

process was without difficulty when the end results are observed; however, it was not and is not without obstacles.

Some of the obstacles encountered along with way include the following:

1. Apprehension at the local level about working within broad state-issued parameters (many local agencies want IDOT to be extremely specific rather than set out broad guidelines),
2. Resistance to change,
3. Inexperienced management in making business decisions and understanding finances and budgets (the previous work of most of the managers had been in the field of social service activities),
4. Local views of regional transit as a state program rather than as a local program (because the idea had originated at the state level),
5. Difficulties in understanding the concept of consolidation (there continues to be a philosophy of diffusing decisions and responsibility into a committee framework and a reluctance to eliminate present agencies and programs),
6. Difficulties at the local level in viewing private enterprises as being on an equal footing with public agencies in supplying resources,
7. Turf fighting, and
8. Skepticism about the benefits to be achieved—each area thinks of itself as unique.

Every day brings new obstacles. However, success appears to rest with the ability to be flexible and adaptable but committed to a defined objective and published strategy.

FUTURE DIRECTIONS

The future direction of IDOT will be one of providing greatly increased on-site consulting. In 1978-1979, IDOT shifted from being a developing organization to being one of implementation and management. Each regional property will have a specific consultant assigned from the public transit division to assist in all facets of property management. This assistance will include everything from planning through implementation, evaluation, and adjustment and will cover financing, hiring, training, and day-to-day management problems. Each member of the staff of the public transit division will be functioning in a manner similar to a group vice-president in private industry who is responsible for the productivity and bottom-line results of a number of operating divisions.

REFERENCES

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2. Code of Iowa (W. Faupel, code ed.). State Capitol, Des Moines, 1978, Chap. 601 J.
3. Administrative Rules. Public Transit Division, Iowa Department of Transportation, Des Moines, Sept. 1976, Chap. 1, Division 09, Article 5.
4. Annual Report to the Legislature. Public Transit Division, Iowa Department of Transportation, Des Moines, Feb. 1978, pp. 10-14.

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Abridgment

Overview of the Social-Service Insurance Dilemma

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Please help me. I am a prisoner. My surroundings are clean and neat and orderly, for I am a prisoner of my own home.

My children are grown and live far from this small town where they were raised. The grocery store is only three blocks away, but I am 77 years old and my legs won't carry me there and back again. Each day I see people pass by and sometimes they wave. Other times they seem too busy.

I know there is work to be done and I could help. There are small hands that would fit in mine—babies that need holding and faces I could touch with my eyes.

Instead, I sit on my porch and watch the darkness come and the lights go on in your world. I'm not in a hurry because when I get up, I will only go back inside.

This letter, originally written to the Governor of Tennessee and read in July 1977 at hearings on social-service insurance issues held by the U.S. Senate Special Committee on Aging, indicates the needs to which social-service agencies respond. They hear the cry of the elderly, the poor, the handicapped, the disabled, the very

young, the Indian on the reservation, and many others who suffer the pain, anguish, and alienation of not being able to be a part of a society that is so dependent on the automobile for personal mobility.

To respond to these needs, government at all levels has funded many programs that transport either the service to the client or the client to the service. These programs range from Head Start to Meals on Wheels to transportation services on Indian reservations. The U.S. General Accounting Office (GAO) indicates that there are now 112 federal programs that provide these services. The U.S. Department of Health, Education, and Welfare estimates that, after the states match their funds, \$1.8 billion/year is spent on social-service transportation. This does not include programs of the U.S. Department of Labor, the Appalachian Regional Commission, the Urban Mass Transportation Administration, the U.S. Department of Agriculture, or the Federal Highway Administration. It also does not include programs under

the Comprehensive Employment and Training Act (CETA), which in many cases provide drivers and administrators of social programs.

