

## **Coles County Council on Aging ADA Policy**

### **Policy Statement**

The Americans with Disabilities Act (Title II) states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in programs, services or activities sponsored by a public entity.” At Coles County Council on Aging (CCCoA), we are committed to complying with the requirements of Title II of the ADA in all of its programs, services, benefits and activities.

### **Public Information and Marketing**

CCCOA will communicate to the community by providing information, brochures, and in presentations that explain how our services meet ADA requirements. Including the accessibility of services and how a person can apply for those services. Policy and related forms are posted and available at CCCoA offices as well as the CCCoA website (program specific websites as appropriate). ADA information will be made available at all public hearings and listening sessions.

### **Accessible Formats**

“All information about the process, materials necessary to apply for eligibility, and notices and determinations concerning eligibility will be made available in accessible formats.” CCCOA makes available to individuals with disabilities information concerning services upon request. This information is made available through accessible formats and technology to enable users to obtain information and schedule service. The information can be found in large print, audio braille, English and Spanish. Brochures are available, at our facilities. All information is also available on program specific websites. For the deaf and hard of hearing, a relay service number will be provided on all system public information materials and the website. Technology such as TTY and email is available.

### **Service Animals**

CCCoA will permit service animals to accompany individuals with disabilities in vehicles and facilities.

### **ADA Reasonable Modification**

CCCoA may allow the reasonable modification of its policies, protocols and procedures 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). Whenever possible a request for a reasonable modification shall be filed/requested in advance by contacting us:

Email: [contactus@lifespancecenter.org](mailto:contactus@lifespancecenter.org)  
Mail: CCCoA, Executive Director/ADA Compliance  
11021 East Co. Rd 800 North  
Charleston, IL 61920  
Phone: 217-639-5150

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Requests for reasonable modifications 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 without the modification. Individuals with disabilities may file complaints regarding reasonable modification request determination below by completing the online form on CCCoA website or the program specific website or by contacting CCCoA Executive Director at the number above.

CCCoA 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 Eligible".

### **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 CCCoA 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 CCCoA would be considered part of the review process and within the 21-day timetable. For example, if an application process requires that individual complete a form which includes the name of a professional who can be contacted for further information, the application would be considered "complete" once the requested information and professional contact were indicated. Follow-ups by CCCoA in getting additional professional verification and information would be part of the 21-day review process.

"Once CCCoA has certified someone as eligible, the individual's eligibility takes on the coloration of a property right. (This is not merely a theoretical statement. If one depends on transportation one has been found eligible for to get to a job, and the eligibility is removed, one

may lose the job. The same can be said for access to medical care or other important services.) Consequently, before eligibility may be removed 'for cause' under this provision, CCCoA 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, has an ADA related complaint or has been denied a modification. Because the provision of ADA 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 services under specific circumstances.

- 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 service until and unless a decision to deny the appeal is issued. Service does not have to be provided, however, during other phases of the appeal.

### **The Appeal Hearing**

- (1) An 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 CCCoA eligibility policy and the nature of the ADA 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 his/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 CCCoA 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 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.

### **Re-certification of ADA Eligibility**

CCCoA suggests that individuals reapply for ADA 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 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, CCCoA may place conditions on the use of service if they otherwise would have the right to refuse service.

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 provider would have the right to refuse service. They could also, therefore, require that the person travel with an attendant.

If CCCoA 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 and set forth the proposed sanction.

If the individual disagrees with the finding, CCCoA would provide the individual an opportunity to be heard as well as to present written and oral information and arguments through the appeal  
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process. All relevant CCCoA 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 sanctioning action 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 (e.g., someone from an advocacy organization, 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, CCCoA may make, in effect, a default finding and impose sanctions. If there is a hearing, and the individual needs transit service to attend the hearing, CCCoA must provide it and provide interpreters if needed.

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

Finally, it is important to note that service will continue to be provided by CCCoA throughout the process. The 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 service to persons with disabilities if they engage in "violent, seriously disruptive, or illegal conduct." This may include a person who assaults an employee or another participant, who smokes or drinks in the area 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 employees or participants are afraid of being near and being exposed to the condition. On the other hand, for example, 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. 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, CCCoA 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 participants are not subjected to discrimination. For example, it may be necessary to determine if a participant's disability causes annoying behavior or if (s)he is prone to violence.

