

State of Minnesota

Department of Transportation

Division of Public Transportation

In the Matter of the Proposed Rules
Pertaining to Eligibility Criteria
for the Metro Mobility Special
Transportation Project

Statement of Need and
Reasonableness

The Minnesota Commissioner of Transportation (hereinafter "Commissioner") pursuant to Minn. Stat. § 15.0412, hereby presents facts establishing the need for and reasonableness of the proposed rules pertaining to Eligibility Criteria for the Metro Mobility special transportation project and justification for their adoption.

The facts which establish the need for, and reasonableness of the rules, are presented in four categories:

- A. Statutory Authority
- B. General Statement of Need
- C. General Statement of Reasonableness
- D. Rule by Rule Statement of Need and Reasonableness

A. Statutory Authority

The above captioned rules are newly proposed rules of the Commissioner. The Statutory Authority of the Commissioner for promulgation of these rules is Minn. Stat., 1981 Supp., §174.31, subd. 3(g). The Commissioner is thereby required to adopt rules establishing criteria to be used in determining individual eligibility for special transportation services. Minn. Stat. §174.31, subd. 1, states that "special transportation services" refers to "a project for coordination of special transportation service in the metropolitan area as defined in section 473.121, subdivision 2." This is better known to all by its operating title of Metro Mobility.

B. General Statement of Need

These Eligibility Criteria are necessary because the Legislature has directed the Minnesota Department of Transportation (hereinafter "Mn/DOT") to establish criteria to be used in determining individual eligibility for special transportation services. This mandate is a result of considerable discussion during the 1980 session of the Minnesota Legislature as to the extent to which there was misuse of the Metro Mobility system due to inadequate certification criteria. The objectives set by the Legislature for the Metro Mobility project, when it was established and as stated in Minn. Stat. 174.31, subd. 1, were that (1) greater access to transportation be provided for those with special transportation needs in the metropolitan area, that (2) an integrated system be developed tailored to meet individual needs in the most cost-efficient manner, and that (3) existing providers be used wherever possible to increase the productivity of all special transportation vehicles available in the area. The eligibility criteria are needed to help meet these legislative objectives of: greater access for those with special needs, integration of services for cost-efficiency, and increased productivity of available resources.

At the present time, over 18,000 individuals are certified to use Metro Mobility service. The system is now operating at capacity and each day many requests have to be refused. In order to continue serving the transportation needs of those who have no other means of transportation, these eligibility criteria are needed to ensure that individuals not actually requiring special transportation services take advantage of the most cost-effective services available to them. The expected result would be the ability to provide a greater number of transportation opportunities with the resources available.

C. General Statement of Reasonableness

These rules are reasonable because they allow eligibility for Metro Mobility to be based upon permanent functional limitation rather than upon a broad disability type.

That is, the new eligibility system focuses upon whether or not an individual can perform the actions necessary to use mainline bus service and is mentally able to do so. It is reasonable to expect those who are functionally able to use available mainline bus service to do so, in order to provide increased special transportation opportunities to those functionally unable to use any other service. It is also reasonable to make the functional distinction because of cost-efficiencies involved; it is less expensive to provide mainline bus service where possible than to provide a special service.

These rules are reasonable because they provide for an appeal process for rejected applicants. While the appeal process does not allow any changes in the criteria to take place, it does allow for review of certification decisions based upon additional documentation and explanation.

The procedure used in drafting these rules helps to establish their reasonableness. There has been extensive involvement of the handicapped community in the development of these rules. Involved parties have included representatives from the Minnesota Department of Transportation, the Metropolitan Transit Commission, the Metropolitan Council, the 504 Advisory Committee (an advisory group to the MTC and Metro Council on matters regarding transportation for handicapped persons), the Metro Mobility Management Policy Committee and its advisory task force, and a variety of other agencies and organizations concerned with issues related to handicapped persons. Approximately 25 persons provided written comments in response to the Department's publication and mailing of a Notice of Proposed Rule-making in February 1982. Several other persons telephoned their comments and suggestions.

D. Rule by Rule Statement of Need and Reasonableness

14 MCAR § 1.7025 Definitions.

A. A statement of "applicability" is necessary to clarify the fact that these definitions apply only to the rules promulgated in this section of Minnesota Statutes.

B. "Appeal" is necessary to define in order to explain the concept of an appeal within the context of these rules. It is reasonable because it is consistent with the commonly accepted meaning of the word.

C. "Commissioner" is defined for the convenience of people using the rules to simplify the reference to the Commissioner of Transportation.

