

Transcript

FTA ADA Circular Webinar 2:

The ADA and Paratransit Service Requirements

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>> Okay, good afternoon, everyone. Or good morning, depending on where you are. Welcome to the second in our series of webinars on the FTA, ADA circular. This one will cover paratransit service and eligibility requirements. I'm John Day, program manager for policy and technical assistance in the FTA Office of Civil Rights. With me is Dawn Sweet, program manager for complaints and communications, and she will be handling the Q&A box, and Richie Nguyen, actually running the show for us today. We have got everyone on mute. There are too many people to take questions audibly over the phone. So please use the Q&A box for all your questions. You can ask questions at any time during the presentation. We will get to as many of them as soon as we can. We may not have time to get to all of them but we will post a Q&A later on the civil rights training page.

We are going to start with background on the circular, as well as on paratransit. Then we are going to cover chapters 8 and 9 of the circular, chapter 8 covers paratransit service, chapter 9 covers paratransit eligibility. Then we will have time for some questions.

The circular itself has twelve chapters and it may seem like an imposing document, but it's not intended to be read cover to cover. It was put together as a reference document, and that is the way that we would like you to use it. I'm sure some people will try to read it cover to cover. It is not meant to be used that way.

It is more to refer to, to help you understand what the requirements are, and if you follow the advice we give you and guidance, hopefully you can avoid having findings in FTA oversight reviews.

The circular does not create any new requirements. FTA issued the circular as I said to provide guidance on the DOT ADA regulations, and make it easier to understand the requirements.

But the requirements stem from the ADA regulations themselves. Most of them are unchanged since 1991. For more information on the background of the circular and the general requirements, we would direct you to FTA ADA circular webinar number 1, which is available on the FTA civil rights training materials webpage.

So, what is paratransit? It is a term that is often used generically to refer to any type of demand responsive service, but it's important to understand that it has a specific meaning under the ADA. Paratransit means comparable transportation service required by the ADA for individuals with disabilities who are unable to use the fixed route transportation system.

The basic premise of the ADA is that people with disabilities will use the accessible fixed

route system, and paratransit is there to function as a safety net for people whose disabilities prevent them from using the fixed route service.

Any public entity that provides fixed route service must provide paratransit service, although it is not required for commuter rail, intercity rail or commuter bus service. The basic premise is that it must be comparable to fixed route service.

Chapter 8 covers the big service issues that we come across, origin to destination service, the service criteria themselves, capacity constraints, trip reservations, and premium service. We will touch on most of these throughout the presentation today.

The basic model of paratransit service is origin to destination service. That is what is required under the regulations. To make things clearer, last year the department amended its regulations to add a definition for origin to destination service.

What origin to destination means is providing a service from a passenger's origin to the passenger's destination, provider may provide ADA complementary paratransit in a curb to curb or door to door mode. When an ADA paratransit operator chooses curb to curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb, in order to use the service, unless such assistance would result in a fundamental alteration or indirect threat.

Appendix E of the regulations includes examples of providing assistance between the vehicle and the person's point of origin or point of destination. We have included some of those in the circular, and example might be, escorting a blind passenger from the door to the vehicle, to make sure that they board the right vehicle.

Occasionally a transit system will set up their paratransit service by zones with separate contractors responsible for each zone. Sometimes this results in passengers having to transfer from one contractor's vehicle to another, when they are traveling between zones within the transit system's paratransit service area.

Where this is the case, where someone needs an attended transfer you have to provide it. In other words, if you have contractor A handing off a passenger to contractor B at a central location, to provide service between their two zones, it may not be sufficient for contractor A to simply say, okay, I'm going to leave now, contractor B will be along shortly to pick you up. If somebody isn't capable of waiting by themselves for contractor B to pick them up, then you may have to wait until contractor B shows up. The alternative is you provide one trip from point of origin to point of destination. It is different when you are traveling between jurisdictions.

For example, if you are traveling between Springfield and Shelbyville you are on our own as a passenger, if you can't be left unattended you need to bring a PCA along because you are transferring between two different transit systems, neither one of them has the responsibility to get you from one point to another, because you are traveling between two different systems.

Chapter 8 talks about the service criteria, including hours and days of service, the service area, jurisdictional boundaries and restricted properties such as gated communities, trip reservations and response time, fares including free fare zones and operating without regard to trip purpose. You can find out about that in section 8.4 of the circular.

The DOT ADA regulations prohibit transit agencies from operating complimentary paratransit service in a manner that significantly limits the availability of the service through a pattern or practice of actions. These can include limiting the number of trips, waiting lists, untimely service, trip denials and missed trips and excessive trip lengths. These are all things in preADA days were problems for transportation with people with disabilities and they were specifically addressed in the regulations to make sure they didn't happen.