In addition, CCCoA will adhere to the following guidelines in reference to providing public transportation services specifically:

Dial-A-Ride (DAR) provides safe and efficient transportation to the communities we serve. DAR provides door -to-door service for the general public, all ages and abilities. Door-to-door means

that drivers assist passengers from their homes and assist them back to the door in a safe and polite manner.

## **Training**

DAR provides training for the safe operation of the vehicles, adaptive equipment, sensitivity and proper treatment of the frail, elderly, persons with disabilities, and the ADA regulations. In addition, DAR provides trainings via the Rural Transit Assistance Center (RTAC). RTAC trainings include: passenger assistance, defensive driving, and emergency procedures.

## **Stop Announcements**

No matter what mode of service you are providing you should always take special care with your customers who have difficulties with vision and other disabilities by announcing transfer stops, major intersections, destination points and arrival locations. We always want to be helpful and provide good customer service to all of our customers.

Drivers must announce all transfer locations, major intersections, destination points, and other intervals along the route sufficient to permit passengers with vision or other disabilities to be oriented to their location. In addition, the driver is required to announce any stop upon request of a passenger with a disability. The announcement will be made by the driver. These announcements must be loud enough to be heard by passengers and they must be clearly understandable.

## **Companions/Personal Care Attendants**

Transit service also must be provided to a personal care attendant (PCA) traveling with an eligible rider. In addition to a personal care attendant, the regulations require that service be provided to one companion accompanying an eligible rider. Other persons accompanying the rider are to be accommodated on a "space available" basis. Persons are considered to be accompanying the eligible rider if they are picked up and dropped off at the same locations as the eligible rider. Companions must be charged the same fare as the eligible rider and PCA's must ride free.

## **Missed Trip Protocol**

DAR understands that customers may sometimes miss scheduled rides or forget to cancel rides they no longer need. DAR also understands that customers may sometimes miss scheduled trips or be unable to cancel trips in a timely manner for reasons that are beyond their control. However, repeatedly missing scheduled trips or failing to cancel trips in a timely manner can lead to suspension of service. The following defines DAR's missed trip policy:

The regulations permit transit providers to suspend transit service to those persons who establish a "pattern or practice" of missing scheduled rides ("no-show"). Service can be suspended for a "reasonable period of time". Allowances must be made for missed trips that are beyond the control of the individual. DAR makes every effort to work with passengers to understand their situation and avoid suspension of transportation services.

If a passenger shows a pattern or practice of missing trips, a suspension may occur.

A pattern or practice of missing trips is measured within a 90 day time frame. If a passenger misses 10% of their total number of trips within a 90 day period, a 30 day suspension from the transportation services will occur.

A missed trip is defined as a trip that is scheduled through dispatch and upon arrival of the bus; the passenger does not board within the 5 minute wait period.

Cancellation of a trip is not considered a missed trip if the phone call is received by dispatch a minimum of an hour prior to the passengers pick up time.

A notification letter will be sent to inform the passenger that a pattern or practice of missing trips has been established, and as a reminder that suspension will occur if the 10% threshold is reached.

A suspension letter will be sent to inform the passenger that a pattern or practice of missing trips has reached or exceeded the 10% limit of total number trips in a 90 day period, and include the time frame of the suspension.

All documentation will be kept in the passenger's personal file.

## **Respirators or Portable Oxygen**

These types of devices are allowed on DAR vehicles and will ensure adequate time for individuals with disabilities to board or disembark a vehicle.

## **Ramps and Steps**

For safety reasons, drivers are not required to load a passenger in a mobility device if access to their home involves maneuvering the passenger more than one step, unless the home is equipped with a ramp for easy mobility device access. The ADA ramp slope specifications are 12 inches of ramp for each 1 inch of rise. If members of the passenger's family are available to transfer the passenger from their home to the vehicle, they may do so. Drivers are not required to transfer passengers from their home to the vehicle if the ramp is determined to be unsafe for normal maneuvers. In addition, drivers are not allowed to cross the threshold of any home or place of business.

