

Transportation Disadvantage Commission, expenditures

Number: INFORMAL

Date: July 27, 1998

Ms. Jo Ann Hutchinson
Executive Director
Florida Commission for the Transportation Disadvantaged
605 Suwannee Street, MS-49
Tallahassee, Florida 32399-0450

RE: TRANSPORTATION DISADVANTAGED COMMISSION--documentation of transportation expenditures.

Dear Ms. Hutchinson:

Thank you for contacting this office regarding the documentation of transportation costs for transportation disadvantaged passengers. Attorney General Butterworth has asked me to respond to your letter.

Chapter 427, Florida Statutes, provides for special transportation and communications services for certain Florida citizens. Part I of this chapter relates to services provided to the "[t]ransportation disadvantaged," that is,

"those persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped or high-risk or at-risk[.]"[1]

Part I, Chapter 427, Florida Statutes, creates the Florida Commission for the Transportation Disadvantaged to coordinate the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators to those citizens who may take advantage of this service.[2] Pursuant to section 427.013, Florida Statutes, the commission has the power to:

"(3) Develop policies and procedures for the coordination of local government, federal, and state funding for the transportation disadvantaged.

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(5) Serve as a clearinghouse for information about transportation disadvantaged services, training, funding sources, innovations, and coordination efforts.

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(9) Develop standards covering coordination, operation, costs, and utilization of transportation disadvantaged services. . . .

(10) Develop and monitor rules and procedures to implement the provisions of ss. 427.011-427.017.

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(14) Consolidate, for each state agency, the annual budget estimates for transportation disadvantaged services, and the amounts of each agency's actual expenditures, together with the annual budget estimates of each official planning agency, local government, and directly federally funded agency and issue a report.

* * *

(17) Review, monitor, and coordinate all transportation disadvantaged local government, state, and federal fund requests and plans for conformance with commission policy, without delaying the application process. Such funds shall be available only to those entities participating in an approved coordinated transportation system or entities which have received a commission-approved waiver to obtain all or part of their transportation through another means. This process shall identify procedures for coordinating with the state's intergovernmental coordination and review procedures and s. 216.212(1) and any other appropriate grant review process.

(18) Develop an interagency uniform contracting and billing and accounting system that shall be used by all community transportation coordinators and their transportation operators.

(25) Conduct a cost-comparison study of single-coordinator, multicoordinator, and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation to the transportation disadvantaged is programmed for development."

Finally, section 427.016, Florida Statutes, requires that

"(2) Each agency, whether or not it is a member of the Commission for the Transportation Disadvantaged, shall inform the commission in writing, before the beginning of each fiscal year, of the specific amount of any money the agency allocated for transportation disadvantaged services. Additionally, each state agency shall, by September 15 of each year, provide the commission with an accounting of the actual amount of funds expended and the total number of trips purchased.[3]

(3) Each metropolitan planning organization or designated official planning agency shall annually compile a report accounting for all local government and direct federal funds for transportation for the disadvantaged expended in its jurisdiction and forward this report by September 15 to the commission."

Thus, the Transportation Disadvantaged Commission receives a substantial amount of information relating to the cost effectiveness of providing services to its target population.[4] Further, the commission appears to have the authority to develop rules and procedures requiring the submission of any additional information which will facilitate the accomplishment of its duties.[5]

However, this office cannot identify the type of documentation that may be appropriate to this task nor may we speak on behalf of the Comptroller of Florida as to the types of information that

office requires for accountability purposes. Rather, you may wish to work with the Comptroller's Office to determine those documents which would be reviewed in an audit and, from that point, develop rules and procedures resulting in the generation and maintenance of such information and its submission to you in a timely fashion.

You have also asked about the authority of community transportation coordinators to request sponsoring agencies to provide certain documentation regarding services. Section 427.0155(5), Florida Statutes, provides community transportation coordinators with the power "[i]n cooperation with a functioning coordinating board, [to] review all applications for local government, federal, and state transportation disadvantaged funds, and develop cost-effective coordination strategies." Further, these coordinators are authorized to

in cooperation with the coordinating board and pursuant to criteria developed by the Commission for the Transportation Disadvantaged, establish priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.[6]

Thus, community transportation coordinators appear to have statutory authority to develop cost-effective strategies in providing services to the transportation disadvantaged and requesting documentation of the success of these strategies would appear to fall within the scope of this authority.[7]

Finally, you have asked about the enforcement powers of the Transportation Disadvantaged Commission. My review of Chapter 427, Florida Statutes, does not reveal any statutory language authorizing the commission to enforce state law. The commission is required to "monitor and aggressively pursue the elimination of transportation barriers prohibiting accessibility and promote compliance with any state, federal, or local government regulations relating to transportation accessibility." [8] However, I cannot say that this language would vest the commission with the substantive power to enforce any state laws. Administrative agencies of the state possess no inherent power and may exercise only such authority as expressly or by necessary implication is conferred by law.[9] Further, if any reasonable doubt exist as to the lawful existence of a particular power, it should not be exercised.[10]

I trust that these informal comments may be of assistance.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

[1] Section 427.011(1), Fla. Stat.

[2] Section 427.013, Fla. Stat.

[3] "Agency" is defined for purposes of Chapter. 427 as "an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or any other unit or entity of the state or of a city, town, municipality, county, or other local governing body or a private nonprofit transportation service-providing agency."

[4] See also Rule 41-2.007, F.A.C., providing reporting requirements.

[5] And see Rule 41-2.013, F.A.C., stating that

"Funds available through the Transportation Disadvantaged Trust Fund for non-sponsored transportation services and planning activities shall be applied only after all other potential funding sources have been used and eliminated. Grant funds shall not be used to supplant or replace funding of transportation disadvantaged services which are currently funded to a recipient by any federal, state, or local governmental agency. Monitoring of this mandate will be accomplished as needed by the Commission and all agencies funding transportation disadvantaged services."

[6] Section 427.0155(7), Fla. Stat.

[7] And see Rule 41-2.011, F.A.C., providing the community transportation coordinator's powers and duties.

[8] Rule 41-2.016, F.A.C.

[9] See, e.g., *Gessner v. Del-Air Corporation*, 17 So. 2d 522 (Fla. 1944).

[10] See *White v. Crandon*, 156 So. 303, 305 (Fla. 1934); *Gessner v. Del-Air*, *id.*