A typical program is often started by a social-service agency by obtaining a grant to purchase a vehicle. Once the vehicle is purchased, the director of the program discovers that insurance is a major barrier to efficient operation. As one director said, the agency has six choices:

1. They can provide transportation with full realization that their clients are not adequately protected in case of accident;
2. On limited budgets, they can provide adequate insurance protection for their clients, but then they do not have sufficient funds to provide transportation for them;
3. They can improve the efficiencies of transportation by coordinating trips with other agencies, but the increased insurance cost eliminates any operating efficiencies;
4. They can increase the size of the budget by charging fares, but then the increased insurance and regulatory costs more than absorb the increased revenue;
5. They can stretch the budget by using volunteer drivers and dispatchers, but insurance restrictions prohibit the use of retirees (over age 65) and that is the most plentiful source of volunteers; or
6. They can stretch their budgets by using school buses, church buses, or privately owned vans and buses, but the insurance on these vehicles does not cover their clients.

Thus, the efforts of the agency director to meet an intense social need are totally frustrated by insurance limitations.

PROBLEMS AND RECOMMENDATIONS

Social-service agencies complain of the following problems with insurance limitations:

1. Approximately 18 percent of social-service agencies have difficulty finding an insurance company to accept the insurance risk.
2. When the agencies can get coverage, annual costs range between \$200 and over \$5434/vehicle and average \$1238/vehicle.
3. When coverage is obtained, the policy frequently restricts the use of drivers over age 65 or under age 25, prohibits the charging of fares, restricts the passengers that can be hauled, limits the use of certain vehicles, and limits the area in which the vehicles can operate.
4. Nine percent of the agencies have had their insurance canceled, and in over half of the cases there have been no accidents by which to justify this cancellation.

But these are only symptoms. The real problems can be described as follows:

1. Social-service transportation is a new field, and there are no reliable statistics available. Although logic would predict that accident rates would be low, the very significant passenger exposure to risk is a real concern to underwriters, who have no data on which to base rates.
2. The disfavor of charitable and governmental immunity plus the general disallowance of guest statutes have forced social-service agencies to purchase liability insurance to protect clients in case of accidents. Unfortunately, this well-meaning approach leaves the clients with little or no coverage when the agency is not

at fault. It also makes the agencies purchase the most expensive form of insurance available (general liability insurance costs \$2.40 per \$1 of benefit to the injured compared with first-party insurance, which costs only \$1.20 per \$1 of benefit delivered to the injured individual).

3. Agencies are limited in their ability to use volunteers since the volunteer must assume full responsibility for the client in case of accident. Currently, the agency has no insurable interest and has difficulty relieving the volunteer of this liability. This approach effectively blocks efforts to use volunteers to alleviate the impact of Proposition 13 on local budgets.

4. The legal status of social-service transportation under the law is unclear in almost every state. Classifying these agencies as common carriage instead of private carriage increases insurance costs by approximately 1500 percent because of the lack of legal defenses in the case of common carriage.

5. Like all classification systems, classifications in the insurance industry create real problems when the social-service program varies substantially from the stereotype on which the classification was designed. One way to avoid this problem is to base insurance risk on distance traveled and passengers carried. Basing passenger risk on passengers carried also means that volunteers, contract vehicles, and any other vehicle used by the agency might also be covered under the policy for the passenger hazard.

6. Under the current approach to insurance, government may pay several times for the same accident—once through insurance on the vehicle used, once through Medicaid or Medicare, and again through various other social-service programs.

7. The current claims procedure encourages an adversary relationship and long delays in payments, which severely disadvantages social-service clients, many of whom are on limited incomes or are elderly and may become wards of the state while awaiting settlement of their claims.

8. Very few social-service agencies have effective risk-management programs for either volunteers or drivers.

9. The current legal-regulatory-insurance process forces government to purchase and operate vehicles because this is the only legal way transportation can be provided and clients can be partially protected in case of accident.

Six recommendations emerge from this work:

1. The Insurance Services Office (ISO) and the insurance industry should develop new classifications for the various social-service programs so that they can begin to accumulate accurate statistical data. In the future, such problems can be avoided if the insurance industry and the government set up a liaison so that new classifications can develop as federal transportation programs evolve. The new rates on social-service programs should be based on vehicle distance traveled and passengers carried. These two readily available measures of exposure are easily determined and understood, and they eliminate the classification problem that arbitrarily limits areas of operation, vehicles that can be used, and duplication of services by each agency because of insurance. Passenger protection should cover not only passengers in agency vehicles but also passengers carried by volunteers and contractors.
2. Congress or the appropriate agencies should address the collateral-sources problem of multiple benefits obtained with public funds, which allows the injured to collect social-service payments as well as to sue the

agency for tort liability. This could probably best be done by making existing social programs the primary source and vehicle insurance the secondary source. The reason for this approach is that the mechanics for handling existing social programs are firmly established and would be difficult to change where social-service vehicle insurance is applicable. Making social-service insurance secondary would substantially lower rates for vehicle insurance.