## **Seat Belt**

It is the policy of DAR that passengers are required to wear a seat belt. This includes persons using a mobility device for transportation seating. If a person using a mobility device for transportation does not want to use the shoulder belt, the driver will still require the passenger to wear the lap belt.

## **Priority Seating**

Priority seating is reserved in all transit vehicles for passengers with disabilities who prefer to utilize that seating. In buses, the priority seating is located in the front of the vehicle. Priority seating areas are designated with appropriate signage.

Generally, passengers who have a disability cannot be required to use these priority seating areas if they prefer to sit elsewhere. However, if the priority seating area on the bus is also the securement location used for tying down mobility devices, passengers using mobility devices may not occupy the aisle on the bus and are required to keep their mobility device within that designated securement location.

If priority seating areas are occupied by passengers who do not have a disability and a passenger with a disability who needs priority seating boards the bus the driver is required to ask the passenger occupying the priority seats to move to an unoccupied seat. Standee situations are not allowable per DAR protocol.

The ADA does not require the driver to go any further than asking. If a person who does not have a disability refuses to move from the priority seating, drivers are not required to force them to move.

If the non-disabled passenger refuses to move from the priority seating the driver will contact dispatch/supervisor and bus will be dispatched to pick up the customer with a disability.

## **Securement Devices Procedure**

### **Lift and Securement Use**

Public and private entities providing transportation service must have a securement system for mobility devices. DAR will ensure that mobility device users and their mobility device to be secured. DAR may deny service on the grounds that a mobility device user refuses to be secured. DAR will not require a mobility device user to transfer to another seat. Staff must provide assistance upon request or as necessary with lifts, ramps and securement systems. DAR will permit individuals with disabilities who do not use mobility devices to use the vehicle's lifts or ramp.

### **Lift Deployment**

DAR will not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions preclude the safe use of the stop by all passengers.

### **Lift Preventative Maintenance Policy**

Daily inspections are completed during the driver's pre-trip inspection and recorded on a checklist. Vehicles are not put into service without properly operating lift equipment. If a vehicle's lift is not operating properly, the vehicle will be removed from service as soon as feasible to ensure that maintenance is performed in an expeditious manner.

### **Accessibility Features**

Vehicle operators and other personnel must make use of required accessibility-related equipment and features (tie-downs that should be used to secure a mobility device on the vehicle).



## **Common Mobility Device**

Wheeled devices for the carriage of a single individual, normally used as an assistive device for individuals who may have mobility challenges.

With respect to the size and weight of the mobility device, DAR will transport a mobility device and its user, as long as the lift can accommodate the size and weight of the mobility device, its user and there is space for the mobility device on the vehicle. However, DAR is not required to carry a mobility device if in fact the lift or vehicle is unable to accommodate the mobility device and its user, consistent with legitimate safety requirements and lift manufacture's guidelines.

Segway or other power Driven Mobility Devices (OMPD) - DAR will accept such devices as long as the mobility device can be transported safely and secured. Due to fact the passenger cannot be safely secured on such device with approved securements, the passenger is required to transfer to a seat.

## **Trip Denials or Missed Trips**

Denial Definition - a trip denial depends on the mode of service the passenger is requesting.

Same day services - is when a passenger cannot be scheduled within one hour prior to the requested time.

Twenty-four or more hours in advance notice type services – same as above, unless the customer is offered and accepts reasonable modification.

All denials are recorded by DAR.

DAR will ensure the availability of demand-response service and limit the total number of subscription trips provided to allow for access to transit service for those that need transport on a less frequent basis. DAR will have a goal of not exceeding 50% of the total trips for subscription trips; however, the 50% threshold can be exceeded as long as there is system capacity for demand-response trips.

## **Eligibility**

Persons using transportation services are generally considered presumptively eligible for ADA transportation services. These 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 ensure safe operations at their residence and provide certified access to paratransit services when they visit areas served by CCCoA. Persons will be interviewed and may be required to provide documentation to help determine use of eligibility. A transportation supervisor may inspect pick up locations if the interview indicates any conditions that may affect safe operations.

## **Determine Eligibility**

1. New customers are to call the transportation office 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. CCCoA will mail a letter to the customer confirming or denying transportation to the customer.

Information regarding a person's functional ability to use specific transportation services, derived from the determination process, however, can 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.