

# The Future of Work and the Transit Benefit Subsidy

## A. Introduction

The COVID-19 pandemic has compelled organizations to reimagine how employees engage in the workplace. Agencies demonstrated that they have been able to carry out their missions effectively with more Federal employees teleworking than ever before. As Federal employees return to the workplace, there has been a major increase in telework and remote work and corresponding decrease in commuting and use of the transit benefit subsidy<sup>1</sup>.

The U.S. Department of Transportation (DOT) is the government-wide Executive Agent authorized to establish uniform standards for the Federal Transit Benefit Program under 5 U.S.C. § 7905. The monthly transit benefit subsidy statutory limit available to eligible employees is currently up to \$300 per month.<sup>2</sup>

This addendum to the DOT Transit Benefit Policy clarifies the availability of the transit benefit subsidy for remote workers and establishes parameters for modes of transit where only a flat monthly rate is offered. This policy applies to all DOT employees, including supervisors.<sup>3</sup>

## B. Definitions

### 1. What is a Commute?

DOT previously defined a commute eligible for Federal transit benefits in a 2019 Memorandum for the Office of Financial Management and Transit Benefit Programs and in its Long Distance Commute Addendum. “To commute” as used in section 7905 means to transit on a regular basis back and forth between the employee’s place of residence and the employee’s official duty station (annotated on an employee’s SF 50). It requires both 1) there be no intermediate overnight stay between home and work at a location away from the employee’s originating place of residence; and 2) that the complete roundtrip between home and work is one that could reasonably be expected to occur on a regular daily basis, even if it does not, in fact, occur every workday (for example, because of a teleworking arrangement approved for the employee). In addition, under section 7905, a financial transit benefit is available to cover an employee’s personal commuting expenses only when the commute occurs via a mass transit system, whether public or private, or a commercial van pool or shuttle-bus service.

### 2. What is an Eligible Work Day?

5 CFR Part 610 describes the parameters around an eligible workday. For average DOT employees who do not work on weekends, an average month has 20 eligible workdays in it; some months may have 21, 22 or 23 depending on holidays. Agencies should refer to their individual work schedule and leave policies.

### 3. What is Remote Work?

Remote work is an authorized work arrangement where an employee performs work away from a typical office location. Generally, it defines the employee’s home as their authorized duty location. Unlike a teleworker, the remote worker is not expected to report to the agency official worksite on a regular basis. A remote worker is not required to physically report to the agency

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<sup>1</sup> In FY 2020, 6 months of which were affected by the pandemic, enrollment in the WMATA transit benefit program fell by 1% but the amount spent fell by 61%. In FY2021, enrollment fell by 20% and the amount spent fell by 96%.

<sup>2</sup> The subsidy provided is adjusted for inflation and modified by the Internal Revenue Service (IRS) annually.

<sup>3</sup> This addendum does not reflect and should not be used to interpret the tax requirements for qualified transportation fringe benefits provided in Internal Revenue Code section 132(f) and Treasury Regulations 1.132-9.

office worksite on any frequent, regular or recurring basis; and the approved remote work location is, for pay and other purposes, the official worksite, as indicated in the employee's SF50, and in accordance with 5 CFR § 531.605(d).

#### **4. What is the Difference Between Telework and Remote work?**

Telework typically refers to an approved arrangement where the employee is expected to report to work both at the agency official worksite and an alternative worksite on a regular and recurring basis. There are scheduled days on which they telework and regularly scheduled days when they work at their agency office worksite. This is different than a remote work arrangement. In a remote work arrangement, the remote worker does not report to the agency official worksite each pay period. Instead, the remote work employee generally works 100% of the time from a location other than their employing office's official, physical location, such as from their residence.

### **C. Increased Telework and the transit benefit subsidy**

Prior to the COVID-19 pandemic, 4% of DOT employees regularly teleworked more than two days a week.<sup>4</sup> DOT has evolved since COVID and now most employees are regularly teleworking more than two days a week resulting in DOT's general population commuting far less.

While many public transit providers offer daily fares and multiple-ride pass products or subscriptions, some mass transit options, like most vanpools, do not currently offer daily rates or passes and instead only offer a flat monthly rate. With the increase in telework, it is less cost effective for many employees to purchase a monthly flat-rate pass. In 2012, OMB designated DOT as the lead Federal agency to facilitate the timely return of excess transit benefits on vanpool companies' accounts to the Treasury. It further authorized DOT to prevent the future accumulation of excess transit benefits through the creation of Federal government-wide internal controls. Excess benefits accumulate when a vanpool or any mass transit company collects the transit benefit subsidy, and the participant does not ride. The transit benefit cannot be used to hold a seat on a vanpool or any mode of mass transit if the employee is absent.

