



ADA Reasonable Modification

Shawnee Mass Transit District (SMTD) may allow the reasonable modification of its policies to accommodate the special needs of persons with disabilities in order to allow them to fully utilize our services as required by 49 CFR Part 37.5(i.3).

Requests for reasonable modifications or accommodations will not be approved if the request would: fundamentally alter the nature of the service, program, or activity; create a direct threat to the health or safety of others; result in an undue financial and administrative burden; or the individual would still be able to fully use the services provided by SMTD without the modification. Individuals with disabilities may file complaints regarding reasonable modification or accommodation below by completing the online form or by contacting SMTD.

A request for a reasonable modification or accommodation shall be filed/requested in advance by contacting:

Shawnee Mass Transit District
ADA Compliance
100 Smart Drive Vienna, IL 62995
Phone: 866-577-6278
Email: ride@shawneemtd.com

Eligibility

Persons using SMTD for transportation services are generally considered presumptively eligible for ADA transportation services. SMTD services however are delivered across rural areas where there may not be appropriate amenities such as sidewalks and ramps. New passengers requesting access to services who assert a disability or use of a mobility device will be assessed through the eligibility process to insure safe operations at their residence and provide certified access to paratransit services when they visit other areas not served by SMTD. Persons will be interviewed and may be required to provide documentation to help determine use of eligibility. A SMTD supervisor may inspect pick up locations if the interview indicates any conditions that may affect safe operations.

SMTD provides and maintains adequate records of certification requests, reviews completed forms, notification provided, and any appeals requested and prepared to demonstrate that regulatory

requirements were met in the handling of each request for eligibility. Applications are dated upon receipt. Decisions made throughout the review process (the completeness of the application, the need for more information, reasons for determinations, requests for appeals, etc.) are recorded.

Documentation of Eligibility

If an applicant is determined to be eligible, documentation of eligibility must be provided. This documentation specifically states that the person is "ADA Para transit Eligible".

Determine Eligibility

1. New customers need to call dispatch to schedule transportation.
2. Dispatch will conduct the interview and complete the customer's information form to determine eligibility.
3. When the customer is approved, transportation will be scheduled.
4. A person may be required to provide documentation to help determine eligibility for transportation.
5. SMTD will mail a letter to the customer confirming or denying transportation to the customer.

Notice of Initial Determination

Applicants must be notified in writing of the initial determination of eligibility. If the determination is that the person is not eligible, the written notification must state the reasons for the finding.

The notification of ineligibility must be specific. Information provided in the application or obtained in the review process must be related to the eligibility criteria (the categories of eligibility) and to the review process, which SMTD has designed.

Processing Time/Presumptive Eligibility

Applicants are to be granted presumptive eligibility if ADA determination of eligibility has not been made within 21 calendar days of the submission of a completed application. Service must be provided, and the applicant presumed to be eligible, until and unless the determination is complete and the person is found to be ineligible.

An application is considered to be complete once the person has provided all of the information required. Subsequent investigations or requests for additional information by SMTD would be considered part of the review process and within the 21-day timetable. Follow-ups by SMTD in getting additional professional verification and information would be part of the 21-day review process.

As soon as SMTD has certified someone as eligible, the individual's eligibility takes on the coloration of a property right. Consequently, before eligibility may be removed 'for cause' under this provision, SMTD must provide administrative due process to the individual."

Administrative Appeal Process

An administrative appeal process is available to any individual who is determined to be ineligible for transportation service and has an ADA related complaint or has been denied a modification. Because the provision of ADA transit service is a civil right, the denial of eligibility or modification is a serious matter.

The appeal process is available not only to individuals who are determined ineligible in all situations, but also to persons who are deemed conditionally eligible. Limiting eligibility is in fact denying eligibility for certain trips.

- Individuals are permitted to request an appeal within 60 days of the initial eligibility or modification decision, hearings will be held within 10 business days of filing unless more time is requested by individual requesting the hearing;
- Individuals have an opportunity to be heard in person and to present additional information and arguments regarding their disability and ability to use the service;
- There will be a "separation of function" between those involved in the initial eligibility determination and those selected to hear appeals;
- Applicants are notified of appeal decisions in writing, or in accessible format if requested, and the notification will state the reasons for the decision if eligibility is still denied;
- If a decision on the appeal is not made within 30 days of the completion of the process, individuals must be considered "presumptively eligible" and must be provided transit service until and unless a decision to deny the appeal is issued. Transit service does not have to be provided, however, during other phases of the appeal.

The Appeal Hearing

- (1) introduction of panel members
- (2) In an appeal process the claimant will be provided documentation of the appeal process.
- (3) The claimant will be provided documentation of SMTD eligibility policy and the nature of the ADA transit eligibility
- (4) a summary of the initial determination findings.
- (5) The claimant or representative will be provided the opportunity to provide additional information or dispute the initial determination findings.