The circular also discusses other potential limits on service, such as untimely drop-offs, poor telephone service, and discouraging the use of paratransit service. Some transit systems will have their complementary paratransit service as well as some other independent senior service of some sort.

You may hear them say, nobody over 65 uses the paratransit service, they are all in the senior service. This raises questions about whether or not people with disabilities over the age of 65 are even aware of the existence of the paratransit system, and that they can apply for and use it.

The requirement for paratransit service for response time is for next day service. And is it important to understand that that means that you can call any time today during business hours, to take a trip any time tomorrow during service hours.

A lot of times we still see transit systems say, we require 24 hours notice for paratransit service. And that's explicitly not what the regulation requires, and Appendix D I believe addresses this. 24 hour notice would be if you want to take a trip at 9:00 a.m. tomorrow, you have to call at 9:00 a.m. today and that is clearly not what is required. It is next day service that is required.

You can negotiate the pick up time with the eligible passenger, up to one hour before or after their desired departure time. You cannot tell callers that the schedule is full and suggest they call back later. That would be a capacity constraint.

Pickup window is something that is not specifically addressed in the DOT ADA regulations, but is allowed by FTA sort of as a nod to practicality.

A pickup window is a reasonable window around the negotiated pickup time that tells the passenger when the vehicle may arrive. It is intended to account for things like unexpected traffic, things like that. Sometimes they are called on-time windows. We typically see these in two different fashions. One is a pickup window that exists after the negotiated pickup time and the example on the screen, we have got 0 plus 20 minutes. What that means is that if somebody scheduled a 9:00 a.m. trip, you would tell them that the vehicle will arrive any time between 9 and in this example 9:20 and still be on time.

The other thing that we see is that transit systems will bracket the pickup window around the negotiated pickup time. So for an 8:00 a.m. pickup they might say, in this example we have got minus 15, plus 15. That is a 30-minute pickup window, for 9:00 a.m. trip you tell the passenger to expect the vehicle to arrive between 8:45 and 9:15.

As I said, this is something that we have allowed for practical purposes, it's not specifically in the regulations. And we say in the circular that we don't want the pickup window to be longer than 30 minutes, because that requires the rider to wait an unreasonably long time for service. You may have somebody who is eligible for paratransit because they can't regulate body temperature.

They have a spinal cord injury or something. And they can't be out in the excessive heat or excessive cold for too long.

So they are eligible for paratransit. If you can't expect them to wait in the cold or in the heat for the bus, then it's unreasonable to expect them to wait an excessively long time for their paratransit ride as well. That is the reason we consider more than 30 minutes to be excessive for a pickup window.

Part of the negotiation of pickup time considers the arrival time constraints. Sometimes arrival time is more important than departure time.

But you can't request, if a passenger requests, let's say they have a job interview at 9:00 in the morning or something like that, and they need to be there at 9:00. They can't also turn around and say, I don't want to be picked up any later than 8:30 either. You can only constrain on one side.

The transit system is in the best position to know how long a particular paratransit trip is going to take. Remember, the standard is comparability to the fixed route system. For most people, when they want to go somewhere on the fixed route transit system, they will look at a bus schedule and say, the bus gets here at 8:45, so it leaves my house at 8:00, so I know which bus to get on, I know how long it's going to take me to get there and I'll be on time.

For paratransit that is not really practical. The rider is going to be depending on the transit system's knowledge of how long these trips are going to take in order to make sure that they get there on time.

The transit agency has an implicit obligation to get riders to their appointment on time, not late, not make somebody consistently late for work, and an explicit obligation to monitor performance to ensure that service is operated without capacity constraints.

Too many untimely drop-offs can discourage somebody from using the service, as I said. If you consistently make them late for work, they are going to find the service unreliable, and that would be a capacity constraint.

I'm going to take a break for a few minutes, and let Richie handle the next couple of slides.

>> RICHIE NGUYEN: Thanks, John. Chapter 8 also discusses premium service. A lot of service requirements that John mentioned, those are requirements required by the regulations of the DOT ADA regulations. An agency, however, can go above and beyond and they provide premium service, but an agency is not required to do so. It's up to an agency whether they want to do that and they may charge higher fares for premium service. An example of the premium service are same day trips, the regulations require next day service, but if an agency wants to do same-day trips they are allowed to do that.

Another example of premium service would be will-call trips. For instance an open return trip after a doctor's appointment, let's say a person they know they have an appointment at 9:30 but they don't know how long it's going to be. An agency can set up service in a way where they can call out the new appointment and get picked up. That includes pickups at airports and so on. Another example of premium service are trips beyond the minimum three-quarters of a mile for the fixed route service area.