Employees should exercise the same care in incurring expenses that a prudent person would exercise if commuting using personal funds. Excess costs, circuitous routes, luxury accommodations, and services unnecessary or unjustified are not acceptable under this standard. Transit subsidy approvers should take extra care to ensure employees utilizing the transit benefit subsidy employees are only requesting transit benefit subsidy amounts that align with their work schedules. DOT expects to issue fewer monthly transit subsidy passes due to the increase in telework and remote work assignments.

Most vanpools, for example, charge a flat monthly rate, often the statutory monthly maximum, no matter how frequently or infrequently employees utilize a vanpool. In this model, if an employee is not commuting 10 days or more per month, employees are effectively paying to reserve an empty seat. Paying to hold a seat is not a proper use of the transit benefit. But because of the monthly pass structure, some employees have been claiming and receiving the maximum benefit amount, currently \$280, and only using the vanpool four (4) days per month<sup>5</sup>. In this scenario, the four (4) commuting days cost the employee, and ultimately the agency, \$70 per day.

#### *Policy Parameters:*

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<sup>4</sup> Telework data from the DOT 2019 Employee Viewpoint Survey. 43% teleworked 1-2 days a week, 1% teleworked 1-2 days a month, 25% teleworked infrequently and 16% did not telework at all

<sup>5</sup> Four days per month is the minimum number of days an employee needs to return to the office in person to receive their locality pay. Many DOT Operating Administrations are only requesting their employees to come in four days.

To receive the transit benefit subsidy, the commuting expense should be “reasonable” and not used to save a seat. It should be considered an eligible commute under the federal transit benefit program.

- i) Employees should choose the most cost effective available pass/subscription product that aligns with their work schedules. If a daily pass is most cost effective, then a daily pass should be purchased for each day commuting.
- ii) If only a monthly pass is available:
  - (1) If the employee commutes 10 eligible workdays a month or 50 percent of eligible workdays a month (whichever is greater), then the employee can receive the full monthly pass amount, up to the monthly statutory maximum.
  - (2) If the employee commutes 9 eligible workdays or fewer than 50 percent of eligible work days,<sup>6</sup> then the employee will only be eligible for a pro-rated amount representing the days they are commuting. Participants can use the formula below:
    - (a)  $[\text{Total Monthly Rate}] / 20^7 = [\text{Daily Cost of Commute}]$  then take  $[\text{Daily Cost of Commute}] \times [\text{Number of Days Commuting}] = [\text{Amount of Transit benefit employee is eligible to receive}]$
- iii) Applicants shall refer to the [Frequently Asked Questions](#) below, which further illustrate the parameters of reasonable commuting expenses.

#### **D. Transit benefit subsidy and remote work**

Generally speaking, remote workers are not eligible to receive the transit benefit subsidy. The transit benefit subsidy can only be used to cover an employee’s commuting expenses using qualified mass transit from their residence to their official duty station and back. When an employee becomes a remote worker, generally their personal residence becomes their official duty location – hence, there is no commute. The official duty location address is reflected on their SF-50. Any trip made to a DOT building location (e.g. the DOT Headquarters (HQ) building) is now considered a travel expense (either a local or official travel cost) and is reimbursed based on applicable travel regulations (see FAQs).

Some remote workers are unable to work from their home and they instead work at a designated telework center. This telework center should be identified and approved by the necessary officials in the remote work approval process and identified on an employee’s SF 50. In this case, if a remote worker took a form of mass transit from home to the telework center and back, this would meet the parameters of a commute and the remote worker would be able to receive the transit benefit subsidy. If a remote worker decides to work at a coffee shop, library or other location for their convenience, (i.e., the location is not designated on their SF 50), they are not eligible for the transit benefit subsidy, even if they took mass transit to get there. To further clarify this, please see the examples and scenarios described below.

#### **E. Transit Benefit Increased Telework Examples/ Scenarios**

**Q1.** Caitlin lives in Baltimore, MD and previously commuted via MARC train and the metro to DOT Headquarters four days a week. Caitlin just got approved by her management to telework three days per week, coming into the office two days per week, and her telework agreement reflects this change. Caitlin

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<sup>6</sup> Participants should commute 50% of eligible work days to receive the full monthly fare<sup>6</sup>.

