using Taxi Vouchers to Lower the Cost of Paratransit Service,"

<http://www.ibo.nyc.ny.us/iboreports/WebTaxiVouchersJune07.pdf> (July 2007).

⁴⁸ <http://www.nyctransportationaccess.com/news/2009/05/accessaride-customers-and-advocates-speak-to-the-new-york-city-council.html>.

⁴⁹ See, e.g., Ulster County Area Transit, <http://www.co.ulster.ny.us/ucat/rural.html>.

⁵⁰ See 49 C.F.R. §37.167 (2009).

⁵¹ Telephone interview with Long Island Railroad (Aug. 5, 2009); Telephone interview with Metro-North Railroad (Aug. 5, 2009).

⁵² Telephone Interview with Niagara Frontier Transportation Authority (Aug. 5, 2009).

and audibly. However, the program has faced repeated problems and has not been completed.⁵³

Very few bus service websites note that they comply with this practice. In 2003, New York City was sued over failure to announce stops on buses. The City implemented changes to improve the system and the case was dismissed.⁵⁴ However, the automated vehicle locator system relied upon by the court has not been fully implemented.

C. Service Animals

Policies regarding service animals vary among bus systems.⁵⁵ Some systems appear to limit service animals to seeing eye dogs assisting people with vision disabilities.⁵⁶ Others, in apparent violation of the ADA, require registration or proof of licensure or training in order to allow service animals on board.⁵⁷

D. Reduced Fares

Most fixed route systems offer reduced fare programs for people with disabilities.⁵⁸ Some reduced fare programs are difficult to use, however. For example, New York City Transit provides that if a person enters a bus using the rear wheelchair lift, the driver will provide an envelope in which to mail the fare.⁵⁹

⁵³ Statement By MTA New York City Transit Before The Council Of The City Of New York's Committee On Transportation (Jan. 29, 2009) <http://www.streetsblog.org/wp-content/pdf/CityCouncilStatementonBusAVLFNAL.pdf>; New York Daily News, "Subway Arrival Info Behind Schedule" (Sept. 23, 2008) http://www.nydailynews.com/ny_local/2008/09/23/2008-09-23_subway_arrival_info_behind_schedule.html.

⁵⁴ Stewart v. New York City Transit Authority, 2006 WL 270100 (S.D.N.Y. 2006); 2007 WL 656993 (S.D.N.Y. 2007) (granting summary judgment in part on the basis of the Transit Authority's Compliance Ride Program, 70% compliance by Transit Authority bus drivers, and the purchase of automated vehicle location (AVL) technology).

⁵⁵ Some systems note that they permit all service animals to ride – see, e.g., Columbia County - http://www.columbiacountyrider.com/Rider_Information.html; Niagara Frontier - http://www.nfta.com/metro/special_services.asp?sec=2.

⁵⁶ See, e.g., Capital District Transportation Authority, http://www.cdta.org/riding/how_to_ride.php#intro; Cortland Transit, <http://www.odyssey.net/subscribers/corttrans/CTS%20Policy.html>.

⁵⁷ See Capital District Transportation Authority, <http://www.cdta.org/pdfs/riding/CDTA%20Rules%20of%20Conduct.pdf>.

⁵⁸ See, e.g., Capital District (Albany)- http://www.cdta.org/riding/how_to_ride.php#intro; Broome County- <http://ridebctransit.com/transit/fares>; Corning-Erwin Area Transit System- <http://www.corningtransit.com/fare.htm>; Cortland Transit- <http://www.odyssey.net/subscribers/corttrans/CTS%20Policy.html>; Dutchess County Loop- <http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/11469.htm>

⁵⁹ <http://www.mta.info/mta/ada/transit.htm#buses>.

E. Websites and Web-Based Trip Planners

Many public transportation systems offer online trip planning. These are effective to help people identify and use public transportation options. However, in most cases, online trip planners do not provide the information people with disabilities need to know. For example, trip planners do not indicate accessibility of stations, stops or vehicles, and do not indicate the availability of paratransit or human services transportation. In addition, many online trip planners are not accessible to people with vision disabilities. Unless equivalent on-demand trip planning is available in accessible formats (e.g., via a staffed telephone line), such inaccessible trip planners likely violate the Americans with Disabilities Act.

F. Travel Training, Itinerary Planning, Mobility Management Services

Travel training has been found to be essential to increasing use of public fixed route transportation by individuals with disabilities. New York's Office of Children and Family Services provides for 7 mobility instructors throughout the state. The trainers are located in Albany, Buffalo, Rochester, Hempstead, Syracuse, Rensselaer and White Plains. The mobility instructors are responsible for providing orientation and mobility training for blind individuals and evaluating them to ensure that they have been completely trained. The instructors generally would coordinate services with other agencies such as the Dept. of Transportation and would inform clients about mobility procedures.

Orientation and mobility training are offered as part of the state's vocational rehabilitation services. The state defines orientation and mobility training as "the teaching of concepts, skills and techniques necessary for a person who is blind to travel safely, efficiently and confidently through any environment and under all environmental conditions and situations."⁶⁰ The state includes the use of public transportation as an orientation and mobility service.

In addition to the state's mobility instructors, the state's Commission for the Blind and Visually Handicapped (CBVH) also has approved numerous employers' orientation and mobility training programs for use in vocational rehabilitation programs. The Commission has evaluated the effectiveness of certain programs in Albany, New York, Rochester, Syracuse and Spring Valley.⁶¹ Generally, the analyzed program spent 3.4-6.7 months on "core" elements including orientation and mobility training⁶², gave

⁶⁰ See generally NEW YORK OFFICE OF CHILDREN AND FAMILY SERVICES, VOCATIONAL REHABILITATION MANUAL- ORIENTATION AND MOBILITY SERVICES 1 (2009), http://www.ocfs.state.ny.us/main/cbvh/vocrehab_manual/pdf/SEC08-35%20Orientation%20and%20Mobility%20Training.pdf.

⁶¹ New York Commission for the Blind and Visually Handicapped, Contractor Agency Performance Index/Report Card, <http://www.ocfs.state.ny.us/main/cbvh/contractor%20agency%20performance%20index%20report%20card.asp> (last visited Aug. 3, 2009). The CBVH evaluated the Northeastern Association of the Blind in Albany, the Jewish Guild for the Blind in New York City, the Association for the Blind and Visually Impaired- Goodwill in Rochester, Aurora of Central New York, Inc., in Syracuse and the Association for the Visually Impaired, Inc. in Spring Valley. *Id.*

⁶² See New York Commission for the Blind and Visually Handicapped, Report Card- Northeastern Association of the Blind, http://www.ocfs.state.ny.us/main/cbvh/report_cards/Albany%20Northeastern%20Association%20of%20the%20Blind%20.asp (last visited Aug. 3, 2009); COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED, REPORT CARD- JEWISH GUILD FOR THE BLIND (2009) http://www.ocfs.state.ny.us/main/cbvh/report_cards/CBVH%20Report%20Card%20-%20JGB%202009.pdf; Commission for the Blind and Visually Handicapped, Report Card- Association for the Blind and Visually Handicapped- Goodwill, http://www.ocfs.state.ny.us/main/cbvh/report_cards/goodwill.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Aurora of Central New York, Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Aurora%20.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Association for the Visually Impaired,

between 15.9 and 22.9 units of service⁶³ and out of the cases sampled, between 10.7 and 31.7% of the cases were successful.⁶⁴ The CBVH generally works with 17 private agencies to provide orientation and mobility services to persons with disabilities.⁶⁵ The private agencies are generally well established in the state; however, the CBVH will sometimes permit private vendors to provide orientation and mobility services. Any private agency or vendor providing orientation and mobility services is closely and frequently monitored by the CBVH.⁶⁶ If the agencies are unable to assist a person, the CBVH's mobility instructors will assist the individual; if the CBVH is unable to assist the person, he may turn to private vendors.⁶⁷

