



Everything you ever wanted to know about Paratransit Eligibility...

...and didn't even know who to ask!

Americans with Disabilities Working Group (ADAWG) Governing Board Member

Tracy Rackensperger

Interviews

Julie M. Shaw

Executive ADA Administrator.

April 2003



This article is provided by the ADA Working Group per request of Tracy Rackensperger. It is the duty of the ADA Working Group to provide technical assistance, referrals, recommendations and education on the Americans with Disabilities Act.

Jeb Bush, the Governor of Florida, has a personal commitment to provide equality for people with disabilities and end discrimination throughout the state of Florida.

His vision, as stated in Executive Order 01-161 is “to bring to all of Florida’s citizens full access to information resources, services and opportunities to participate in all aspects of community.” It is the goal of the ADA Working Group to fulfill that mission and vision and to complete the duties that the Governor has set for the State of Florida.

The ADA Working Group serves as an advisory entity to state government and the Governor on issues that effect people with disabilities. The ADA Working Group has a 15 member gubernatorial appointed board that represents all aspects of the disabled community. The Board was created to serve as the Governor’s ear on disability issues. On a quarterly basis, we hold a public meeting and public hearing seeking comments and ideas from anyone on ADA compliance or issues that effect people with disabilities.

Please contact the Clearinghouse on Disability Information, toll free, at 877-232-4968 if you would like any further assistance.



The ADA requires compliance with six service criteria, Violations of the civil rights of the rider occur when the following service criteria are not met:

- **Service Area** - Paratransit must be provided in a corridor at least 3/4 mile on each side of each fixed route corridor.
- **Response Time** - The transit system should schedule trips within one hour of the requested departure

time. The Transit provider must be able to accommodate trip requests for the next day.

- **Hours and Days of Service** - The paratransit system must be provided during the same days and hours as fixed route service.
- **Fares** - Fare can’t be more than twice the fare paid for the fixed route service. Companions can ride at the same fee (upon space availability issue) and your Personal Care Attendant rides free.
- **Trip Purpose Restrictions** - The transit system can't impose restrictions on what you use the service for. A trip to the doctor and a social activity are to be treated the same.
- **Capacity Constraints** – The entity shall not limit the availability of complementary paratransit service to ADA paratransit eligible individuals by any of the following: (1) Restrictions on the number of trips an individual will be provided: (2) Waiting list for access to the service: or (3) Any operational pattern or practice that significantly limits the availability of service to ADA paratransit eligible persons.

Such patterns or practices include, but are not limited to, the following:

- Substantial numbers of significantly untimely pickups for initial or return trips
- Substantial number of trip denials or missed trips
- Substantial number of trips with excessive trip lengths

Paratransit eligibility is not simply a matter of whether or not a person has a disability, but instead relates to whether or not an individual can use the transportation entity’s fixed route system.

Thus, eligibility is a functional determination of a person’s ability to use the fixed route system as it currently exists, and not simply a medical or psychiatric diagnosis. An individual must fit into one of the three ADA paratransit eligibility categories. (§37.123)

What are the three categories of ADA paratransit eligibility?

Category 1: This category includes individuals who are unable, due to a physical or mental impairment, to

board, ride or disembark independently from any readily accessible vehicle on the regular fixed route system. Among others, this category includes persons with mental or visual impairments who, as a result of their disability, cannot navigate the system. This means that, if an individual needs an attendant to board, ride, or disembark from an accessible fixed route vehicle (including navigating the system), the individual is eligible for paratransit.

Category 2: Also eligible are those persons with a physical or mental impairment who could use accessible fixed route transportation, but the accessible fixed route transportation is not available at that time on that route (e.g., the accessible vehicle is down for maintenance, the lift cannot be deployed, etc.). This second eligibility category is the broadest, with respect to persons with mobility impairments, but its impact should be reduced over time as transit systems become more accessible.

Category 3: Any individual with a disability who has a specific impairment-related condition which prevents that person from traveling to a boarding location or from a disembarking location on the system is also eligible. In this case, the impairment must prevent travel to or from a stop; significant inconvenience or difficulty does not form a basis for eligibility under this section. Further, barriers not under control of the public entity providing the fixed route service (such as weather) do not by themselves form a basis for eligibility under this section. The regulation makes the interaction between an impairment-related condition and the environmental barrier (distance, weather, terrain, or architectural barriers) the key to eligibility determinations. This is an individual determination. Depending on the specifics of an individual's impairment-related condition, one person may be able to get from his home to a bus stop under a given set of conditions, while the next-door neighbor may not. (§37.123)

Transportation Disadvantaged (eligibility criteria)

Persons who because of a mental or physical disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to healthcare, employment, education, shopping, social activities, or other life-sustaining activities, or children who are handicapped, or high risk or at risk.