If an agency wants to go one and a half miles beyond the fixed route service area, they can.

The minimum is three-quarters of a mile.

Another example of premium service would be trips before or after fixed route service hours. Let's say for example, if fixed route service starts at 5:30 a.m. in the morning, ADA complementary paratransit the agency can make it so that that begins at 5:00 a.m. It is not required to. The hours have to be comparable under the regulations to the fixed route service area, but the agency can make the trips before or after as well.

Now that we have discussed service requirements for ADA complementary paratransit, we are going to go into the eligibility which is chapter 9 of the circular.

Chapter 9 is on ADA paratransit eligibility. We are going to highlight the eligibility determination process, personal care attendants or PCAs and companions, access to information and no-show policies.

These are areas where we receive a lot of questions or we find deficiency findings or complaints on these. So we want to talk about it today. For eligibility determination process, this image is a life cycle of what that looks like.

We start at the top with standards and types of eligibility, John is going to go more in depth into that, and the circular goes much more in depth. We will give an overview. Standards, types of eligibility, also determination process itself. This is a local process and John will go more into that.

Also, decisions on eligibility, recertification, which is when the agency wants to recertify eligibility, and this can be due to changes to the physical environment or the functional ability of riders. Recertification needs to be at reasonable intervals. If it's too frequent, that can be burdensome to riders. The Appendix D language says anything more than once a year is considered burdensome.

It's also costly to agencies to too frequently do recertification. Most agencies or many agencies recertify every three to five years. We are going to talk about appeals. With that I'm going to hand it back to John.

>> JOHN DAY: Okay. So, eligibility. The three categories of eligibility are discussed in the circular. Category 1 is inability to navigate fixed route system independently. No surprise there. There are some people regardless of the accessibility of the fixed route system, won't be able to use it. The first category is inability to navigate the fixed route system independently.

Category 2 is a lack of accessible vehicles or facilities. Category 3 is inability to reach a boarding point or reach your final destination from a disembarking point.

The circular gets into some of the questions that we get. Okay. We have talked about independent ability to use the fixed route system or not. Eligibility is based on current functional ability. The person's functional ability at the time of the application is the basis for determination of eligibility. If somebody has a variable condition, you can't say on some days you are having good days and you can use the fixed route system, so therefore we are going to tell you can't use paratransit at all.

It is based on your functional ability at the time the application is being made. We get a lot of questions about young children. It's perfectly acceptable to require children under a certain age to be accompanied by adults. But any age limiting policy for paratransit would need to be imposed

on the fixed route system too.

In other words, if you say that children under 12 has to be accompanied on the fixed route system, it wouldn't be appropriate to say minors must be accompanied by adults on a paratransit system, because you are allowing 13-year-olds to ride fixed route system independently, but you are requiring adult accompaniment for people up to 18 years old on the paratransit system. So you couldn't do that.

But you can have the same policy for both. In that case, when you are assessing paratransit eligibility for a child, you would look at the team of the accompanying adult and the child, to see whether or not they would be able to use the fixed route system or would have to use paratransit.

Sometimes it's not the person's disability that prevents them from using the fixed route system independently. It is the fact that they are 3 years old. So that is what you would look at. Residence is not a factor in eligibility. We hear a lot from people who say live out in the suburbs, two miles from the nearest bus route. And they get denied paratransit eligibility based on their residence.

That is not appropriate, because what they are looking for is service between two points within the service area established for the paratransit system. If they can get from their residence into the service area, they are entitled to make trips anywhere between any points within that service area.

For example, let's say somebody has an adapted van with high tech driving controls and they can get themselves to their office downtown from the suburbs, but their job requires them to travel throughout the city during the day, and there is no parking anywhere, as is typical in an urban environment. Everybody walks or uses transit.

And so they would use paratransit to do their job traveling throughout the city during the day, and then drive their own vehicle back home at night. They are still eligible for paratransit. It is just that you don't have to go outside the service area to pick them up.

As the circular notes, the eligibility determination process is local. Some transit systems have a paper only process. Others do in-person functional assessments. There are basically three types of eligibility: unconditional, conditional, and temporary.

Unconditional being the person can use paratransit any time under any conditions. Conditional eligibility might be something like the situation I mentioned where somebody has a variable condition, some days on good days they can use the fixed route system. On bad days they may need to use paratransit.

As their disability requires, they would be able to use paratransit. Other factors for conditional eligibility include the weather. For example, let's say you are a wheelchair user, you take the fixed bus in to work every day but there was a snowstorm last weekend and now there is five feet of snow plowed into the bus stop and all over the sidewalks, and you can't get through it and probably can't until it melts in May.