The Capital District Transportation Authority also received federal Job Access and Reverse Commute funding (JARC) to provide one-on-one and group travel training and itinerary planning in coordination with local human services providers.⁶⁸

The New York City school system offers a comprehensive travel training program that teaches students with disabilities how to travel safely and independently on public transportation. Established in 1970, it is the oldest, and one of the most professional, travel training programs in the country and has served thousands of students.⁶⁹

Finally, Easters Seals Project Action has provided travel training in-service training to 14 individuals from New York, indicating that several communities in the state are

Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Association%20for%20the%20Visually%20Impaired.asp (last visited Aug. 3, 2009).

⁶³ See New York Commission for the Blind and Visually Handicapped, Report Card- Northeastern Association of the Blind, http://www.ocfs.state.ny.us/main/cbvh/report_cards/Albany%20Northeastern%20Association%20of%20the%20Blind%20.asp (last visited Aug. 3, 2009); COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED, REPORT CARD- JEWISH GUILD FOR THE BLIND (2009) http://www.ocfs.state.ny.us/main/cbvh/report_cards/CBVH%20Report%20Card%20-%20JGB%202009.pdf; Commission for the Blind and Visually Handicapped, Report Card- Association for the Blind and Visually Handicapped- Goodwill, http://www.ocfs.state.ny.us/main/cbvh/report_cards/goodwill.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Aurora of Central New York, Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Aurora%20.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Association for the Visually Impaired, Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Association%20for%20the%20Visually%20Impaired.asp (last visited Aug. 3, 2009).

⁶⁴ See New York Commission for the Blind and Visually Handicapped, Report Card- Northeastern Association of the Blind, http://www.ocfs.state.ny.us/main/cbvh/report_cards/Albany%20Northeastern%20Association%20of%20the%20Blind%20.asp (last visited Aug. 3, 2009); COMMISSION FOR THE BLIND AND VISUALLY HANDICAPPED, REPORT CARD- JEWISH GUILD FOR THE BLIND (2009) http://www.ocfs.state.ny.us/main/cbvh/report_cards/CBVH%20Report%20Card%20-%20JGB%202009.pdf; Commission for the Blind and Visually Handicapped, Report Card- Association for the Blind and Visually Handicapped- Goodwill, http://www.ocfs.state.ny.us/main/cbvh/report_cards/goodwill.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Aurora of Central New York, Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Aurora%20.asp (last visited Aug. 3, 2009); Commission for the Blind and Visually Handicapped, Report Card- Association for the Visually Impaired, Inc., http://www.ocfs.state.ny.us/main/cbvh/report_cards/Association%20for%20the%20Visually%20Impaired.asp (last visited Aug. 3, 2009).

⁶⁵ Telephone Interview with Joseph Nye, New York Commission for the Blind and Visually Handicapped (Aug. 3, 2009). The agencies include: the Association for the Blind and Visually Impaired- Goodwill in Rochester, the Elizabeth Pierce Olmstead Center for the Visually Impaired in Buffalo, the Association for Vision Rehabilitation and Employment in Binghamton, Catholic Charities Services for the Blind in Amityville, the Catholic Guild for the Blind in New York City, the Central Association for the Blind and Visually Impaired in Utica, the Chautauqua Blind Association in Jamestown, the Glens Falls Association for the Blind in Glens Falls, the Helen Keller Services for the Blind in Brooklyn, the Jewish Guild for the Blind in New York City, the Northeastern Association of the Blind in Albany, the Northeastern Association of the Blind in Plattsburgh, the Association for the Visually Impaired in Spring Valley, Aurora of Central New York in Syracuse, Visions Services for the Blind and Visually Impaired in New York City and the Western New York Center for the Visually Impaired in West Seneca. *Id.*

⁶⁶ Telephone Interview with Steve Betterley, Mobility Instructor for the Albany area (Aug. 3, 2009).

⁶⁷ Telephone Interview with Joseph Nye, New York Commission for the Blind and Visually Handicapped (Aug. 3, 2009).

⁶⁸ See http://www.fta.dot.gov/documents/JARCProfiles091030_final.pdf at 335-37.

⁶⁹ <http://schools.nyc.gov/Offices/District75/Departments/TravelTraining/default.htm>.

interested in pursuing travel training programs.⁷⁰ In addition, four teams from New York participated in Easter Seals Project Action's Mobility Planning Services Institute since 2006.⁷¹

Human Services Transportation

Many New York counties rely a great deal on local human services providers to provide transportation to their clients. Some organizations focus specifically on individuals with disabilities (e.g., ARC chapters), others focus on types of trips (e.g., medical or Medicaid), and others focus on non-disability groups (e.g., children, elderly, veterans, low-income). These groups may provide services to the same stops, but are not coordinated because they use different funding sources, serve different populations or different trip purposes (exclusivity of use). Internal policies limiting individuals who are eligible, imposing geographic limits, or requiring different levels of licensing or insurance make coordination among these groups difficult. In addition, reliance on such segregated services increases the isolation of individuals with disabilities.

Some areas have successfully implemented combined employer/human services transportation services that serve employees of large local employers and clients of human services agencies and organizations. The Coordinated Planning process, discussed below (Impact of Federal Programs), has helped some areas identify duplicated services and better coordinate services among public transportation, government agencies, employers, and human services organizations. For example, Otsego County identified overlapping services between its public transportation system and the ARC transportation system. By opening the ARC's route to the general public and providing training, vehicles, and other support from the public transportation system, resources could be redirected to expanded services.⁷² ARC chapters in Wyoming, Ontario, and Wayne counties similarly have opened up their services to non-ARC-clients.⁷³ Similar opportunities are possible with other human services transportation providers, including offices on aging and veterans agencies.⁷⁴

⁷⁰ Trainees came from Ithaca, New York City, Brooklyn, Syracuse, Buffalo, Wellsville, and White Plains. Email dated 1/15/10 from Easter Seals.

⁷¹ New York teams were:

2008 - Team Taxi NYC – focusing on launching an accessible taxi dispatch program
2008 - Team Rochester – focusing on improving access to transportation services for older adults with mobility disadvantages in Monroe County through improved coordination
2007 – Team North County Regional Transportation – focusing on increasing transit service in Franklin County
2006 – Team Erie County – focusing on holding a transportation summit and developing a plan for mobility management
E-mail dated 1/15/10 from Easter Seals.

⁷² See Otsego County Coordinated Transportation Plan, <http://www.otsegocounty.com/depts/pln/documents/OtsegoCountyCoordinatedTransportationPlan.pdf> at 20 (Dec. 2009).