Medicaid (eligibility criteria)

Eligibility is determined through an application process under the Department of Children and Family Services. The eligibility criteria for the variety of Medicaid programs are determined on an individual basis.

1A. How do these programs differ from each other?

All transportation services differ by one or more of the following: service hours, trip purposes, fares, geographic area covered, and application process

Paratransit service applicants apply and schedule rides with the local transit service or subcontracted provider. Paratransit operates during the fixed bus route hours providing transportation with no restrictions on trip purposes. Paratransit covers the parameter of the fixed bus route service area including $\frac{3}{4}$ of a mile on each side of each fixed route at a minimum.

Transportation Disadvantaged (T.D.) applicants apply with the local, coordinating board, subcontractor or provider. T.D. provides transportation to healthcare, employment, education, shopping, social activities, or other life sustaining activities. [The area covered is the county.] The hours of operation may differ with local providers however some provide 24 hour service.

Medicaid provides transportation for medical appointments only.

1.B. How is each program funded?

ADA paratransit has been funded through federal dollars and the legal obligation exists since 1973 that all



fixed route systems become accessible. Thus, there are no specific federal funds dedicated to paratransit.

Some people will claim ADA paratransit is an unfunded mandate but, Congress exempted the ADA from the unfunded mandate list because paratransit is a civil right.

Transportation Disadvantaged services are funded with state dollars and revenue from some vehicle registrations.

Medicaid is federally and state funded through matching fund formulas.

Eligibility Process

1.C. How is paratransit eligibility determined?

Each municipality that runs a fixed route system is required to provide complementary (complementary does not mean free but equal service for persons with disabilities) paratransit service. A process for determining ADA paratransit eligibility must be established. The goal of this process is to ensure that only people who meet the regulatory criteria, strictly applied, are regarded as eligible. (§37.125)

1.D. Why must an eligibility process be established?

Transit entities are free to provide service to other persons, but the eligibility process should clearly distinguish those persons who are ADA eligible from those who are provided service on other grounds. This is important because only individuals who are actually paratransit eligible have rights to the paratransit services as required by the regulations. (§37.125)

1.E. Are there a great number of extra steps involved in determining eligibility?

The process to determine paratransit eligibility may not impose unreasonable administrative burdens on applicants. (§37.125)

1.F. What is the cost to apply for paratransit eligibility?

A paratransit entity may not charge user fees or application fees to a paratransit applicant. (§37.125)

1.G. What information about the eligibility process must be available?

All information about the eligibility process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility must be made available, and in accessible formats, upon request. A document does not necessarily need to be made available in the format a requester prefers, but it does have to be made available in a format the person can use. (§37.125)

1.H. How long does a transportation entity have to determine an individual's eligibility?

If the transportation entity has not made a determination of eligibility within 21 days, the applicant must be treated as eligible and provided service until a determination of eligibility has been made.

1.I. How must a transportation entity notify a person when he or she is approved for paratransit eligibility?

The public transportation entity must provide documentation to each eligible individual stating that he or she is ADA paratransit eligible. The documentation must include:

- the individual's name
- the name of the transit entity
- the telephone number of the entity's paratransit coordinator
- an expiration date for eligibility
- any conditions or limitations on the individual's eligibility, including the use of a personal care attendant.

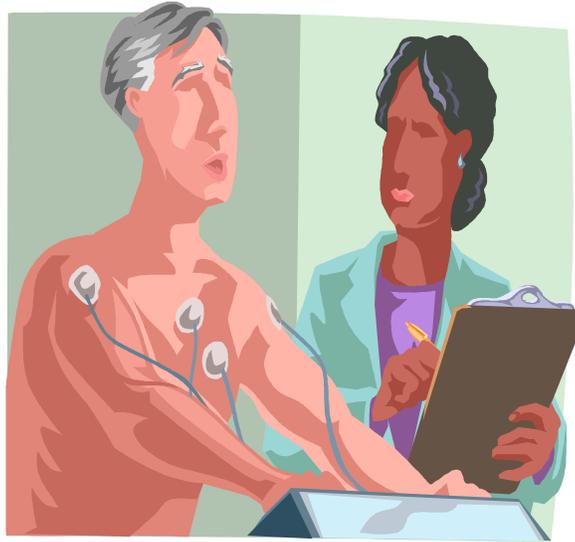
The last point refers to the situation in which a person is eligible for some trips but not others, or if the traveler is authorized to have a personal care attendant ride free of charge. For example, the documentation may say that the individual is eligible only when the temperature falls below a certain point, or when the individual is going to a destination not on an accessible bus route, or for non-work trips, etc.