3. State laws need to be changed to identify positively that social-service transportation is a new type of service to eliminate the uncertainty as to whether it is for-hire or private carriage. School buses and social-service vehicles should probably be classified in the same category.

4. State laws need to be changed to allow and encourage social-service agencies to purchase first-party insurance that will provide certain, unconditional coverage for all users of social-service transportation. One approach is legislation built around the workman's compensation model that would guarantee passenger protection at a much lower cost to the agencies by stating the amount of protection required.

5. A claims procedure needs to be developed whereby the agency coordinates the settlement of claims as a friend of the injured. If this concept were combined with the collateral-source recommendations in item 2 above, the agencies could effectively control their insurance cost by helping the injured obtain benefits due under existing social-service programs. The advantage of such a program is that it would ensure that everyone received compensation for injury while minimizing litigation, inflated claims, and double payment.

6. The insurance industry and the government should jointly develop a driver selection and training program for social-service agencies. The underwriting guidelines are too arbitrary, and many agency directors have no basis on which to select full-time, part-time, or volunteer drivers. Most agencies would welcome an effective risk-management program that they could implement. The new risk-management program must be oriented to the needs of social-service agencies, which do not have the budgets of truck lines or transit systems to hire full-time professional drivers at high salaries.

IMPACT OF PROPOSED CHANGES ON SOCIAL-SERVICE TRANSPORTATION PROJECTS

Currently, passengers can only be carried on vehicles that are licensed, certified, and insured to carry passengers. Thus, the only way to transport social-service clients is to purchase and operate vehicles that are properly licensed, insured, and registered with the appropriate agencies. As a consequence, public transportation is rapidly being nationalized since government agencies are the only groups that can legally and competitively provide transportation.

If social-service activities were exempt from regula-

tion and if insurance could be obtained on an activity basis rather than a vehicle basis, agencies would be able to use virtually any of the 104 million vehicles on the highway for transporting clients. Thus, the role of the social-service agency director would probably shift from buying and operating vehicles to purchasing and coordinating transportation for clients. This is not to say that agencies would not own any vehicles but that, if all options were made available to them, they could select the most cost-effective service. Thus, at any one time the social-service agency or the local coordinated transportation agency would be using a combination of agency-owned vehicles; contract, volunteer, and casual carriage; and so on.

When a social-service agency has 40 senior citizens that need to make a trip, the agency would be able to use a church bus, to hire a school bus contractor, or to use housewives to drive family vans to complement agency vehicles. Since passenger risk would be covered by the agency's activity policy, the church, the contractor, or the housewives would not be required to purchase special insurance to haul the group. In rural areas, the county administrators could hire local citizens to transport clients without having to have each vehicle obtain special insurance. The taxi and paratransit companies could be much more competitive since the activity policy of the agency would provide passenger insurance coverage.

Such an approach would allow social-service agencies much greater flexibility in providing service. Attention would focus on selecting drivers, coordinating service, obtaining service in the most cost-effective manner, and dispatching instead of (as it focuses now) on vehicle procurement, maintenance, operation, and replacement.

It should be noted here that activity insurance is not no-fault insurance. States that have not embraced the no-fault approach have developed uninsured (underinsured) motorist coverage and automobile medical coverage to protect passengers in the owned vehicle as a means of overcoming the arguments for no fault. This approach likewise builds on the concept of insuring the passengers in the vehicles to cover them in case the other party had insufficient insurance. If the other party is at fault, the insurance company retains the right of subrogation to recover from the at-fault party. In the case of injury to another vehicle or to individuals outside the agency vehicle, the tort liability system or no fault would remain as is.

STATUS OF THE ISSUE

Currently, a task force that includes representatives from the executive and legislative branches of the federal government, the insurance industry, a state regulatory committee, and a state department of transportation as well as technical advisors is developing a program for implementation that may include a White House conference.