⁷³ Genesee/Fingerlakes Region Coordinated Public Transit/Human Services Transportation Plan, <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/GENESSE%20Plan.pdf>.

⁷⁴ Id. at 20-21. See Syracuse Metropolitan Transportation Council, Coordinated Public Transit-Human Services Transportation Plan, <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/SMTC%20Plan.pdf>, at 28 ("When vehicles are not being used to transport riders, 62% of respondents indicated that the vehicles were not being used for other purposes. In total, by taking the difference of peak and off-peak vehicles, the survey indicates that there are 293 unused vehicles during off peak hours.") See also Coordinated Public Transit-Human Services Transportation Plan for Cattaraugus County https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/Cattaraugus%20Plan_0.pdf (August 2009) at 25.

The Central New York Regional Transportation Authority received federal JARC funds to support a call center that operates the local Rides for Work, paratransit and senior transportation programs using the same vehicles.⁷⁵

Taxi Service

Taxis are an important method of transportation. Taxis do not run on a fixed schedule, are more flexible than fixed-route services in terms of pickup times and destinations and are more direct than other paratransit services. The ADA does not require private taxi operators to purchase accessible cabs.⁷⁶ However, taxi services may not discriminate against persons with disabilities.⁷⁷

A variety of issues arise in providing accessible taxicabs. Demand is generally thought to be insufficient to justify requiring all taxicabs to be accessible, particularly because accessible vehicles are considerably more expensive than inaccessible ones.⁷⁸ However, when only a few taxis are accessible, drivers face longer distances to pick up passengers (deadheading), which translates to reduced income for drivers, as well as longer waits for riders. In addition, some sources indicate that riders with disabilities take shorter average trips than non-disabled riders and may tip less.⁷⁹ Often, accessible taxi providers face low demand but are reluctant to market the service because of fears that demand will overwhelm the system. At the same time, riders with disabilities face delays in getting rides because of the few accessible vehicles available and may choose to use paratransit instead, further reducing demand. Thus, it is essential to balance supply and marketing/demand. Accessible taxi programs appear more likely to succeed in areas where a professional taxi industry is in place, in order to ensure effective training, monitoring, invoicing, and tracking of demand. It is also important to allow accessible vehicles to serve general riders and/or contract-based riders (paratransit, Medicaid) in addition to riders with disabilities in order to spread the additional costs and provide sufficient income. Local governments can make accessible taxi programs more successful by incorporating taxi vehicles in their contracted services, including paratransit, Medicaid transportation, and school transportation.

A. New York Taxi Medallion Program and Incentives

Taxi Service is critical to the New York City area in particular. There are approximately 13,000 taxis in New York City. However, only approximately 238, or 2%, are accessible.⁸⁰ In 2003, 9% of the 900 new taxi medallions in New York City were legally required to be for accessible vehicles. The first accessible taxis went into service in 2004. In 2005, the Commission began enforcing a rule requiring black car and livery cab companies to either purchase their own wheelchair accessible cabs or contract with

⁷⁵ See http://www.fta.dot.gov/documents/JARCProfiles091030_final.pdf at 338.

⁷⁶ See 49 C.F.R. §37.29(b).

⁷⁷ See 49 C.F.R. §37.29(c).

⁷⁸ Presentation of Ray Mundy, University of St. Louis Center for Transportation Studies at Transportation Research Board Annual Meeting, January 10, 2010, Washington, DC.

⁷⁹ Presentation of Ray Mundy, University of St. Louis Center for Transportation Studies at Transportation Research Board Annual Meeting, January 10, 2010, Washington, DC.

⁸⁰ New York City Metropolitan Transportation Council Coordinated Plan, Executive Summary,

<http://www.nymtc.org/project/PTHSP/CPT-HS/NYMTCC%20coord%20plans%20EXEC%20SUMMARY-complete.pdf>, at ES-6; NEW YORK STATE ASSEMBLY MEMBER MICAH KELLNER, STRANDED: HOW THE TLC IS FAILING WHEELCHAIR USERS 11 (2009), <http://www.micahkellner.net/pubs/Kellner%20taxi%20report.pdf> at 3.

another company to provide wheelchair accessible service. Since that time, 80% of those companies have complied with this rule. However, most companies contract with a service which only has four vans to service all of New York City.⁸¹

In 2006, the state legislature authorized 150 new accessible medallions.⁸² Over advocates' objections, the New York Taxi and Limousine Commission (TLC) decided to allow only side-entry accessible vehicles as taxicabs, thus reducing their effectiveness for some wheelchair and scooter users.⁸³ Rear entry cabs were not approved for use until 2008.⁸⁴

A few accessible taxis are also available through private taxi companies in the Albany area.⁸⁵

Since 2006, New York state law has provided a tax credit for taxi or livery companies providing transportation to individuals with disabilities "equal to the incremental cost associated with upgrading a vehicle so that it is accessible by individuals with disabilities."⁸⁶ However, the state has failed to publicize the program statewide as, for example, "there is no information given about this tax credit anywhere on the TLC website, other than a passing mention of the original bill."⁸⁷ Several bills have been introduced, but not acted upon, in the state legislature and the New York City Council to expand the credit to purpose-built accessible taxis and to require all new taxis to be either hybrid or accessible after 2010 and to be both hybrid and accessible after 2012. New York City is working to combine accessibility and environmental needs through its new "Taxi of Tomorrow" project.⁸⁸ A Request for Proposals issued December 17, 2009, seeks a manufacturer to develop a taxi vehicle that provides accessibility and fuel economy. Notably, New York City requires accessible taxis to comply with ADA standards,⁸⁹ which limit the types of vehicles that may be considered accessible.⁹⁰

Federal funding may be available through the New Freedom program to support the purchase of accessible taxi vehicles. For example, Washington, DC, recently used a combination of federal New Freedom, city government, and private taxi company funding to purchase 20 accessible taxicabs.⁹¹ However, difficulties arise from the fact

⁸¹ National Council on Disability. The Current State of Transportation for People with Disabilities. Washington DC: http://www.ncd.gov/newsroom/publications/2005/current_state.htm, 2005, 131.

⁸² NEW YORK STATE ASSEMBLY MEMBER MICAH KELLNER, STRANDED: HOW THE TLC IS FAILING WHEELCHAIR USERS 11 (2009), <http://www.micahkellner.net/pubs/Kellner%20taxi%20report.pdf> at 3.

⁸³ Id. Side entry minivans have limited capacity to accommodate large motorized wheelchairs.

⁸⁴ Id.

⁸⁵ See <http://www.mobilityfreedom.org/>.

⁸⁶ See N.Y. [TAX] LAW §606(oo) (McKinney 2009). Assembly member Keller and State Senator Duane have proposed a bill to extend the tax credit to the purchase of vehicles which were manufactured specifically to be accessible to persons with disabilities. See S.R. 5657, 2009-2010 S. Reg. Sess. (N.Y. 2009); Assem.R. 8508, 2009-2010 Assem. Reg. Sess. (N.Y. 2009). While the bill has passed the Assembly, it has yet to be voted on in the Senate. See *generally* New York State Legislature, Bill Status- A8508, <http://public.leginfo.state.ny.us/menugetf.cgi> (last visited Aug. 5, 2009).