All eligibility determinations must be provided in writ-

ing. In the case of a denial, the reasons must be specified and they must relate to the evidence in the matter; a simple statement by a medical physician that the applicant can use fixed route transit is not sufficient. (§37.125)

1.J. What is a doctor's role in the paratransit eligibility process?

A doctor's note alone does not determine eligibility. The eligibility determination process may include functional criteria related to the eligibility standards (such as inability to use the fixed route system) and, where appropriate, functional evaluation or testing of applicants. While evaluation by a physician or other professional may be used as part of the process, his or her diagnosis does not automatically qualify an individual as paratransit eligible; the determination relies on whether an individual can use the fixed route system in his or her own circumstances. It is primarily a transportation decision, not a medical decision. (§37.125)



1.K. Is periodic recertification of eligibility allowed?

Recertification of ADA paratransit-eligible individuals at reasonable intervals is permissible. For example, reasonable interval for recertification may be between one and three years. Less than one year would probably be too burdensome for consumers; over three years would begin to lose the point of having recertifications. The recertification interval should be stated in the entity's plan. Of course, a user of the service can apply to modify conditions on his or her eligibility at any time. (§37.125) route schedules and information.

1.L. Administrative Appeal Process

Section 37.125(g) of the regulations requires that an administrative appeal process be available to any individuals who are determined to be ineligible for complementary paratransit service. Because the provision of ADA complementary paratransit service is a civil right, the denial of eligibility is a serious matter. A fair and effective appeal process is not only required but is in the interest of all parties.

The appeal process must be available not only to individuals who are determined ineligible in all situations, but to persons who are deemed conditionally eligible.

Limiting eligibility is in fact denying eligibility for certain trips.

The appeal process established must comply with the following requirements:

- Individuals must be permitted to request an appeal within 60 days of the initial eligibility decision;
- Individuals must have an opportunity to be heard in person and to present additional information and arguments regarding their disability and ability to use the fixed route service;
- There must be a "separation of function" between those involved in the initial eligibility determination and those selected to hear appeals;
- Applicants must be notified of appeal decisions in writing, or in accessible format if requested, and the notification must state the reasons for the decision if eligibility is still denied.

2. The ADA program by law restricts the service to people located within 3/4 of a mile from a fixed bus route. Please explain this 3/4 mile restriction and the rationale behind the law.

Complementary paratransit service must be provided to origins and destinations within corridors that have a width of 3/4 of a mile on each side of each fixed route. At the end of each route, the entity must also serve an area that looks like a semicircular "cap" and has a 3/4 mile radius from the end point of the route. (§37.131)

2.A. What about the small gaps that sometimes exist between these corridors?

Because it would not make sense to avoid providing service to such small isolated areas, the rule requires paratransit service there as well. (§37.131)



2.B. What is a paratransit "core area"?

The core service area is the area in which corridors with a width of 3/4 of a mile on each side of each fixed route merge together such that, with few and small exceptions, all origins and destinations within the area would be served. (§37.131)

2.C. What about service outside the core service area, such as isolated routes that extend into the suburbs?

As bus routes follow radial arteries into the suburbs outside the core area, there are increasingly wide areas between the corridors which are not small areas completely surrounded by corridors. Service to these areas is not required. However, the paratransit entity may extend the width of one or more of these corridors from 3/4 of a mile to a maximum of 1 1/2 miles on each side of a route if it wishes to do so. (§37.131)

2.D. What about service for paratransit-eligible individuals who live outside the service areas? How do paratransit eligible riders get transportation beyond the paratransit service area?

The rule does not say that an eligible user must live within a corridor in order to be eligible for paratransit. If an individual lives outside the corridor, and can find a way of getting to a pickup point within the corridor, the service must pick him up there. The same holds true at the destination end of the trip. (§37.127)

In Florida, the T.D. program funding is sometimes used to transport ADA paratransit eligible riders beyond the ADA corridor.

3. Under the ADA program, is there a way for a person to alter their plans without 24 hours notice? (e.g. if someone is on a date and it's going well, could the person call and be picked up later than the time previously agreed upon?) How much advance notice can be required for scheduling a trip?