Well, as long as that condition persists, you would be eligible for complementary paratransit. The snow melts, you are back on the bus and everything is fine.

That is an example of conditional eligibility.

Temporary eligibility is when someone's disability is expected to last for a predetermined amount of time. Let's say you have foot surgery and you are expected to have to use a wheelchair for six months. Then you might make someone eligible for paratransit for those six months. Again, if that prevents them from using the fixed route system during that time, you would make them eligible for the expected duration of the disability which in that example would be six months.

The regulations do require that eligibility be strictly limited to those individuals who meet the regulatory criteria for eligibility, because again paratransit is a safety net for those individuals who are unable to use the fixed route system.

It's important that eligibility decisions be made in a timely manner. Under the regulations, if an eligibility decision is not, if a determination is not made within 21 days of submission, the applicant has to be treated as eligible beginning on the 22nd day until a decision is made.

Eligibility decisions have to be in writing, and the circular explains what has to be provided to someone found eligible in order to use the service. It explains when someone is found ineligible and this includes conditional eligibility, because conditional eligibility means under certain conditions you are ineligible, you have to provide specific reasons for finding them ineligible or conditionally eligible. It is not sufficient to simply recite that you can use the fixed route bus system. You have to give specific reasons why they are ineligible and include appeal information.

It's important to make sure that somebody knows what they need to do in order to appeal. We will get to appeals in a minute, I believe.

We do include sample eligibility determination letters as Attachment 9-2 in the circular, which shows some examples of the specificity that we are looking for.

As I said, you have to notify people who have been deemed ineligible of their right to appeal. They have 60 days from the initial determination in order to appeal a determination of ineligibility.

They do have the right to be heard in person. You cannot require appeals to be in writing. You can require that someone indicate their intent to appeal in writing, and I believe we have a sample determination appeal request form in the circular in Attachment 9-3.

It's also important that the people or person or whoever is hearing the appeal be separate and apart from the person who made the initial determination. And this includes the separation of function includes people working in the same office as, supervising or working under the original decision-maker. We want to make sure that there is no connection between the person hearing the appeal and the person who is making the initial determination.

The person hearing the appeal should know something about paratransit service, what it's for. They should have some background. But there shouldn't be any connection in terms of decision-making.

If no decision is made within 30 days after the end of the appeals process, again the applicant is presumed eligible until the outcome is learned.

PCAs and companions, two very different but related topics. A personal care attendant or PCA is someone who is designated or employed specifically to help a person with a disability make his or her personal needs.

Personal needs is important, because that does not mean travel needs. A lot of times we will see in somebody's paratransit rider's guide they will say, a PCA is someone who helps you with your travel needs or helps you on the bus. And that may be the furthest thing from the function that the PCA is actually there to perform for the individual.

PCAs provide a lot of very personal functions for people with disabilities. Most of them are not going to be possible or appropriate on the bus. It's important to know that if somebody is traveling with a PCA they are not necessarily there to help them while they are in travel.

It's important to understand that the transit agency doesn't get to decide who acts as a PCA for a person with a disability. We hear from transit systems that say I think some of our passengers are abusing the PCA requirement because PCAs ride for free. A PCA, someone who uses a PCA, is as essential to that person's function as their wheelchair or their white cane or whatever it is that assists them with their disability. They are just as essential and for that reason, they ride free. We hear a lot from transit systems saying, we think people are abusing this because every time, we think they are just using it to get free travel for their friends, because every time they ride the bus, there is a different person with them.

For somebody who is getting PCA services through an agency or something, they get whoever is on duty at the time. This may very well be a different person every day, and it wouldn't be uncommon to see a different PCA every time they make a trip.

It's important to note also that the PCA may be another person with a disability. Again it's up to the eligible passenger to determine who serves as their PCA, whether or not they can perform whatever function that they need for them to provide, and there is nothing that prevents another person with a disability from fulfilling that need, if the eligible rider says so.

The PCA could be another person with a disability.

Companions are something different. A companion is someone who is simply traveling with the eligible paratransit passenger. Could be a friend, could be a family member, maybe you and your best friend are going out to a baseball game or something like that, companions pay the same fare as the eligible passenger.

It's important to understand that the ADA regulations do not make the passenger make a choice between having a PCA or traveling with a companion, because every one is entitled to travel with at least one companion when ever they make a trip.

If you use a PCA, and you are going to a ball game with your best friend, then the trip consists of you, your PCA and your best friend. Other companions must be accommodated on a space available basis. If there is room, you can bring two more friends. But what is required is one companion, and if the person uses a PCA, that companion is in addition to the PCA.