⁸⁷ NEW YORK STATE ASSEMBLY MEMBER MICAH KELLNER, STRANDED: HOW THE TLC IS FAILING WHEELCHAIR USERS 41 (2009), <http://www.micahkellner.net/pubs/Kellner%20taxi%20report.pdf>.

⁸⁸ http://www.nyc.gov/html/tlc/html/misc/taxi_of_tomorrow.shtml.

⁸⁹ <http://nyc.gov/html/tlc/downloads/pdf/specrules.pdf> at 20.

⁹⁰ Applying the ADA requirements requires a larger passenger compartment than most current minivans provide.

⁹¹ http://www.washingtonexaminer.com/local/Wheelchair-accessible-taxis-to-roll-out-on-D_C-streets-8523637-69915312.html.

that these programs sometimes adopt mixtures of federal, local, and private requirements that do not fit the taxi program.⁹²

B. Accessible Taxi Dispatch System

In July 2008, the New York City Taxi and Limousine Commission established a central dispatch system with wheelchair accessible taxis for passengers around the city. Passengers using wheelchairs and scooters call 311, speak to a dispatcher and schedule a pickup time.⁹³ While accessible cabs may be out on the streets, the system is designed to have persons with disabilities schedule pickups through the Dispatch System rather than hail them on the street. However, since its inception, the system has failed to efficiently be available for⁹⁴ and transport individuals with disabilities.⁹⁵ In the first 15 months of operation, the system dispatched approximately 4,500 rides (approximately 10 per day).⁹⁶

C. Taxi Access for People with Hearing Disabilities

In 2008, New York City created a pilot program to test induction loop systems in 15 taxicabs to allow people who are hard of hearing to hear the drivers.⁹⁷ In September 2009, approved induction loop systems for voluntary installation in taxis, becoming the first U.S. city to incorporate this technology in taxis.⁹⁸

TRANSPORTATION IN RURAL AREAS

Transportation in rural areas is one of the most difficult problems facing individuals with disabilities. In many such areas, there is no public transportation and, therefore, no ADA or paratransit requirement. However, individuals with disabilities still need access to health care, human services, shopping, and social activities.

Many New York communities use Retired & Senior Volunteer Program services to provide volunteer drivers or escorts for underserved populations, including people with disabilities.⁹⁹ Volunteers use their own vehicles and may receive training, mileage reimbursement, insurance coverage, and other supports. Alternatively, agencies –

⁹² Presentation of Wendy Klancher at Transportation Research Board Annual Meeting, January 10, 2010, Washington, DC. Contact: wklancher@mwcog.org. For example, federal Buy America and accessibility and safety standards do not fit well with relatively small accessible taxi programs, prescriptive local government insurance, maintenance, and driver testing requirements adopted from paratransit programs fit poorly with taxi programs. Private taxi companies' limits on services drivers can provide (e.g., not allowed to assist an individual in exiting their home) make it difficult to serve some riders with disabilities.

⁹³ NEW YORK CITY TAXI AND LIMOUSINE COMMISSION, ACCESSIBLE TAXI GUIDE, http://www.nyc.gov/html/tlc/downloads/pdf/accessible_taxi_user_guide.pdf; http://www.nyc.gov/html/tlc/html/accessible_dispatch_system/accessible_dispatch_system_main.shtml

⁹⁴ "While Central Dispatch is supposed to be available [to wheelchair users] 24 hours a day, seven days a week, the reality is that the system is largely inaccessible outside of normal weekday business hours." See generally NEW YORK STATE ASSEMBLY MEMBER MICAH KELLNER, STRANDED: HOW THE TLC IS FAILING WHEELCHAIR USERS 24 (2009), <http://www.micahkellner.net/pubs/Kellner%20taxi%20report.pdf>.

⁹⁵ Assembly member Micah Kellner reports that while the 311 service has been effective in transferring passengers properly to Central Dispatch, Central Dispatch has been ineffective in sending a taxi to pick the passengers up. See *id.* at 20. Furthermore, while the service generally worked in Manhattan, no calls involving the outer boroughs of the City "resulted in a cab being at the pick-up location at the requested time or even within the TLC's reported average of a pick-up occurring within 30 minutes of a request or its stated goal of 100% of cab pick-ups occurring within 60 minutes of a requested pick up time. *Id.* at 21-22. While rides are supposed to arrive within 30 minutes of a request, arrivals are actually averaging 37 minutes after requests. Presentation of Peter Schenkman at Transportation Research Board annual meeting, January 11, 2009, Washington, DC.

⁹⁶ *Id.*

⁹⁷ <http://www.hearingloop.org/NYCTaxi.pdf>.

⁹⁸ <http://growinguphardofhearing.blogspot.com/2009/09/tlc-approves-induction-loop-technology.html>.

⁹⁹ See http://getinvolved.volunteermatch.org/assets/rsvp_state.jsp?usestateabbr=ny&Search4.x=23&Search4.y=6.

particularly those serving rural areas – may offer vouchers that people with disabilities can use to pay professional or volunteer drivers.¹⁰⁰ These programs may provide greater service areas than public transportation or may offer hours of service and trip purposes that are not provided by other human services transportation providers. These programs support independence and choice for people with disabilities. However, individuals with some disabilities, including intellectual disabilities, will need assistance arranging rides and submitting vouchers for payment. Another drawback of these programs is that most volunteer and taxi vehicles are not physically accessible, so their use by people who use wheelchairs is limited. Some government agencies will only reimburse vouchers when used for professional drivers, thus limiting the consumers' range of choices (e.g., family members or friends).

PERSONALLY OWNED TRANSPORTATION

Most people in the United States use personally owned vehicles. A 2002 Department of Transportation note recognized that the number of people with disabilities who needed to get to work was increasing; as a result, the number of adapted vehicles was simultaneously increasing.¹⁰¹ Modifications ranged from hand controls to wheelchair securement to steering control devices and lifts.¹⁰² Personal vehicles provide flexibility, control, and independence in ways public transportation cannot match.

There are issues with accessibility modifications, however. The cost of modifications ranged from \$20,000 to \$80,000¹⁰³ ten years ago. This cost is even more prohibitive in today's economy and more of an obstacle for persons with disabilities. Furthermore, modified vehicles raise safety concerns such as concerns surrounding the security of wheelchairs, the functionality of hand controls and the impact caused by airbags.¹⁰⁴

Some disability advocacy organizations have advocated for development of programs to rehabilitate older vehicles and give them to people with disabilities free, at low cost, or for low-interest loans. However, few disability-specific programs have been developed.¹⁰⁵ Such programs could be modeled after existing programs for low-income families, such as those funded by the New York Office of Temporary and Disability

¹⁰⁰ Making Transportation Work for People with Disabilities in Rural America, The Supported Volunteer Rural Transportation Voucher Program, <http://rtc.ruralinstitute.umt.edu/Trn/TrnManual.htm>. Rural Transportation Voucher Program for People with Disabilities: Three Case Studies, <http://ntl.bts.gov/lib/9000/9000/9095/4bernier.pdf>.