D. "Disability" is defined to mean the existence of a handicap. It is defined to allow its interchangeable usage with the word handicap.

E. "Handicapped" is defined broadly to give it a functional definition. The functional definition is necessary to the rules since the eligibility criteria are based on functional ability to use or not use mainline bus service.

F. "Mainline bus service" is defined to establish what is the service opposite in character to special transportation service. It is necessary to the rules because the eligibility criteria seek to define the ability to use this type of service vs. need for special service.

G. "Major life activities" is defined to further clarify the meaning of "handicapped."

H. "Metro Mobility" is defined to clarify the meaning of the statute and to permit usage of the term most familiar to people using the rules.

I. "Motor vehicle" is defined so that it has the meaning given to it in the statutes.

J. "Physical or mental impairment" is defined to further clarify the meaning of "handicapped."

K. "Special transportation service" is defined to clarify the applicability of the eligibility criteria being established.

14 MCAR § 1.7026 Authority, purpose, and scope of rules.

14 MCAR § 1.7026 A.

This section states the specific authority under which the Department proposes these rules. It is reasonable to state this because it informs the public that the Legislature directed Mn/DOT to write these rules.

MCAR § 1.7026 B.

It is reasonable to state the purpose of the rules because it focuses the public's attention on the Legislature's directive in establishing the legislation.

14 MCAR § 1.7026 C.

The scope definition is necessary to clarify that legislative intent was to establish eligibility criteria for the coordinated special transportation service project in the Twin Cities area only, and not for any other such services available anywhere else in the State.

14 MCAR § 1.7027 Eligibility criteria.

These criteria are necessary to differentiate those individuals who are eligible for special transportation service from those who are not eligible. The reasonableness of each criterion is set forth below.

Criterion 1 states that an individual would be eligible for special service if unable to walk/wheel one-fourth mile or more. The one-fourth mile stipulation is reasonable because the general spacing of mainline bus service routes within the current service area is one-fourth mile. If an individual is functionally able to walk/wheel that distance, the individual would be able to use a mainline bus or, in the case of a wheelchair user, a mainline accessible bus if available. Since more than 90% of current Metro Mobility users live within three blocks of a mainline bus stop, the criterion is reasonable, provided the individual does not meet any of the other eligibility criteria.

Criterion 2 states that an individual would be eligible for special service if unable to walk up and down the steps of a mainline bus. This criterion is reasonable since the inability to walk up and down the steps of a mainline bus can obviously limit one's ability to use such a vehicle. If an individual cannot climb the 16 inches from the ground to the first bus step, it is reasonable to certify the individual to use Metro Mobility.

Criterion 3 states that an individual would be eligible for special service if unable to wait outdoors for ten minutes or more. It is reasonable to use outdoor waiting time as a criterion in itself because extremely cold weather or extremely hot weather make it impossible for people with certain disabilities to wait outdoors without endangering their health and well-being. A specified waiting time of ten minutes or more is reasonable because a study of current travel patterns has shown that approximately 80% of the trips currently taken on Metro Mobility would require a wait of no more than ten minutes, on the average, if made on the mainline bus service.

Criterion 4 states that an individual would be eligible for special service if unable to use mainline bus service because of a mental impairment. It is reasonable to establish this criterion because, even though a majority of individuals with these types of disabilities can be trained to use the mainline bus service with few problems, some individuals with mental impairments cannot be trained to use general services. It is thus reasonable to provide special services to people with functional disabilities of this type.

The stipulation that persons with temporary disabilities shall not be eligible for Metro Mobility service is reasonable because the intent in establishing the project was to aid those who are permanently handicapped, those for whom special transportation service is a life's necessity not a temporary convenience. It is also reasonable to make this stipulation because it would not be cost-effective to make short-term certifications. It is necessary to state this

exclusion because a temporary disability could technically meet the eligibility criteria.

14 MCAR § 1.7028 Individual certification number.

This section provides for the issuance of individual certification numbers to approved applicants. This is a necessary administrative function for distinguishing users of the service. It is reasonable in that it is a continuation of the present administrative structure.

14 MCAR § 1.7029 Applications for certification numbers.

This section establishes the process for requesting a certification number. The application process is a necessary administrative function for service implementation through the eligibility criteria. It is reasonable in that it is a continuation of the present administrative structure.

14 MCAR § 1.7030 Application forms.

14 MCAR § 1.7030 A.

Subsection A specifies the minimum information which each applicant must submit. It is necessary to establish this information as minimum or "at least" information since additional information may be needed in the future for project administration purposes. Stating that the information is minimum information is reasonable because it provides flexibility for program management.

