

Appendix K: Paratransit Eligibility



ADA Paratransit Eligibility Manual

Category 1 Eligibility

The first category of eligibility includes those persons unable to use fully accessible fixed route services. Included in this category is: "Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, tide, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities. " [37.123(e)(1)]

Examples of eligibility under this category would include:

- A person with a mental disability who cannot "navigate the system". Navigating the system might involve obtaining and understanding system information, recognizing and boarding the correct vehicle, having available the correct fare and/or using the fare collection system, recognizing destinations, and understanding transfers that might have to be made;
- A person with a vision impairment who cannot "navigate the system". Entering and traveling through a busy station or transit center may not be possible. Recognizing and boarding the correct vehicle, and recognizing the appropriate destination - even though announcements are made - are also considerations;
- A person with a physical disability who cannot stand on a crowded bus or rail car when seats, including priority seats, may not be available;
- A person with a physical disability who uses a wheelchair and who cannot get on or off the lift or to or from the wheelchair securement area without assistance.

It is important to note that eligibility under this category depends on the complexity of the fixed route system. The type and extent of disability that would confer eligibility in a rural area with a one or two route bus system would be different from that in a large urban system. Transit providers should base determinations on the characteristics of their fixed route service and the abilities needed to use it. Other key issues and questions associated with this category of eligibility are summarized below.

- (1) Travel training: Many persons who cannot negotiate the entire fixed route system can be travel trained for certain trips. Typically, training is provided for trips that the person makes frequently, such as to work or school. These individuals would only be ADA paratransit eligible for trips they have not been trained to make. As part of the application and determination process, it should be determined if such training has been provided.

Individuals cannot, however, be required to participate in travel training. The public entity may choose to offer training and may encourage individuals to take advantage of this service. Until the individual takes advantage of this service and is adequately trained, paratransit service must be provided.

- (2) Operator assistance: Eligibility under this category is not necessarily based on a person's ability to get on and off the lift, up and down a ramp, to and from the securement area, or secure their mobility device. While the regulation states that a person is eligible for paratransit service if they cannot independently use the fixed route system, operator assistance is assumed. The regulations, in fact, specify the level of assistance that must be provided by the public entity. Section 37.165(f) of the regulations states that "the drivers or other personnel must provide assistance with the use of lifts, ramps, and securement devices." Beyond this level of required assistance, however, public entities may choose to offer additional assistance, such as assistance getting to and from the securement area, in order to enable persons to utilize the fixed route service. If the individual is able to use the fixed route system with this assistance, complementary paratransit service does not have to be provided. Local policy concerning operator assistance should be developed with full public participation, including the input of persons with disabilities;
- (3) Assistance of another person: With the exception of assistance provided by the driver or other employees of the service, eligibility under this category is based on a person's ability to independent use the service. A person traveling with a friend or attendant is still eligible for paratransit service even if they would be able to use the fixed route system with this other person's help.
- (4) Accommodating mobility aids: The regulations set standards for vehicle and station/stop accessibility. To be considered accessible, equipment and facilities must be able to accommodate mobility aids of a certain size and persons and mobility aids up to a certain weight. The regulations define a "common wheelchair" as a "wheelchair" which does not exceed 30 inches in width and 48 inches in length (measured two inches above the ground) and which does not weigh more than 600 pounds when occupied. A "wheelchair" is defined as any mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered.

All common wheelchairs and their users are to be accommodated on accessible fixed route and complementary paratransit systems. The regulations do not, however, require public entities to provide service to persons using mobility aids that are not "common wheelchairs". An individual would not be eligible for paratransit service under category 1 if they could not use an accessible bus because their mobility aid is too large or too heavy for the lift.

- (5) Standees on lifts: The regulations require public entities to allow persons with ambulatory disabilities who do not use wheelchairs (e.g., persons who use leg braces and canes) to enter the vehicle by standing on the lift. Therefore, individuals who cannot climb the steps to get into a bus would not be eligible for paratransit service if they could enter the vehicle using the lift.

Category 2 Eligibility

The second category of eligibility includes:

"Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route of the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route. " [37.123(e)(2)]

The majority of persons eligible under this category would be those with ambulatory disabilities who could not enter an inaccessible rail facility or would need to travel on a vehicle with a lift or ramp and other accessibility features. This would include persons who use wheelchairs as well as persons who use other mobility aids such as walkers, leg braces, or canes.

Eligibility under this category depends on the accessibility of vehicles and stations/stops. A person is eligible for paratransit service if the fixed route on which they want to travel is not yet accessible. Guidance on exactly what constitutes an "accessible" fixed route is provided in the regulations and explanatory appendix. For example:

- A person is eligible if the bus route on which they want to travel is not 100 percent accessible. The requested trip would be eligible if the fixed route that would otherwise be used is only partially accessible (e.g., every other bus is accessible).
- Similarly, a person is eligible if they need to travel on a rapid or light rail system that is not yet accessible - meaning that all key stations are accessible and one car per train is accessible. An individual would be eligible in this example even if accessible fixed route bus service is provided in the same area.
- An individual is eligible for paratransit if a vehicle's lift or boarding device cannot be deployed at the stop which they want to use.
- An individual who uses a "common wheelchair" but cannot be served by the fixed route system because the lift on the vehicle they need to use does not meet the equipment standards contained in Part 38 of the regulation is eligible for paratransit service.