<sup>7</sup> 20 is used as the average number of workdays in a month. There are instances where there are 21 or 23.

used to purchase a monthly Charm pass to use MARC. Now that she is commuting less frequently, is Caitlin still eligible to receive the transit benefit subsidy?

**A1.** Yes, Caitlin's commute from Baltimore, MD to DOT Headquarters using mass transit is eligible for the transit benefit subsidy. A commute is round-trip travel from home to work and work to home. A commute must occur regularly, and reasonably be completed within a 24-hour period, even if it does not occur every day. Even though Caitlin is commuting less than previously, she is eligible to receive the transit benefit subsidy. However, because she is only commuting eight days per month, she should not purchase a monthly pass; she should purchase eight daily passes or another pass product that would be most cost effective and adjust her transit benefit amount accordingly. Employees should exercise the same care in incurring expenses that a prudent person would exercise if commuting using personal funds.

**Q2.** Ron lives in Fredericksburg, VA and previously commuted via vanpool to DOT Headquarters five days a week. Ron just got approved by his supervisor to telework three days a week and only come into the office two days per week, meaning approximately eight days per month. Ron's vanpool company only charges a flat rate monthly fare of \$280. Is Ron still eligible for the transit benefit subsidy?

**A2.** Yes, Ron would be eligible for the transit benefit subsidy, but since his vanpool company does not offer any daily pass products or subscriptions and Ron is commuting nine days or less per month, he would only be eligible for a prorated amount. The transit benefit subsidy cannot be used to reserve a seat on the days he does not commute. To receive the full amount, Ron would need to be commuting into the office 10 days or more (approximately 50 percent of the month's eligible workdays). Ron would need to use the formula from 2a ( $\$280/20 = \$14$ ;  $\$14 \times 8 = \$112$ ). Ron would be able to receive \$112 towards his vanpool costs a month. If he is worried about the cost of the remaining amount, Ron could consider alternative modes of mass transit that have pass or subscription products or he can change the number of days he is commuting to the office.

**Q3.** Syreta lives in Tacoma, WA. Previously, Syreta commuted into her DOT Regional office in Seattle, WA via van pool five days a week. She now works a compressed schedule and just got approval to telework two days a week. Even with the compressed schedule where she has a regular day off (RDO) every other Friday, Syreta is in the office 10 days per month. Syreta's vanpool only charges a monthly fare of \$280 and does not offer a daily pass product or subscription. Can Syreta receive the transit benefit subsidy?

**A3.** Yes, Syreta is eligible to receive the transit benefit subsidy to cover all the costs of her vanpool since she is commuting to the office 10 days or more a month. If only a flat rate is offered, the participant must utilize the mode of mass transit no less than 50% of their eligible workdays to receive the full monthly amount.

**Q4.** Nancy lives in Annapolis, MD. Previously, she commuted via vanpool 4 days a week to DOT Headquarters. Due to her long commute and excellent performance, Nancy's supervisor authorized her to work a 4/10 schedule (four work days per week for 10 hours each day). Nancy comes into the office two days per week and takes a vanpool, which costs \$280 per month. Is Nancy eligible for the transit benefit subsidy?

**A4.** Yes, Nancy is eligible for the transit benefit subsidy at a prorated amount. Nancy comes into the office about eight days per pay period. Nancy is eligible for a prorated amount of the transit benefit subsidy, since she is commuting less than 10 days per month. To receive the full amount, Nancy would need to be commuting into the office 10 days or more (approximately fifty percent of the month's eligible

workdays). Nancy would need to use the formula from 2a ( $\$280/20 = \$14$ ;  $\$14 \times 8 = \$112$ ). Nancy would be able to receive \$112 towards her vanpool costs per month.

## **F. Transit Benefit Remote Work Examples/ Scenarios**

**Q1.** Crystal lives in Haymarket, VA. Previously, Crystal commuted five days a week from her home in Haymarket, VA to DOT Headquarters (HQ) in Washington D.C. Crystal took the metro daily and received the transit benefit subsidy to cover her commute. Crystal just became a remote worker and now her official duty station, annotated on her SF-50, is no longer DOT HQ and is instead her home. Crystal's manager has requested that she come to DOT HQ for a meeting with FMCSA senior leadership. Crystal is worried that this will become a regular request and so would like to receive the transit benefit subsidy to cover these costs. Can Crystal receive the transit benefit subsidy to cover her metro trips to DOT HQ?