Requesting that the applicant sign and date the form is necessary to establish individual responsibility for the truthfulness of information provided. Requesting the name, address, telephone number(s) of the applicant and medical assistance number, if any, is necessary so that the Department can identify the applicant. Information on the applicant's weight and age is needed for operational purposes, while getting the individual's current Metro Mobility certification number will

establish whether the applicant is a current or new participant. Asking for the name and telephone number of the person to notify in case of emergency is a necessary precaution for a transportation service for disabled people.

Requesting a definition of the applicant's disability and how it prohibits the use of mainline bus service is necessary because such information helps determine if an applicant meets the eligibility criteria. It is reasonable because it serves as a double-check on information required later on in the application and provides a broader base for decision-making. Requiring the applicant to state the applicant's current mode of transportation, other than Metro Mobility, is necessary as a clarification of the applicant's disability. Requesting what equipment the applicant uses when traveling outdoors is necessary information for further establishing disability and for operational purposes.

14 MCAR § 1.7030 B.

Subsection B specifies the minimum questions which each applicant must answer. It is necessary to ask whether the applicant is blind, deaf, or mentally handicapped and, if so, if training has been received in the use of mainline bus service, because such information helps establish eligibility for conditional certification and helps to facilitate operations. It is also important to ask whether or not the applicant would agree to be trained in the use of mainline bus service and, if not, why not because conditional certification hinges on just such an agreement.

Requesting to know whether the applicant needs an attendant/escort when traveling is necessary for operational purposes. People certified as needing an escort will not be allowed to travel without one, which is reasonable in order not to overburden the driver to provide care for the individual. It is necessary to ask if an applicant's mobility limitation is permanent because temporary disabilities will not be certified under these rules. It is necessary to know whether an applicant needs Metro Mobility service for all or only part of the year, because such information helps establish eligibility for winter season certification.

Requesting whether or not the applicant requires a vehicle with a lift or ramp is necessary for operational purposes. The certification number given such an individual will identify the applicant as needing a specific transportation mode. This information is also necessary because, until mainline accessible buses are available, individuals requiring lift/ramp service will automatically be eligible for Metro Mobility service. Requesting whether or not the applicant uses a wheelchair and whether or not it is possible, under the conditions, for the applicant to use an automobile or taxi, is necessary for operational trip planning purposes.

The questions regarding the applicant's ability to walk/wheel one-fourth mile or more, the applicant's ability to wait outdoors for ten minutes or more, and the applicant's ability to walk up and down the steps of a mainline bus, are necessary because they are direct checks for compliance with the eligibility criteria. The explanation requested for any negative responses to these questions is necessary because it establishes the applicant's reasoning and provides a clarification and double-checking of information which will assist decision-making.

14 MCAR § 1.7031 Mental disability form.

14 MCAR § 1.7031 A.

Subsection A specifies the additional information which will be requested of applicants with a mental disability which prohibits use of mainline bus service. This information is necessary because it is a direct check for compliance with the eligibility criterion of inability to use mainline bus service because of a mental impairment. An additional form is necessary because of the special nature of the disability. The questions developed to determine if an individual with a mental handicap could use mainline bus service may be considered reasonable in that a trained Mobility Specialist currently working with the mentally handicapped assisted in their development.

14 MCAR § 1.7031 B.

Subsection B provides that the mental disability form include the name of the applicant, name and relationship to applicant of person completing the form, and date of completion. This is necessary in order to fix responsibility for the accuracy of information provided on the mental disability form.

14 MCAR § 1.7032 Medical verification form.

14 MCAR § 1.7032 A.

Subsection A explains the process for verification of an applicant's disability by a physician, certified physical therapist, or licensed psychologist. Verification of disability is necessary to further ensure that applicants requesting Metro Mobility service actually meet the eligibility criteria and are not able to use mainline bus service because of a functional disability. The verification process established is reasonable in that it represents a compromise position. The process is not so stringent as to require applicants to be screened by a board and asked to actually demonstrate the inability to use mainline bus service, yet not so lax as to require only an applicant's statement of eligibility. It is also a reasonable process because it would not be extremely costly, complicated, or degrading to the individuals requesting certification.