You may ask at the time of eligibility determination whether somebody uses a PCA, and you can note that for your own factors for trip planning purposes. But it's also important to understand that just because it says in somebody's file that they ride with a PCA, doesn't mean you can deny service if they don't have a PCA. Maybe they don't need a PCA that day. Maybe they are not going to be away long enough to need the PCA's services. They are going somewhere for an hour or two and coming right back home so it wouldn't be appropriate to say, your PCA is not with

you today, so we are not going to serve you.

That is not appropriate.

Chapter 9 talks a little about access to information, and it's important to have all the information, your application, your rider's guide, all the things needed for paratransit services, as well as all your other services available in an accessible format.

The way a lot of people do that is they put their information on-line. It is easy to get, most people have computers these days. Some even is optimized for smart phones and you can get the information easily. But it is important to understand that just because you put something on-line doesn't make it accessible. It is possible to, let's say you scan your paratransit rider's guide and you put it up for all to see, if you don't run it through an optical character recognition, then what you are putting up is a picture of that document, and if somebody comes along to read it with a screen reader or something like that, and it's going to keep telling them empty page, empty page, empty page because the only thing it's seeing is a picture of the page, it is not actually reading the text that is on it. It's important to make sure that your information is posted in an accessible format.

Most people think in terms of, when they are thinking about the ADA and information, they think in terms of sign language interpreters or Braille documents. But it's important to understand that in some cases, your applicants for paratransit service or paratransit passengers may not speak English. There are obligations under Title VI that we discuss in the circular about how to deal with people who need translation from other languages.

Now we get to everybody's favorite part of the presentation, no-show policies, which has been the number one finding in our oversight reviews.

The regulations permit an agency to suspend for a reasonable period of time riders who establish a pattern or practice of missing scheduled trips. A pattern or practice includes intentional repeated or regular actions, not isolated, accidental or singular incidents.

As a matter, as a nod to practicality again, this is not only regulations but something that FTA has permitted, is that late cancellations can be regarded in the same manner as a no-show if the trip is canceled less than an hour or two before the pickup time that's been given to the passenger.

You can count late cancellation as a no show under those circumstances. But in order to establish a pattern or practice, it's important to understand that you need to look at the rider's frequency of use. It used to be common, it's becoming less so now because of all these findings we have made for no show policies to say you missed three trips in a month we are going to suspend you for 30 days. Three trips out of 30, if you are a regular paratransit user and you go one place every day of the month, that is two trips a day, that is 60 trips a month, 62 in some months, where you are making trips. And missing three is not going to be a pattern or practice.

If you are only making six trips and you miss three, well, maybe that is. But it's important to look at someone's frequency of use before determining whether they have engaged in a pattern or practice of missing scheduled trips.

Also, the regulations specify that only no shows that are within a rider's control can be counted as part of that pattern or practice.

You can't penalize a rider for no shows beyond their control. And things beyond the rider's control might be operator error. For some reason the paratransit driver was given the wrong address. The paratransit vehicle never arrives. The driver was on his lunch break and got the van stuck under the drive through at McDonalds and never showed up to pick you up. That is not your fault. You can't count that as a no-show.

You might want to discipline that driver though. (chuckles).

But other things that are beyond the rider's control are things like if a sudden family emergency that comes up, a sudden turn for the worse in a variable condition, things like that are not within the rider's control, and you can't use those as part of establishing whether or not a pattern or practice of missing scheduled trips exists.

You do have to notify the rider of the proposed suspension in writing, using accessible formats where necessary. You must specify the basis of the proposed sanction prior to the suspension. In other words, you have missed trips on this, this, this, these dates, and that represents more than X percent of the trips that you have taken this month, you know. Therefore, we are proposing to suspend you for a week.

You would notify the person. But the rider has the right to appeal in person if desired. They can appeal that suspension. And you have to include instructions in your communication on how to request an appeal, and the suspension is stayed pending the outcome of that appeal.

The length of suspension must be for a reasonable period of time, that is a legal term straight out of the regulations. You may suspend for a reasonable period of time. What we recommend in the circular for the first pattern or practice of missing scheduled trips, maybe the suspension is for a week's worth of service. Some operators, they will say the first time you establish a pattern and practice, we will send you a warning letter.

The second time you establish a pattern or practice, then we will suspend you for a week.

For additional offenses, a few days longer than prior suspensions, maybe the second or third time you are suspended for two weeks, then maybe three weeks. Subsequent offenses may justify longer suspensions. But in general, we consider suspensions of longer than 30 days to be excessive.