Next day scheduling is required at a minimum. This means, for example, that any caller reaching the reservation service at any time on one day could reserve service

for any time during the next service day. A rule requiring 24-hour notice is not allowed, as it would require a person to call by noon on one day in order to receive service by noon the next day. (§37.131)

3.A. When must the reservation service be open for scheduling paratransit trips?

An entity must make its reservation service available during the hours its administrative offices are open. If those offices are open 9 a.m. to 5 p.m., those are the hours during which the reservations service must be open, even if the entity's transit service operates from 6 a.m. to midnight. (§37.131)

3.B. What if someone wishes to schedule a trip when the administrative offices are closed?

On days prior to a service day on which the administrative offices are not open at all (e.g., a Sunday prior to a Monday service day), the reservation service must be opened during the same hours that the administrative offices would usually be open, such as from 9 a.m. to 5 p.m. It should also be noted that a reservation service on any day does not have to be provided directly by a real person. An answering machine or other technology can suffice. (§37.131)

3.C. How far in advance can a paratransit trip be scheduled?

Paratransit entities must permit reservations to be made up to 14 days in advance of the desired trip date. (§37.131)

3.D. Under the ADA program, does the provider have any right to force a person to be picked up earlier than the time the consumer indicated?

No. The provider may arrive at the pick up destination early, but is required to stay for approximately 5 minutes (alters by local policy) after the scheduled time.

3.E. What are the rights of someone who is being threatened to be left and stranded when a provider comes too early, sometimes hours early?

Continual paratransit performance problems are a capacity constraint and a violation of civil rights. Always document the time and amount of time you are kept on hold and keep logs. Then file a grievance to the local supervisor or provider with your logs as documentation.

Request a copy of the grievance policy and procedures. Each grievance should have the following features; time limited response from the public entity, submission of grievance in writing, and a decision by the public entity provided in writing or accessible format. If you are unable to resolve your grievance with the local provider, report it to the municipality who provides fixed route services. If you are not satisfied with the municipalities' response you can access and fill out this complaint form at the Federal Transit Administration Web Page <http://www.fta.dot.gov>

4. Under the ADA program, when making a reservation, does the provider have the right to alter the requested pick up time?

The paratransit entity may negotiate pickup times with an individual, but can't require an eligible individual to schedule a trip to begin more than one hour before or after the individual's desired departure time. (§37.131)

All negotiated times must be agreeable to the rider.

5. How could a rider address being put on hold for a substantial amount of time while contacting transportation providers? (Many times individuals are kept on hold for a long time while using their cell phone.)

Continual paratransit performance problems are a capacity constraint and a violation of civil rights. Always document the time and amount of time you are kept on hold and keep logs. Then file a grievance to the local supervisor or provider with your logs as documentation. Request a copy of the grievance policy and procedures. Each grievance should have the following features; time limited response from the public entity, submission of grievance in writing, and a decision by the public entity provided in writing or accessible format. If you are unable to resolve your grievance with the local provider, report it to the municipality who provides fixed route services. If you are not satisfied with the municipalities' response you can access and fill out this complaint form at the Federal Transit Administration Web Page <http://www.fta.dot.gov>

6. Why can't district to district transportation be coordinated? Example, one individual lived in St. Pete and had to attend a meeting in Tampa, and then return to St. Pete. Cost each way: \$150.00

Coordination is an issue most transit agencies are dealing

with – trying to find ways not only to coordinate with other counties but sometimes even other states. It's a difficult issue – and the federal government has taken steps to provide assistance by creating the Coordinating Council on Access and Mobility (<http://www.fta.dot.gov/CCAM/www/index.html>). There is a helpful coordination Web page at the CTAA (Community Transportation Association of America) as well -- http://www.ctaa.org/ntrc/is_coordination.asp.



7. What is the complementary paratransit service for visitors?

Each public entity required to provide complementary paratransit service under Sec. 37.121 of this part shall make the service available to visitors as provided in this section.

For purposes of this section, a visitor is an individual with disabilities who does not reside in the jurisdiction(s) served by the public entity or other entities with which the public entity provides coordinated complementary paratransit service within a region.

Each public entity shall treat as eligible for its complementary paratransit service all visitors who present documentation that they are ADA paratransit eligible, under the criteria of Sec. 37.125 of this part, in the jurisdiction in which they reside.

With respect to visitors with disabilities who do not present such documentation, the public entity may require the documentation of the individual's place of residence and, if the individual's disability is not apparent, of his or her disability. The entity shall provide paratransit service to individuals with disabilities who qualify as visitors in this section. The entity shall accept a certification by such individuals that they are unable to use fixed route transit.