**A1.** No, Crystal's metro trip from her home in Haymarket, VA to DOT HQ is considered local travel (travel within 50 miles from the official duty station) and she should follow the applicable travel regulations to determine reimbursement costs she might be entitled to receive for her trip. The transit benefit subsidy is provided for commuting using mass transit. A commute is from home to work and work to home. Crystal's home in Haymarket, VA is now also her official DOT duty station annotated on her SF-50; therefore, she is ineligible for the transit benefit subsidy since she is not commuting.

**Q2.** Previously, Matt commuted regularly to his DOT Regional Office via the L and received the transit benefit subsidy. Now, Matt has been approved to work remotely from his home outside of Chicago, IL, Matt commuted regularly to his DOT Regional Office via the L and received the transit benefit subsidy. Matt finds taking the L to run personal errands and visit his friends very convenient. He thinks that the subsidy should be used to promote the use of mass transit. Can Matt receive the transit benefit subsidy?

**A2.** No, Matt cannot receive the transit benefit subsidy. Matt's DOT office is now his home outside of Chicago, therefore he is not commuting. The transit benefit subsidy is not eligible for personal use. Misuse of the transit benefit subsidy for personal means can result in disciplinary measures.

**Q3.** Mary just got approved to be a remote worker at her home in Atlanta, GA. Her sister recently moved in with her and is also working from home. Mary decided to go to a local coffee shop and telework there since she realized she can focus better away from her sister. Mary takes the bus from her home daily to the coffee shop. Can Mary receive the transit benefit subsidy to cover her trip?

**Q3.** No, Mary cannot receive the transit benefit subsidy to go from her home to the coffee shop. A commute is from home to work and work to home. As annotated on her SF-50, Mary's home is her DOT official worksite approved by her supervisor. Mary's trip to the coffee shop, although she is working there, is a personal expense. If the coffee shop was annotated on her SF-50 as her official duty station, then her commute from her home to there and back would be eligible; however, it is not expected that employees will have an approved official duty station as a coffee shop, so it is unlikely the transit benefit could be used towards this under any scenario.

**Q4.** Chris lives in Washington, D.C. and was hired as a community planner in June 2020 during the COVID-19 pandemic to start at a New York, NY DOT Regional Office. Chris had planned to move to New York but delayed the move and continued to live with his parents in D.C. during the pandemic. With a return to in-person duty, Chris' supervisor notified him that he would need to report to New York one day per week. Chris has decided to take the Amtrak train from D.C. to New York the evening before he needs to go into the office and commute via bus to the office from his friend's house in New York City.

The Amtrak train cost is about \$340 round trip. Is Chris' trip from Washington, D.C. to New York, NY eligible for the transit benefit subsidy?

**A4.** No, Chris' trip from D.C. to New York, NY would not be eligible for the transit benefit subsidy since it is not an eligible commute. Because this trip is greater than two hours, the transit benefit could only be approved subject to the [DOT waiver process](#). But because the transit benefit cannot be used in its entirety on a single trip to the office and back and because the round-trip travel must occur within in a 24-hour period, it is very unlikely that a waiver to use transit benefit would be approved. However, Chris' commute within New York from his friends' house to the office via bus would be eligible for the transit benefit subsidy and Chris may apply for the transit benefit for that portion of his transportation to the office.

**Q5.** Karen lives in Spotsylvania, VA. Previously, she received the transit benefit subsidy to commute via the VRE train and the metro to DOT HQ. Karen's supervisor just approved her to become a remote worker and now her official duty station, annotated on her SF-50, is no longer DOT HQ and is instead her home. Karen's manager requested that she come in for a leadership meeting at DOT HQ. Karen believes that this could become a regular occurrence and previously enjoyed her commute on the quiet car of the VRE, so she requests the transit benefit subsidy to cover these costs. Is Karen eligible for the transit benefit subsidy?

**A5.** No, Karen is not eligible for the transit benefit subsidy. Karen is a remote worker and therefore her trip from her home in Spotsylvania, VA to DOT HQ is not considered a commute. A commute is from home to work and work to home. Karen's home is now also her official DOT duty station annotated on her SF-50; therefore, she is ineligible for the transit benefit subsidy since she is not commuting. ,Because the trip is more than 50 miles, she should follow the applicable travel regulations to determine reimbursement costs she might be entitled to receive for her trip.