Think about this. If you had to tell your boss that you couldn't come to work for 30 days because you got suspended from your transportation service, you would lose your job. Your paratransit passengers are kind of in the same position. It's got to be pretty egregious to get to the point of suspending somebody for a month of service because of all the implications that that may have.

We do have a sample no show policy that we have included as Attachment 9-4 of the circular.

Okay. I know Dawn has been busily typing away in the Q&A box. I think she's saved up some good ones for us. Let's see what people are saying.

>> DAWN SWEET: We got a lot of questions.

>> JOHN DAY: I'm surprised, I'm shocked! (chuckles).

>> DAWN SWEET: We will be going through them carefully after the presentation to see

what we missed, because it was impossible to keep up with all of them. But I also tracked some separately. These are great questions.

A lot of questions, I was surprised on personal care. Seeing themes in the box here. Here is a good one. A person, a PCA should be a person who does not need a PCA themselves, right? What if the designated PCA needs a PCA for his or her self while on board the vehicle?

>> JOHN DAY: Well, I guess I would say first of all that, you know, it's the person's, it's up to the person whether or not they need a PCA service. I'm not sure what you mean by what if the person needs a PCA while on the bus. But if it's a situation where, let's say you have got a wheelchair user and they have another wheelchair user acting as their PCA, but they keep falling out of their wheelchair while the bus is in motion and you have to keep stopping the bus to, or calling emergency services or whatever it is you did in an urgent situation like that, you are not required to provide service to people who engage in violent, seriously disruptive or illegal conduct. I would certainly classify something like that as seriously disruptive.

I don't think, I wouldn't say that the transit system is in the position of assessing whether or not someone needs a PCA. That is a personal thing. But if things are coming up that are creating direct threats to the health or safety of others, or rise to the level of seriously disruptive to service, you would not have to provide service to that person.

>> DAWN SWEET: Okay. Sticking with the PCA theme, is there an easy way to verify PCA status over companions? Is there any identification required?

>> JOHN DAY: As with service animals, there is no requirement for identification. You pretty much are going to have to take the passenger's word for it.

They are in the best position to know, and yeah, I think that is all you can do.

>> DAWN SWEET: Okay. Can you clarify if a child is certified, does the parent ride for free and how does that work?

>> JOHN DAY: If the child is certified as eligible, and the parent is acting as their PCA, then yeah, the parent would ride for free.

>> DAWN SWEET: Switching gears a little, about the eligibility process, and this is regarding the completion of applications, if the doctor has not responded to providing eligibility documentation within the 21 days, then the person is eligible until such time the doctor provides the documentation?

>> JOHN DAY: No. It has to be a completed application. The application is not complete. If you are requiring information from a medical professional, and that medical professional hasn't responded, the application is still incomplete.

You might want to inform the applicant at the 21-day mark or some time before then that their medical professional hasn't responded, and you can't process their application. But no, you are not dependent on somebody else to do their job, in order to do yours.

>> DAWN SWEET: Next question, can companions or PCAs who have reserved a seat during booking with the eligible rider if they don't ride do we process their absence as a no show?

>> JOHN DAY: I would have to say no. That sort of goes under things that are not within the control of the eligible passenger. You don't have any, if your PCA decides to quit overnight

you don't have any control over that. If your friend wakes up sick and can't go to the ball game you don't have any control over that, either.

I would have to say that doesn't count as a no-show.

>> DAWN SWEET: Next question: If the transit agency requires paratransit customers to show identification before boarding, and they do not bring along their photo I.D., can we deny the trip?

>> JOHN DAY: That's a good question. I would have to say, if you don't know that they are the person that reserved the trip and that you are there for, then probably you could.

>> DAWN SWEET: Going to PCAs, are you able to make a determination as to whether or not a person is eligible to use a PCA, if they do not have a PCA approval on file, and someone is with them, can you charge that person the full cost of the trip?

>> JOHN DAY: You mean an ad hoc PCA, I guess? Sort of thing?

>> DAWN SWEET: Yeah, or if there is no notation in the rider's file that they sometimes travel with a PCA.

>> JOHN DAY: Yeah, what I would say is, possibly the first time, maybe, and then make sure that they are informed that they can go back and let the system know that they travel with a PCA so that they don't get charged. That is what makes sense to me.

>> DAWN SWEET: PCA again, what if the passenger has Alzheimer's or something similar, and they decide to ride without a PCA? Does that put the agency in a tight spot considering the passenger's safety?

>> JOHN DAY: And those kinds of questions are a little difficult for everyone involved. The regulations prohibit you from requiring anyone to travel with a PCA, and I think that is the best answer to that question.

I understand that things like that put people in a difficult situation. And again, I would go back to, if somebody books a trip themselves, and then they can't be left by themselves at the other end of their trip, then there is nobody to meet them, and you have to call emergency services again that probably gets to be seriously disruptive pretty quick. And you would not have to serve them.