14 MCAR § 1.7032 B.

Subsection B establishes an exemption from submitting the medical verification form for those persons confined to wheelchairs, or for those persons who otherwise require lift or ramp service. This exemption is reasonable because it is obvious that such persons cannot use mainline bus service where lifts and ramps are not available. The eligibility of such persons to use Metro Mobility service under the criteria established in 14 MCAR § 1.7027 is unquestioned. Requiring such persons to submit the medical verification form would be unnecessary paperwork.

14 MCAR § 1.7033 False information.

This section stipulates that individuals who provide false information on the application for certification form, mental disability form, or medical verification form shall not be issued a certification number. This is a necessary provision because it discourages dishonesty on the part of applicants desiring to be certified. It also gives management the flexibility to assess a penalty for the provision of false information.

14 MCAR § 1.7034 Winter season certification.

This section establishes a category of certification which is called winter season certification. It allows for certification during winter months only. A winter season certification provision is reasonable because winter weather can reduce an individual's capacity to use mainline bus service. Metro Mobility experience has revealed that individuals who are unable to wait outside in below freezing temperatures or who are unable to navigate on icy and snowy sidewalks may be fully capable of using mainline bus service during other periods of the year. The winter season certification system is a reasonable approach because it is a compromise position which allows real needs to be met in a cost-effective manner, being neither total denial of service nor full certification for service. The period chosen for seasonal certification is November 1 to April 15 which is reasonable because this is the period that is most generally characterized by cold temperatures and by snow- and ice-covered streets and sidewalks.

This section also provides for the issuance of individual certification numbers which denote winter season certification status. It is necessary to make a distinction for winter season certification status for purposes of program administration, to ensure that individuals with winter season status use the service only from November 1 to April 15.

14 MCAR § 1.7035 Conditional certification.

This section establishes a category of certification which is called conditional. Here an allowance is made for certification during the time an individual is in training to use mainline bus service. It is reasonable to expect individuals who can be trained to use mainline bus service, to be so trained. Not only is mainline bus service the more cost effective service, use of mainline bus service by those who can be so trained, opens up more opportunities for special service for those who have no other alternatives. Allowing a period of eighteen months for training in use of mainline bus service is necessary and reasonable because bus training for those with disabilities is provided only sporadically and individuals may have difficulty receiving training. A review of conditional certifications at six-month intervals is necessary in order to monitor an individual's efforts to fulfill the training agreement and to ensure that service is not provided which is not required.

This section also provides for issuance of individual certification numbers which denote conditional certification status. It is necessary to make a distinction for conditional certification status for purposes of program administration, to ensure that certifications are reviewed every six months and are terminated as required.

14 MCAR § 1.7036 Certification appeals board.

This section provides for the establishment of an Appeals Board. It is reasonable to establish a board of several individuals for final appeal because it provides the advantage of different perspectives on the issues involved. It is necessary to deny the Appeals Board the authority to alter the eligibility criteria in order to preserve the credibility of the criteria.

14 MCAR § 1.7037 Appeal process.

This section establishes an appeal process for individuals declared ineligible for Metro Mobility service. After initial rejection, an applicant has two levels of appeal--the Manager of the Metro Mobility Transportation Center and an Appeals Board established by the Commissioner. It is necessary to provide for an appeal process because of the degree of subjectivity in the initial certification process. It is reasonable to allow appeals because improved documentation and explanation might be expected to change an initial decision on eligibility.

14 MCAR § 1.7037 A.

It is necessary to request the applicant to provide additional information and explanation at the time of appeal because the initial decision of ineligibility is a statement that the information originally supplied is not sufficiently convincing to allow the granting of a certification number.

14 MCAR § 1.7037 B.

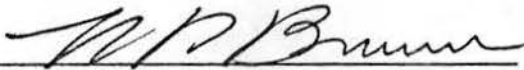
It is necessary to require a written statement of the reasons for the manager's decision in order to avoid the confusion and misunderstanding that can occur with oral statements only, and to provide a clearly documented appeal record. It is reasonable to require that the statement of reasons be mailed to the applicant because the applicant has an inherent right to know the reasons for a decision affecting the applicant's eligibility for special transportation service.

14 MCAR § 1.7037 C.

It is necessary to require the applicant to mail a letter to the Appeals Board chairperson requesting a review because it must be a decision of the applicant whether or not to pursue the certification issue further, not the decision of anyone else; it must be in writing to be clearly verifiable. It is necessary

for the decision of the Appeals Board to be final in order to provide a definite means of terminating the appeal process; it is reasonable because it is a second level of appeal and involves a group of knowledgeable people and not just one individual.

Signed:



Richard P. Braun, Commissioner
Minnesota Department of Transportation

7-29-82

Date