¹⁰¹ U.S. Department of Transportation Bureau of Transportation Statistics, Research Note, *Safety Issues for Vehicles Adapted for Use by Persons with Disabilities*, <http://www.nhtsa.dot.gov/cars/rules/adaptive/btsrn/index.html> (last visited June 18, 2009). The study noted that in 1997, the National Highway Traffic Safety Administration found there were 383,000 modified vehicles on the roads and that this number was expected to- and probably has- increase. *Id.*

¹⁰² *Id.*

¹⁰³ U.S. Department of Transportation, *Adapting Motor Vehicles for Persons with Disabilities*, <http://www.nhtsa.dot.gov/cars/rules/adaptive/brochure/brochure.html> (last visited June 18, 2009). The brochure was written ten years ago. Taking inflation into account, the costs would now range from \$25,672.99 to \$102,691.96. CPI Inflation Calculator, <http://data.bls.gov/cgi-bin/cpicalc.pl> (last visited June 18, 2009).

¹⁰⁴ U.S. Department of Transportation Bureau of Transportation Statistics, Research Note, *Safety Issues for Vehicles Adapted for Use by Persons with Disabilities*, <http://www.nhtsa.dot.gov/cars/rules/adaptive/btsrn/index.html> (last visited June 18, 2009).

¹⁰⁵ The Workforce Investment Board of Herkimer, Madison, and Oneida Counties received \$174,500 in Wheels for Work funding from the NY Office of Temporary and Disability Assistance in 2008, which it proposed to use for a Driver for Success program to provide vehicles to individuals with disabilities. See Herkimer, Madison & Oneida Coordinated Plan, <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-repository/6293A01BB7499086E0430A3DFC039086> at 5-6.

Assistance.¹⁰⁶ Another option is to provide low-interest loans to people with disabilities for the purchase or modification of vehicles. Again, existing programs for low-income families provide a model.¹⁰⁷ These programs can be eligible for federal funding through the Job Access-Reverse Commute (JARC) and New Freedom programs. To minimize environmental and other concerns about increased automobile usage, recipients can be required to participate in ride-sharing and other programs.

Some motor vehicle manufacturers offer reimbursement programs for vehicle modifications, which can be combined with other funding programs.¹⁰⁸

Some qualified individuals should be able to save for and purchase vehicles and vehicle modifications under the Social Security Administration's "Plan to Achieve Self-Support (PASS)" but there is no standard procedure for doing this. The costs of modifying a personally owned vehicle may also be tax deductible as a medical expense under federal tax law.

¹⁰⁶ See <http://readme.readmedia.com/Wheels-Help-Oneida-Herkimer-Residents-Achieve-Economic-Independence/120261> (In 2008, NY OTDA awarded \$4 million to 28 organizations in 44 counties, which will provide vehicles to nearly 800 individuals). For a list of Wheels to Work programs in New York, see <http://www.labor.state.ny.us/Welfare2Work/Program/RFP/Wheels2ContactList.shtm>.

¹⁰⁷ See, e.g., Northern Virginia Family Services Ways to Work program.

http://www.nvfs.org/pages/page.asp?page_id=91652&articleId=9108.

¹⁰⁸ See Ford Mobility Motoring, <http://www.fordmobilitymotoring.com/>; GM Mobility, http://www.gm.com/vehicles/services/gm_mobility/.

IMPACT OF FEDERAL PROGRAMS

As of 2003, there were 62 federal programs aimed at supporting transportation for the transportation disadvantaged, including people with disabilities. Only 6 of them are funded from the Department of Transportation.¹⁰⁹ There may be more today.¹¹⁰

A. New Freedom and Job Access Reverse Commute

The Federal Transit Authority awards New Freedom Grants to state and local governments to help fund programs which make public transportation services and alternatives beyond those required by the ADA available to individuals with disabilities.¹¹¹ Each state receives funds to cover areas with populations over 200,000 (large urbanized areas – 60% of funding), areas with populations between 50,000 and 199,000 (small urbanized areas – 20% of funding) and areas with populations under 50,000 (20% of funding).¹¹²

New York has six large urbanized areas which receive funds from the New Freedom Grant program: Albany, Buffalo, New York City and its surrounding area, Poughkeepsie-Newburgh, Rochester and Syracuse.¹¹³ Each large urbanized area has an agency or program named as the designated recipient of New Freedom funds including the Capital District Transportation Authority, the Niagara Frontier Transportation Authority, the New York State Department of Transportation, the Rochester-Genesee Regional Transportation Authority and the Central Regional Transportation Authority.¹¹⁴ Small urbanized areas and non-urbanized areas rely on the New York State Department of Transportation as their designated recipient of funds.¹¹⁵

The Federal Transit Administration does not maintain information on which communities receive New Freedom grants or what they are used for. However, the New York State Department of Transportation keeps summaries of the New Freedom and Job Access Reverse Commute (JARC) funded projects.¹¹⁶ Federal New Freedom and JARC grants have been received primarily by the most well-developed public transportation systems in the state (e.g., Rochester-Genesee Region and Capital District).

¹⁰⁹ General Accounting Office, "Transportation Disadvantaged Populations: Many Federal Programs Fund Transportation Services, but Obstacles to Coordination Persist," <http://www.gao.gov/new.items/d03698t.pdf> (May 2003).

¹¹⁰ http://www.ohca.state.ok.us/provider/types/bh/pdf/lib/transport_federal.pdf, finding 75 programs in 2005.

¹¹¹ U.S. DEPARTMENT OF TRANSPORTATION- FEDERAL TRANSIT ADMINISTRATION, CIRCULAR FTA C 9045.1: NEW FREEDOM PROGRAM GUIDANCE AND APPLICATION INSTRUCTIONS 13 (2007), [http://www.fta.dot.gov/documents/FTA_C_9045.1_New_Freedom\(1\).pdf](http://www.fta.dot.gov/documents/FTA_C_9045.1_New_Freedom(1).pdf).

¹¹² U.S. Department of Transportation-Federal Transit Administration, Grants and Recipients- New Freedom Designated Recipients, http://www.fta.dot.gov/funding/grants/grants_financing_7405.html (last visited Aug. 3, 2009). See also New York State Department of Transportation, Federal Transit Funding Programs, <https://www.nysdot.gov/portal/page/portal/divisions/policy-and-strategy/transit-bureau/public-transportation/federal-transit-funding>.

¹¹³ *Id.*

¹¹⁴ *Id.* The Capital District Transportation Authority covers programs in the Albany area, the Niagara Frontier Transportation Authority covers programs in the Buffalo area, the New York State Department of Transportation covers programs in the New York City area and the Poughkeepsie area, the Rochester-Genesee Regional Transportation Authority covers programs in the Rochester area and the Central New York Regional Transportation Authority covers programs in the Syracuse area. *Id.*

¹¹⁵ *Id.*

¹¹⁶ Documents on file with author.

Urban areas received a total of \$10 million dollars in New Freedom funding for projects such as:

- Mobility management (Town of Brookhaven, New York City Department for the Aging, New York City Department of Transportation);
- Travel training (Central New York);
- Sidewalk and station accessibility (Long Island RR, Putnam County, New York City);
- Transportation software (Westchester County, Schenectady);
- Accessible vehicles (City of Watervliet (van); Capitol District (taxi));
- Expanded paratransit services (Rochester-Genessee Region; Niagara-Frontier).