>> DAWN SWEET: Another question, and this is about no shows. If a rider lives in a care facility, and the staff does not have the rider ready to go when the bus arrives, can that be counted as a no show?

>> JOHN DAY: That is a difficult question.

>> DAWN SWEET: Isn't it?

>> JOHN DAY: That is a difficult question, because technically it's beyond the rider's control. I'm not sure if we have a good answer to that one.

>> DAWN SWEET: Yeah. What I'll say is that for any questions that we don't get to or that we can't answer on the phone, I would encourage everyone to submit their questions to our contact us tool. There is a contact us icon at the bottom of every FTA webpage. You select it and it will bring up a dropdown that says, civil rights or accessibility, select that. Your question will get delivered to the Office of Civil Rights in real time. We will be happy to respond promptly to any questions we don't get to, or if you have any questions that you think of after this webinar.

>> JOHN DAY: That is our first novel question, I think (chuckles).

>> DAWN SWEET: Let's see here. What if any type of documentation can a provider ask for in cases of no shows that were beyond the passenger's control?

>> JOHN DAY: I think in a lot of cases, you are going to end up having to take the passenger's word for it. You are not going to be able to get documentation if, you know, of a sudden family emergency, I don't think, you know. If it's a death in the family, I don't think you are going to wait for the death certificate and I don't think that is necessarily something that would be appropriate to do.

It just doesn't seem to make sense to require documentation on that basis.

>> DAWN SWEET: This is a great question. It might need to be submitted through contact us. I've never gotten it before. But the question is, what happens if the PCA is in a wheelchair, and the vehicle can only secure one chair?

>> JOHN DAY: That is another interesting question, because in vehicles under 22 feet, there is only a requirement for one securement location.

That would be something that the passenger requiring the PCA would have to work out for him or herself, I think. Obviously, you want to be able to make sure your PCA is there when you need them, and that is a legitimate concern.

>> DAWN SWEET: Switching gears, can paratransit service be integrated into an already existing demand responsive service?

>> JOHN DAY: You can do that. The important thing to do is make sure that you track everything separately. In other words, we still need to know that you are meeting all of the service and eligibility criteria for your paratransit system.

Now, if you are doing that for everybody in the demand responsive system if you are operating all of your service in accordance with the ADA paratransit service criteria, that makes it a little easier.

But we would want to see that you are doing what you are supposed to be doing for those people who are paratransit eligible.

>> DAWN SWEET: Yeah, and there is a big discussion in the circular, in chapter 7 on demand responsive service and commingling different types of services on the same vehicle.

Let's see. In regards to will call trips, how long can we take to pick up a person who's called to say they are ready?

>> JOHN DAY: I don't think there is a standard for that. That is something that you would have to work out at the local level.

>> Premium.

>> JOHN DAY: Right because it's a premium service.

>> DAWN SWEET: What if a PCA asks to be dropped off at a different location than the rider?

>> JOHN DAY: No. It's PCA is accompanying the rider. It is not free service to PCAs, it is PCAs ride free when they are accompanying a eligible individual.

>> DAWN SWEET: If the passenger does not indicate that they use a PCA on the

application, can we treat any companions as companions and charge them accordingly? Or do we have to ask them if it is a PCA each time? I would say for that, that you would probably want to have a conversation.

>> JOHN DAY: Yeah.

>> DAWN SWEET: With the customer. You definitely should be asking during the eligibility process whether the person uses a PCA. And that would remove a lot of the need to have to inquire every time.

I think also, all of these questions on PCA, I think it's important to keep in mind that especially if you are strictly limiting paratransit eligibility, that we are talking about people likely with pretty significant disabilities, people who are prevented from taking fixed route service.

So it's likely that a good bulk of your customers will need some assistance with some tasks or multiple tasks during the day.

So it's reasonable that a lot of paratransit customers will need a PCA, and often, PCAs are family members, they are friends, that is just the way that it is. People don't have access to professional aide services, they don't have them available in the community or they just don't have the resources.

Ah, all right, one of my favorite topics, service animals. This is covered in chapter 2. But it always comes up and it's relative to paratransit. And that is, is a companion animal a service animal?

>> JOHN DAY: A companion animal is not a service animal. A service animal is individually trained to perform specific tasks for an individual with a disability. You can ask someone, is this a service animal, and what task is it trained to perform?

>> DAWN SWEET: Here is a question on origin to destination. Would our service be in violation of the ADA if we offered door to door service but no travel up to two to three flights of stairs in an apartment escort the passenger.