- (6) The hearing officer or panel members will have an opportunity to ask the claimant or her representative questions; and
- (7) the restatement of policy concerning a decision on the appeal so that the claimant clearly understands what will happen following the hearing.

If there is a conflict of interest with a claimant or his/her representative or there is a personal relationship with a person on SMTD panel and/or decision maker the conflicted party will be asked to recuse themselves from the process. In any instance that this is not possible or such request would be considered a hardship for the claimant, the conflict will be documented in the record and acknowledged by all parties.

Finally, because ADA transit eligibility can become the subject of a civil rights complaint and ultimately be reviewed by the courts, it is important that there be documentation of the proceedings. It is not required or necessary to have hearings transcribed, but documentation will be complete enough to capture the essential issues raised and note that the established process was followed.

Observing Privacy Rights

The medical information that may be gathered as part of the ADA eligibility certification process will not be shared with any other party. This would include specific diagnosis provided by professionals and information about the nature of disabilities provided by the applicant. Access to eligibility files is limited to trained personnel and those with access to these files are required to observe HIPPA and to respect the privacy of applicants.

Information regarding a person's functional ability to use fixed route service, derived from the determination process can, however, be shared with other transit providers. Other entities may call to obtain more detailed information about a person's ability to travel if that person has requested service in another area as a visitor.

Re-certification of ADA Eligibility

SMTD suggests that individuals reapply for ADA transit eligibility should their individual circumstances or conditions at their residence change. While a person's disability may be permanent, other factors, which go into the determination of eligibility, may change. For example; improved technologies and/or operating procedures may be introduced

Circumstances Under, which Service Can be conditioned

In certain circumstances, it may be possible to mitigate the effects of a person's conduct by requiring that they meet certain conditions (e.g., use the service with an attendant). While the regulation does not allow transit agencies to require attendants' in other cases, such a condition of use are permitted, if the rider would otherwise be refused service. In other words, transit providers may place conditions on the use of service if they otherwise would have the right to refuse service.

For example, a rider with mental or developmental issues may have a tendency to move around the transit vehicle and accost other passengers. The behavior may be able to be controlled by the presence of an attendant. Because such conduct would be seriously disruptive to the service, the transit provider would have the right to refuse service. They could also, therefore, require that the person travel with an attendant.

If at any time SMTD proposes to impose sanctions on someone, it must first notify the individual in writing (using accessible formats where necessary). The notice must specify the basis of the, proposed action and set forth the proposed sanction

If the individual disagrees with the finding SMTD would provide the individuals an opportunity to be heard as well as to present written and oral information and arguments through the appeal process. All relevant SMTD records and personnel would be made available to the individual, and other persons could testify. It is likely that, in many cases, an important factual issue would be whether a missed trip was the responsibility of the provider or the passenger, and the testimony of other persons and the provider's records or personnel are likely to be relevant in deciding this issue. While the hearing is intended to be informal, the individual could bring a representative, such as an attorney. The individual may waive the hearing and proceed on the basis of written presentations. If the individual does not respond to the notice within a reasonable time, SMTD may make a default finding and impose sanctions. If there is a hearing, and the individual needs transit service to attend the hearing, SMTD must provide it and provide interpreters if needed.

SMTD must notify the individual in writing about the decision, the reasons for it, and the sanctions imposed, if any. This information would be made available in accessible formats.

SMTD will continue to be provided service throughout the process. The transit provider cannot suspend service while any part of the appeal process is pending.

Circumstances Under Which Service Can Be Refused

Public entities can refuse to provide fixed route or Para transit service to persons with disabilities if they engage in "violent, seriously disruptive, or illegal conduct. "This may include a person who assaults a driver or another passenger, who smokes or drinks on the vehicle in violation of established laws, or who engages in conduct that is so severe that the delivery of service is seriously disrupted.

Conduct which is related to a person's disability and which annoys or offends is not to be considered "seriously disruptive". The interpretive appendix to the regulation uses the example of a person with Tourette's syndrome who may make involuntary profane statements. Such behavior would not be grounds to refuse service. Similarly, service cannot be refused based on an unfounded fear of a particular disability. For example, a person with I-UV disease cannot be refused service because drivers or passengers are afraid of being near and being exposed to the condition. On the other hand, a person who refuses to use a seat belt and has a habit of not staying seated during transport could distract the driver and seriously disrupt service. Refusing service or requiring that the individual ride with an attendant might be appropriate in such a case. Similarly, customers are responsible for the behavior of service animals. Service can be refused or conditioned if a service animal is seriously disruptive.

In determining what constitutes "seriously disruptive" or "violent" behavior, SMTD will rely on local ordinances, established laws and standards that define unacceptable public behavior.

Accurate and correct information about various disabilities and medical conditions is vital to ensuring that passengers are not subjected to discrimination. For example, it may be necessary to

SMTD is a public transportation provider serving the five southernmost counties in Illinois. It is our mission to provide safe, affordable and effective transportation to all the citizens of our five-county district.