However, small urban and rural areas are beginning to receive funding:

- Livingston-Wyoming NYSARC – New Freedom funding to continue the Supportive Employment and Door through Door transportation services for non emergency medical services for frail and needy seniors. The service is through a partnership between the County Transportation Unit and Local DSS and Livingston-Wyoming ARC. These projects assist individuals with disabilities to connect supportive employment and door through door assistance for frail seniors to medical and shopping.
- Seneca-Cayuga NYSARC – New Freedom funds to continue operating expanded services for projects that connect individuals with disabilities to employment centers and for the purchase of ITS and GIS hardware/software. This will enable the NYSARC to improve transportation and mobility services.
- NYSARC Inc. Ontario County Chapter – New Freedom funded projects for travel trainers and mobility management efforts to combine Ontario County's CATS public system with Ontario ARC's private to establish greater coverage area's in the rural community for the disabled and underemployed populations.
- Allegany County – Combination JARC and New Freedom funding to assist an Allegany coalition to develop a mobility management system within the County, and hire a mobility manager. The Task force is developing a one call center, along with extensive training for users of the system.
- Institute for Human Services, Inc., Steuben County – Combination of JARC and New Freedom funds for the development of a mobility management system, and hiring a mobility manager to assist in the coordination of transportation issues. The funds will be provided to develop technologies to assist the coalition of human service transportation providers and Steuben County to better coordinate transportation and to reduce duplication of services.
- Schuyler County NYSARC – Combination of JARC and New Freedom funds for the development of a mobility management system to benefit the coordination efforts of the community and hire a mobility manager to help coordinate transportation related issues for the community.
- Cortland County-SVHN - Combination of JARC and New Freedom funds for the development of a mobility management system, and hiring a mobility manager to assist in the coordination of transportation issues. The funds will be used to develop technologies to assist the coalition of human service transportation

B. Elderly Individuals and Individuals with Disabilities Program (§5310)

This federal program provides capital-only funding to nonprofit organizations for the transportation needs of elderly individuals and individuals with disabilities. In New York State, the NYS Department of Transportation (NYSDOT) is the agency designated by the Governor to administer this federal funding program with oversight from the Federal Transit Administration (FTA). Through the NYSDOT Section 5310 Grant Program, funds are used to purchase buses for not-for-profit organizations throughout the State of New York. The program funds 80% of the vehicle purchase cost, with the remaining 20% provided by the applicant organization as the local match. There are no operating funds provided under this program, and recipients are responsible for 100% of their ongoing operating expenses for buses awarded through the 5310 program grant.

In Federal Fiscal Year (FFY) 2008, the State of New York received approximately \$8.659 million in Section 5310 funding from the FTA, roughly 6.8% of the total national Section 5310 apportionment, and 95 organizations statewide were awarded vehicles through this grant assistance program for the FFY 2008 grant cycle.

C. American Recovery and Reinvestment Act

American Recovery and Reinvestment Act (ARRA) funding can be used to increase transportation access for people with disabilities. For example, several towns in Broome County, NY, received \$405,000 in ARRA funding to make sidewalks and curbs accessible by installing curb ramps.¹¹⁷ As noted above, accessible sidewalks and other paths of travel are important to allow individuals with disabilities to get to public transportation stops.

D. United We Ride

The federal United We Ride program, started in 2004, provides grants and technical assistance to improve coordination of transportation services for people with disabilities. The Department of Transportation's Research and Innovative Technology Administration is building on the United We Ride program through its Mobility Services for All Americans Initiative.¹¹⁸ This initiative has selected 8 demonstration planning and design projects on Intelligent Transportation Systems.¹¹⁹

One of the most important outcomes of the United We Ride program is the Policy Statement on Access and Mobility Vehicle Resource Sharing.¹²⁰ This policy makes clear that federal funding requirements do not restrict use of federally-funded vehicles to serving the particular client populations of the funding program, but, instead, allow vehicle sharing, as long as the cost of the vehicle and services are also shared.

¹¹⁷ <http://recovery.transportation.org/projects/NY/NY%20Americans%20with%20Disabilities%20Act%20Sidewalk%20Recon.pdf> .

¹¹⁸ http://www.its.dot.gov/msaa/msaa_overview.htm.

¹¹⁹ http://www.its.dot.gov/itsnews/fact_sheets/msaa.htm. Sites are in Aiken, SC; Atlanta, GA; Camden County, NJ; Fitchburg, MA; Kent, OH; Louisville, KY; Orlando, FL; and Paducah, KY.

¹²⁰ http://www.unitedweride.gov/1_1165_ENG_HTML.htm (October 2006).

New York State has participated in the federal United We Ride program. Prior to the United We Ride initiative, New York State did not coordinate agencies working on transportation issues. Since United We Ride began, New York State formed a coordinating council of agencies working together to address transportation issues. The council has produced reports for the governor in 2006 and 2008. The council is currently headed by the Department of Transportation and is examining issues such as pedestrian access for persons with disabilities, getting state agencies involved in mobility management and continuing to emphasize the need for compliance with the ADA.

New York received grants from the United We Ride initiative during the first two rounds in which grants were issued. In Round 1, New York received a \$35,000 grant to develop an action plan; the state used these funds to develop a pilot program in Albany County. The state held general workshops, formed working committees to work on maintenance coordination and tried to join several agencies together to deal with transportation issues. Currently, the Round 1 grant has not been fully spent; Albany County stepped away from the program because of a recent lack of resources.

In Round 2, New York received a \$50,000 grant from the United We Ride initiative. New York intended to use \$25,000 to implement the action plan developed for Albany County and \$25,000 to do more general outreach throughout the state. Like the Round 1 grant, this grant has not been fully spent; the state's Department of Transportation found that the outreach they were intending to do had already been done in some form by the coordinating council the state had independently formed. New York is currently applying for a grant in the fourth round of grants given through the United We Ride initiative; these funds would be used to support the Buffalo Center for Transportation Excellence. The state as of yet has not received a response.

E. Coordinated Planning

Perhaps the most important contribution of the federal transportation programs is the focus on coordination of services. Coordinated Human Service Transportation Plans, which are required by certain federal transportation funding programs, assist cities and counties to assess transportation needs of residents who are low income, elderly, or have disabilities, identify duplication between government and private human services groups, and identify solutions for effectively providing and coordinating services to disadvantaged groups. Most New York jurisdictions have created Coordinated Plans or similar plans.¹²¹ Some have begun the process of creating Coordinated Plans or similar efforts.¹²² New York State does not have a Coordinated Plan.¹²³

¹²¹ See, e.g., Otsego County Coordinated Transportation Plan, <http://www.otsegocounty.com/depts/pln/documents/OtsegoCountyCoordinatedTransportationPlan.pdf> (Dec. 2009); Binghamton Metropolitan Transportation Study, <http://bmtsonline.com/files/bmts/pdfs/CPT-HSTP.pdf> (March 2007); Herkimer-Oneida Counties Transportation Study, <http://ocgov.net/oneida/planning/hocts/lrtp>;

¹²² See, e.g., <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-transportation/federal-transit-funding/jarcmain/ajrc-program/aj-rcg-program> (Chenango, Clinton, Jefferson, Madison, and Sullivan Counties in development. Transportation Needs Assessment Request for Proposals - Greene and Columbia Counties, http://www.columbiacountyny.com/depts/planning/documents/transportation_rfp.pdf (March 2009); Essex County Crossing Communities, <http://www.co.essex.ny.us/CrossingCommunities.asp>.