A public entity shall make the service to a visitor required by this section available for any combination of 21 days during any 365-day period beginning with the visitor's first use of the service during such 365-day period. In no case shall the public entity require a visitor to apply for or receive eligibility certification from the public entity before receiving the service required by this section.

8. How can routine service criteria violations (e.g. reporting false no shows, sending vehicles filled to capacity, etc.) be addressed?

Continual paratransit performance problems are a capacity constraint and a violation of civil rights. Always document the time and amount of time you are kept on hold and keep logs. Then file a grievance to the local supervisor or provider with your logs as documentation. Request a copy of the grievance policy and procedures. Each grievance should have the following features; time limited response from the public entity, submission of grievance in writing, and a decision by the public entity provided in writing or accessible format. If you are unable to resolve your grievance with the local provider, report it to the municipality who provides fixed route services. If you are not satisfied with the municipalities' response you can access and fill out this complaint form at the Federal Transit Administration Web Page <http://www.fta.dot.gov>

Also many local advocates have effectively decreased service criteria violations by educating and lobbying their local county government and locally elected officials.

9. How long does the provider have to wait before reporting a no show?

Paratransit providers differ in their procedures, the normal wait is between 3-5 minutes and some providers will attempt to contact the consumer before departing.

10. What are the responsibilities of the ADA paratransit consumer?

The ADA clarifies your right to:

- Use any public bus, rail system, subway system, etc.
- Request route and service information in a format you can use.
- Stand on a lift if you cannot use the steps of the bus

or train.

- Expect that all lifts and other accessible equipment be kept in good working order.
- Use a common wheelchair or other mobility aid to board a bus or train.
- Have stops, major streets, and intersections called out along the route.
- Ride the bus or train seated in your own mobility aids.
- Have securement devices made available to you.
- Travel without a personal attendant or aide.
- Travel with guide dogs or other service animals that are not disruptive or dangerous to others.
- Travel with any necessary equipment or devices, such as respirators or portable oxygen tanks.
- Allow ample time to get on and off a bus rail car subway system or etc.
- Get on and off a bus or train at any regular stop where a lift can be safely used.
- Receive courteous, respectful assistance.
- File complaints with the transportation provider, or the federal government if necessary.

The ADA also expects you to:

- Use fixed-route transportation, when possible.
- Know if your mobility aid meets the "common wheelchair" requirements (30"wide x 48" long or less and no more than 600 lbs when occupied).
- Arrive at the bus, train, or paratransit stop at the correct time.
- Know how to contact the transportation provider and receive route schedules and information.
- Keep service animals under control.
- Request lap/shoulder belts and securement for your



wheelchair, if desired.

- Signal or ask the driver to stop the bus at the desired designated stop.

- Pay the proper fare which will not exceed double the cost to complete the

trip on the fixed route system including transfer fees etc.

- Treat the driver and other passengers with courtesy and respect.
- Know how to file complaints with the transit company, if necessary.

11. How could the major statewide issues of habitual lateness of providers and overall quality of services be addressed locally as well as statewide?

Transportation Disadvantaged Boards hold regular meetings open to the public to address concerns in the community about transportation needs issues and complaints. Advocacy and the T.D. Board Meeting has been very effective in providing better services for those with disabilities and other riders.

The reporting of complaints to the local coordinating board has resulted in penalties being added to provider contracts and payment based on quality performance. Keep a personal log of the above issues and continuously register complaints with the local transit provider. (Refer to Question 8 for Federal Transit Administration Office of Civil Rights Complaint Form).

The Transportation Disadvantaged has an Ombudsman Complaint Hotline at 1-800-983-2435.

12. Where would people go to receive more information about rights and responsibilities as a paratransit consumer?

Easter Seals Project ACTION, funded through a cooperative agreement with the U.S. Department of Trans-

portation, Federal Transportation Administration, promotes cooperation between the transportation industry and the disability community to increase mobility for people with disabilities under the ADA and beyond.

Project ACTION offers various resources, as well as training and technical assistance, in an effort to make the ADA work for everyone, everyday.

Project ACTION publications cover a range of topic areas – all dealing with accessible transportation.

Currently the Project Action Clearinghouse contains about 75 products (including videos, print documents, audio tapes, and multi-media materials) which are available free of charge.

Please be aware that many of the publications are available in PDF and text format on the Project ACTION Web site (www.projectaction.org) as well.

For more information,
contact Easter Seals Project ACTION at:
(202) 347-3066; 1-800-659-6428 (Voice)
(202) 347-7385 (TTY)
www.projectaction.org (Web site)
project_action@opa.easter-seals.org (E-Mail)