One important issue related to category 2 eligibility is the use of on-call bus services as a way to increase the overall accessibility of the fixed route service. Basically, on-call bus programs allow an individual to call in advance and request that an accessible bus be assigned to a particular route at a time when they need to travel. Typically, an on-call bus program is implemented when a significant percent of the fixed route fleet is accessible. Successful programs have been implemented when 20-30 percent of all peak hour vehicles are accessible.

On-call bus services do not technically make the fixed route fleet fully accessible. Therefore, even if an on-call bus service is offered, individuals who are eligible under category 2 must be

certified. On-call bus service is, however, considered an acceptable form of complementary paratransit service and can be provided in lieu of a separate van service to those who are eligible under this category.

A second important issue is how this category of eligibility should be treated by transit providers whose fixed route systems are fully accessible. Clearly, individuals who could use accessible vehicles would not be Category 2 eligible in these areas and transit districts are not required to include questions that address this category of eligibility in their application materials or assessment processes if the fixed route service is 100 percent accessible. These same individuals may not, however, be able to use inaccessible vehicles if they travel to other transit districts. Therefore, transit providers are encouraged to address this category of eligibility even if it is not applicable to their local system and to note on the eligibility documentation provided that individuals are ADA paratransit eligible if accessible fixed route vehicles are not available when needed.

Category 3 Eligibility

The third category of eligibility includes:

"Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system." [37.123(e)(3)]

Two important qualifiers to this category are included in the regulations. First, environmental conditions and architectural barriers not under the control of the public entity do not, when considered alone, confer eligibility. If, however, travel to or from a boarding location is prevented when these factors are combined with the person's specific impairment related condition, paratransit service must be provided. Examples of architectural and environmental factors that, in combination with certain disabilities, could prevent travel include:

- a lack of curb-cuts
- the distance from the stop/station to the trip origin or destination
- steep terrain
- snow and/or ice
- extremes in temperature (hot or cold)
- major intersections or other difficult to negotiate architectural barriers
- temporary construction projects
- severe air pollution

Second, the specific impairment-related condition must prevent the person from using the fixed route system. Conditions which make getting to or from stops/stations more difficult do not confer eligibility. A determination of whether travel is difficult rather than "prevented" will need to be made. Appendix D of the regulations offers the following guidance to clarify the concepts of "prevented" travel and the relationship between architectural and environmental conditions and a person's disability:

"For anyone, going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for an individual with a disability. But for many persons with disabilities, in many circumstances, getting to a bus stop is possible. If an impairment-related condition only makes the job of accessing transit more difficult than it might otherwise be, but does not prevent the travel, then the person is not eligible.

For example, in many areas, there are not yet curb cuts. A wheelchair user can often 'get around this problem by taking a less direct route to a destination than an ambulatory person would take. That involves more time, trouble, and effort than for someone without a mobility impairment. But the person can still get to the bus stop. On the basis of these architectural barriers, the person would not be eligible.

Entities are cautioned that, particularly in cases involving lack of curb cuts and other architectural barrier problems, assertions of eligibility should be given tight scrutiny. Only if it is apparent from the facts of a particular case that an individual cannot find a reasonable alternative path to a location should eligibility be granted.

If we add a foot of snow to the scenario, then the same person taking the same route may be unable to get to the bus stop. If it is not the snow alone that stops him; it is the interaction of the snow and the fact that the individual has a specific-impairment related condition that requires him to push a wheelchair through the snow that prevents the travel.

Inevitably, some judgment is required to distinguish between situations in which travel is prevented and situations in which it is merely made more difficult. In the Department's view, a case of "prevented travel" can be made not only where travel is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through the foot of snow or up a steep hill) but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

The regulation makes the interaction between an impairment-related condition and the environmental barrier (whether distance, weather, terrain, or architectural barriers) the key to eligibility determinations. This is an individual determination. Depending on the specifics of their impairment-related condition, one individual may be able to get from his home to a bus stop under a given set of conditions, while his next-door neighbor may not."

Given the judgement required to determine if travel is truly prevented and the relationship between environmental conditions and an individual's disability, making eligibility determinations based on this third regulatory category is likely to be the most difficult. Figure I on the following page provides additional hypothetical examples to further define eligibility under this category. It includes situations that would result in a person being determined eligible as well as examples that would not confer eligibility.

For more information on on-call bus programs, see Chapter 6 of the ADA Paratransit Handbook, FTA Report #MA-06-0206-91-1, September, 1991.