In 2005, New York developed a United We Ride Action Plan.¹²⁴ The plan emphasizes coordination of state and federal agency, recognition of what the state's needs are, emphasis on addressing the needs of the customers, getting funding to enable greater mobility, using advanced technology to support people with disabilities and taking actions to get people to their destinations efficiently. The draft of the plan available to the public is incomplete in that the action areas listed either had yet to begin or needed substantial action.¹²⁵

Coordinated planning has allowed jurisdictions to identify duplicated services and to leverage the services of different types of transportation providers. For example, a human services organization providing transportation to and from school for low-income children may have capacity to serve other populations during the hours between school opening and closing, or before and after school.¹²⁶ Cost reductions could be achieved for multiple transportation providers by sharing or centralizing purchasing, maintenance, fueling, insurance, or dispatch services.¹²⁷ Large employers could also participate by subsidizing transportation for their employees.

Public and private transportation providers often cite insurance/liability concerns, confidentiality issues, and billing mechanisms as internal barriers to coordinated services. High-level commitment is needed in state and local government to require research and assessment of the reality of these barriers and to seek solutions that will allow more coordinated transportation.¹²⁸ In addition, potential collaborating agencies fear “turf” issues and partiality of ride assignments if one agency has control of scheduling and assigning rides.

STATE OVERSIGHT

The New York Transit Bureau is responsible for overseeing public transportation issues generally. While the Transit Bureau itself has not issued a report addressing issues of accessibility for persons with disabilities, it has participated in New York's Most

¹²³ National Resource Center for Human Service Transportation Coordination, <http://web1.ctaa.org/webmodules/webarticles/anviewer.asp?a=384>.

¹²⁴ http://www.unitedweride.gov/1_1008_ENG_HTML.htm.

¹²⁵ The Department of Transportation's policy and planning division is responsible for coordinating the state's efforts under United We Ride. For more information, contact: Thomas Vaughan Transit Bureau- Policy and Planning Division NYS Department of Transportation 50 Wolf Rd.- POD 54 Albany, NY 12232 (518) 457-7248 tvaughan@dot.state.ny.us

¹²⁶ See Coordinated Public Transit-Human Services Transportation Plan for Cattaraugus County https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/Cattaraugus%20Plan_0.pdf (August 2009) at 22.

¹²⁷ See Genesee/Finger Lakes Region Coordinated Public Transit-Human Services Transportation Plan, <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/GENESSE%20Plan.pdf> p. 29 (Cost savings can be realized through cooperative maintenance, fueling and vehicle wash facilities as well as joint purchases of fluids and parts and vehicle wash facilities. Successful examples of these are found in Genesee County (County, City, ARC, and BBS share maintenance/ fueling facilities); Livingston County (County and LATS share vehicle housing and maintenance); Ontario County (County and CATS will share maintenance, fueling, vehicle wash – under construction); Wayne County (County and WATS share vehicle maintenance facility). Shared facilities are typically sponsored by the County. Participants include public transit providers, school districts, police/ fire departments, cities/towns/ villages, ARCs and other not-for-profit organizations.

¹²⁸ See, e.g., Chemung County Coordinated Public Transit-Human Services Transportation Plan, <https://www.nysdot.gov/divisions/policy-and-strategy/transit-bureau/public-trans-respository/Chemung%20Plan.pdf>

Integrated Setting Coordinating Council (MISCC)¹²⁹ and has joined in the reports issued by MISCC.

The most recent MISCC annual report, published in 2008, recommended:

1. Greater emphasis on coordinated efforts among agencies impacting human services transportation and on coordinated federal, state, and local funding;
2. Appointment of a transportation “czar” at each health and human services agency be established to serve as a contact person and expert on transportation matters. The purpose of these appointments would be to elevate transportation issues within the agencies and provide expertise on transportation issues within the agencies;
3. Development of legislation to require (with benchmarks and penalties) and incentivize (through tax credits and financial subsidies) accessible taxi services;
4. Establishment of mobility managers in each county to implement strategies to improve the accessibility and variety of transportation services to persons with disabilities.¹³⁰

As of October 2009, 11 health and human services agencies have appointed transportation “czars.”¹³¹ The MISCC has not endorsed any particular accessible taxi legislation. The MISCC continues to encourage its member agencies to move forward with mobility management programs and to look for cross-agency issues and opportunities for collaboration.

RECOMMENDATIONS FOR NEW YORK STATE GOVERNMENT

Increase Coordination

1. Reinvigorate the statewide United We Ride coordination process through the MISCC, update the state Action Plan and implement it.
2. Require inclusion of transportation considerations in all state and local “Olmstead” community integration plans.
3. Research federal and state funding requirements, determine where shared use of vehicles and related services is permitted and where it is not, disseminate information to state and local transportation providers, and work with funders to increase flexibility of uses of funding while preventing fraud or misuse.
4. Offer NYS DOT services/contracts (e.g., vehicle procurement, maintenance, insurance) to local transportation providers where doing so will reduce costs.
5. Require state and county agencies to develop shared policies on transportation and to coordinate transportation.

¹²⁹ See generally New York State Office of Mental Retardation & Developmental Disabilities, Most Integrated Setting Coordinating Council, <http://www.omr.state.ny.us/MISCC/> (last visited Aug. 6, 2009).

¹³⁰ MOST INTEGRATED SETTING COORDINATING COUNCIL, MISCC ANNUAL REPORT 58-59 (2008), http://www.omr.state.ny.us/MISCC/images/hp_miscc_annualreport.pdf.

¹³¹ List on file with authors.

6. Require assessment of transportation availability and accessibility for human services in NYS-required 5-year County Health Assessments, Integrated County Plans (New York State Office of Children and Family Services), and transportation plans (Transportation Improvement Plans, Long Range Transportation Plans).
7. Seek federal funding (e.g. ARRA) and designate state funding for infrastructure improvements, such as online trip coordination, GPS systems, and GIS mapping. Facilitate and coordinate contribution of public, paratransit, and human services transportation information to NYS GIS Clearinghouse and use GIS data to inform transportation decisions locally and at state level.
8. Coordinate inter-county and inter-city transportation services – particularly cross-boundary paratransit services.
9. Require state transportation and human services grantees to certify that they coordinate with other public transportation and human services transportation services in order to eliminate barriers to coordinated/shared services (e.g., insurance requirements, geographic limits, types of individuals served). Section 5310 funding should be awarded first to those agencies that pursue and document bona fide coordination activities, such as shared maintenance agreements, agreements to provide transportation to clients of other agencies on a regular basis.
10. Eliminate state legal and agency requirements that restrict sharing of services. For example:
 - a. County-operated fueling facilities need to be registered as a fuel “distributor” in order to pass along low fuel costs to some public and not-for-profit transportation providers. Tax regulations require complicated billing systems, with separate bills required for government, for-profit and not-for-profit users. Insurance requirements, funding restrictions, and bureaucracies limit agencies’ and organizations’ ability to share purchase, maintenance, fueling, dispatch and other services.
 - b. Change NYS §5310 (elderly and disabled; also known as 16(b) (2)) rules as needed to allow recipients to share vehicles with other human services transportation providers that do not strictly serve elderly and disabled individuals (e.g., school/pre-school transportation, children’s programs) .
 - c. Allow waivers of requirements for common carrier status for human services agencies to allow them to transport people other than their clients for a fee.
11. State DOT should participate in local/regional coordinated planning efforts – look for cross-region opportunities and ways the state can support local/regional efforts.