>> JOHN DAY: When we say origin to destination, we mean getting them from point to point. We are not talking about going beyond the door to the apartment complex and up a flight of stairs to their unit.

We are talking about getting them from the vehicle to the entrance to wherever it is they are going.

>> DAWN SWEET: Paratransit eligibility. How do you determine eligibility for people with mental illnesses, for example, people who are bipolar, having anxiety, PTSD?

>> JOHN DAY: In a lot of cases, that may have to depend on what you get from their medical professional. They can tell you under what circumstances they are able to use the fixed route system independently or not. There is probably some things you can find out through a functional assessment whether or not they can read and understand a bus schedule, things like that. That is what I would look to.

>> DAWN SWEET: Yeah. It's important to emphasize that eligibility isn't based on a disability or diagnosis. It's all about functional ability, and whenever possible, people with disabilities should be riding the fixed route. It's integrated. It offers the ability to travel

spontaneously. But as John said, paratransit is a vital safety net.

This question is about comparability. If a fixed route is 60 minutes, and to me that's the headway, which part of the ADA paratransit trip is comparable, the pickup window or the travel time?

>> JOHN DAY: In terms of comparability, it would be the travel time. If it takes 60 minutes to get somewhere on the fixed route system, then it's reasonable to expect that it would take 60 minutes on the paratransit system. That is comparable.

You can account for walking time, waiting time, transfer time, things like that.

>> DAWN SWEET: Yeah, the circular does, it emphasizes what John said. It is not all about the time spent on the vehicle. It is not, when you are assessing comparability, paratransit isn't intended to be viewed as taxi service. You do account for the time it would take a person riding fixed route to walk to the bus stop, to wait at the bus stop, to take the trip on the fixed route bus, to get off and walk to their destination.

>> JOHN DAY: Now if the headway is 60 minutes, I wouldn't necessarily assume that anybody is going to be waiting 60 minutes for the bus.

>> DAWN SWEET: That is true.

>> JOHN DAY: A reasonable person is going to leave a reasonable amount of time before they expect the bus to show up. They are not going to say the bus just left, I think I'll stand around for an hour. Things like that you need to take into account as well.

>> DAWN SWEET: Here is a good question about origin and destination. This is a issue we got a lot of comments on the draft circular documents in the docket. If agencies share or have overlapping service area are they required to have a hand-off policy or can they warn the passenger to wait for the other agency to pick them up and are left alone?

>> JOHN DAY: In that case because you are traveling between two jurisdictions, it would be appropriate. I don't know what to say beyond that.

>> DAWN SWEET: In the circular, there is a good discussion in the origin to destination section which explains that if a transit agency is operating with zones within their own service area for the sake of efficiency, people who are able to be left alone can be dropped off, and the next vehicle comes to pick them up.

If they can't be, the agency would be obligated to essentially hand them off to the next driver to fulfill the origin to destination requirement. If we are talking about two separate systems have that adjoining service areas, there is no requirement for the two different agencies to do an attended transfer.

We've got time for just a couple of more questions here. Let me find -- we have a lot in the Q&A box.

This comes up a lot, it's an issue addressed in chapter 2 of the circular. How should an agency handle poor hygiene issues? Is it okay to suspend service or require a PCA? I'll answer that one.

It's a question that we get a lot, hygiene. The standard for service denial is in § 37.5(h), and so agencies can deny service based on seriously disruptive, violent or illegal conduct, or if the rider

presents a direct threat to the health or safety of others, not themselves.

Hygiene, it would have to be pretty bad to be able to make the case that the situation was seriously disruptive.

For example, if the vehicle needed to be taken out of service and cleaned, which we have seen and heard about, and agency could make the case that that is seriously disruptive to their operations and at that point suspend service to the rider.

But it is intentionally a very high threshold, and a circular in chapter 2 goes into the importance of documenting these situations, and providing due process to the rider to give them an opportunity to correct the situation and resume service.

>> JOHN DAY: We have time for one more.

>> DAWN SWEET: One more question. If a person has dementia, and continually asks us to wait more than five minutes for items left behind, are we obligated to wait? I'll say with that again, this threshold would likely be seriously disruptive term, would you agree?

>> JOHN DAY: Yeah, I would agree with that. Typically, we see policies where the vehicle will arrive and will wait up to five minutes for the person to board, and I think it would be appropriate after that, I think there is a point where that could become seriously disruptive and you could deny service on that basis.

Okay. Thanks, everybody for spending the afternoon with us or morning as the case may have been. We will be posting this presentation to the website shortly, and we will be going through the questions and posting some Q&A. All right. Thanks, everyone.

>> DAWN SWEET: Thank you.

(end of webinar at 1:59 p.m. CST)

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