12. State and local funding of housing developments, including congregate housing, such as nursing homes, should require advance coordination with local public and human services transportation providers, to ensure they are located where transportation will be available.
13. Where state or local tax and other incentives are given to employers, require assessment of, and planning for, accessible public transportation to serve the worksites.
14. Develop statewide inventory of transportation resources for people with disabilities and other disadvantaged populations (public and human services) (see University of Illinois TRANPRO program.¹³²). Build this into the NYS 511 program.
15. Require joint planning between the Department of Transportation and the Division of Housing and Community Renewal and between similar agencies at the local level to ensure that housing development projects provide for accessible public transportation.
16. Facilitate partnerships between transportation providers and employment training services (e.g. One-Stop Centers, VESID) to train maintenance workers, drivers, and other service providers.
17. Seek and combine multiple federal funding sources to create coordinated transportation services (Flexible Fund for Family Services (FFFS) – formerly TANF; HUD Community Development Block Grants; HHS funding for particular populations (children, Medicaid, rural health care opportunities); Department of Education (Independent Living) and Vocational Rehabilitation funding; Department of Labor funding. See Easter Seals Project Action, Building Mobility Partnerships for People with Disabilities: Opportunities for Federal Funding, http://projectaction.easterseals.com/site/PageServer?pagename=ESPA_funding_guide.

Increase Knowledge

1. Identify promising and effective accessible transportation practices in selected areas of the state and publish and disseminate those findings in a white paper.
2. Conduct research into the costs and uses of paratransit service and the increased cost of paratransit service beyond ADA minimum services. Currently, costs are assumed to be high and are assumed not to justify increased “premium” services with increased user fees. These assumptions should be tested and confirmed. What are riders using paratransit for? Are there ways to combine trips? Share rides? Establish fixed routes/feeder services serving the places they’re going? Are there cost savings that could be achieved by replacing

¹³² P.S. Sriraj, “Development of a Web-Based Interactive Information Management System for Public and Specialized Transportation Providers of Illinois,” presented at 2010 Transportation Research Board Annual Meeting, Washington, DC, January 13, 2010 (on file with authors); <http://www.utc.uic.edu/tranpro/>.

3. Encourage/require local and regional transportation boards to include members of the disability community.
4. Encourage and fund disability awareness training for local transportation authorities.
5. Survey individuals with disabilities and people who are elderly regarding why they do or do not use public transportation, including what incentives would induce them to use it and what pricing structure would be effective.
6. Create marketing campaigns and incentives (e.g., free fare days) to encourage use of public transportation by people with disabilities and to overcome resistance by non-disabled and elderly riders to riding with people with disabilities (e.g., developmental disabilities and mental illness).
7. Add accessibility information and simplified trip planning services to the NYS 511 website, ensuring that the website and trip planner are fully accessible.
8. Require, support and enforce accessibility of transit websites, including trip planners.
9. Provide information about all local transportation services to human service providers, social workers, health care providers, employers, Disability Program Navigators, vocational rehabilitation counselors, etc. who may not know about options that are not specific to their consumers.
10. Identify employers with good track records on hiring people with disabilities and obtain information about transportation-to-work challenges and solutions.
11. Review the effectiveness of the 211/311 transportation-related services provided through call centers and assess needs for further enhancement and/or call center training and/or marketing the service to people with disabilities and employers that hire people with disabilities.

Increase Options

1. Change state rules to allow government agency clients to designate and reimburse family members as drivers (April, 2006, Nebraska Governor Dave Heineman approved LB 1069, "Change to Regulated Motor Carrier Provisions Relating to Transportation of Certain Persons" (2006, Committee on Transportation & Telecommunications). This act allows a person eligible for transportation aid from Nebraska Health and Human Services to choose a non-liable family member to provide transportation.)
2. Pass legislation requiring all new taxis in New York City to be accessible and requiring at least one accessible taxi per company in other areas. Expand the

3. Bundle projects for New Freedom funding over several years – so coordination, vehicles and mobility management can be tied to each other through multi-year projects.
4. Facilitate inclusion of taxis as part of paratransit systems by addressing insurance, maintenance, training, and level-of-service requirements.
5. Provide funding for vehicle replacement, not just new vehicles. Ensure agencies who give up vehicles that still have useful life give those vehicles to other agencies (with lower transportation needs).
6. Change state tax law to allow credit for accessibility modifications to personal vehicles or to reduce the threshold for deduction as a medical expense.
7. Provide funding for grants and low-interest loans for low-income individuals to purchase or modify accessible vehicles.
8. Fund Supported Volunteer Rural Transportation Voucher programs in rural areas. Amend legislation and agency rules as necessary to allow individuals with disabilities the greatest possible choice of drivers, including family members. Explore agency ability to provide or subsidize insurance coverage for volunteer drivers. Use §5311 and §5310 funding. Provide accessible vehicles. Coordinate with volunteer services already in existence (e.g., Meals on Wheels, homeless services).
9. Improve enforcement - The state, through the Department of Transportation and the Division of Human Rights should create a better statewide mechanism to enforce all provisions of the ADA statewide and require transportation companies to make their systems accessible for persons with all disabilities. Materials from some local transportation providers indicate possible ADA violations, including
 - a. Requiring paratransit reservations at least 24 hours in advance (ADA permits only “next day” reservation)
 - b. Using route deviation service as a substitute for ADA paratransit
 - c. Limiting service animals to seeing eye dogs or requiring registration of service animals
 - d. Not announcing all stops at transfer points, major intersections, and at intervals
10. Explore the use of work-related tax or other financial incentives providing cost-offsets for employers that provide stipends to employees with disabilities

11. Support “bus buddies” and “travel hosts” programs to mentor and guide riders with disabilities. Increase travel training programs to teach people to use fixed routes. NYC public schools provide a model for effective travel training services
12. Emphasize providing accessible routes to public transportation – sidewalks, curb cuts, bus stop. Use ARRA funding and ensure consistency throughout the state that requires drivers or other city workers to ensure that bus stops are clear of snow so that ramps can be lowered properly and wheelchairs can be used.
13. Reconsider elevator maintenance schedules to reduce station down-time.
14. Require that paratransit staff be paid equitably to mass transit staff, thus preventing accessible transportation from being undervalued and understaffed.

Resources

There are many resources available to help state and local governments, transportation providers, and human services providers develop transportation programs to serve individuals with disabilities. A few such resources include:

- Easter Seals Project Action - www.projectaction.org.
- United We Ride - www.unitedweride.gov.
- National Council on Disability, The Current State of Transportation for People with Disabilities in the United States, http://www.ncd.gov/newsroom/publications/2005/pdf/current_state.pdf
- Research and Training Center on Disability in Rural Communities, http://rtc.ruralinstitute.umd.edu/transportation_publications.asp
- New York 211/311 network: <http://www.211ny.org/>

www.NYMakesWorkPay.org

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Partnering Organizations

New York State Office of Mental Health
Employment and Disability Institute (Cornell University)