



# LORAIN COUNTY COMMISSIONERS

Michelle Hung

David J Moore

Jeff Riddell



## APPEALING LCT'S ADA PARATRANSIT ELIGIBILITY DETERMINATIONS

Pursuant to the US Department of Transportation regulations Implementing ADA Paratransit requirements (USC 49 Par 37 Subpart F, Section 37.125), LCT will accept appeals from its determination of eligibility. Applicants for ADA Paratransit or customers of LCT service may appeal:

1. A determination that an applicant is not eligible for LCT ADA Paratransit services;
2. The conditions placed upon eligibility for use of LCT services;
3. The application of conditional eligibility to any particular trip request.

In addition, LCT customers whose services have been suspended for any reason may appeal this suspension of service.

A copy of these procedures will be included in every letter of determination denying or conditioning eligibility or suspending LCT services.

### 1. Filing an Appeal

- A. All appeals must be filed in writing with the LCT office.
- B. Appeals must be filed within sixty (60) days of the receipt of the original determination. If the 60<sup>th</sup> day after the original determination is on a weekend or legal holiday an appeal will be accepted on the next subsequent business day.
- C. Appellants are urged to state in their appeal letter the reasons why they believe the determination does not accurately reflect their ability to use LCT fixed route service, or why the suspension(s) is inappropriate. Written material regarding the specific functional ability of the customer or relating to the general nature of the individual's disability may be submitted at this time. This will assist LCT reviewers in their initial review of the appeal. An appellant may, however; request an appeal hearing without providing additional detail and without submission of written materials or information.

### 2. Receipt and Scheduling of an Appeal Hearing

- A. Upon receipt, all appeals will be date-stamped and referenced to the ADA Coordinator for review and consideration. The ADA Coordinator may choose to:
  1. Reverse the determination;
  2. Authorize a specific trip request that was denied;
  3. Refer the appellant for in-person assessment by a LCT consultant;
  4. Schedule the matter for a hearing by the Review Board;
  5. Cancel or modify the provision of service.
- B. Initial review of appeal request by the ADA Coordinator will normally be completed within five (5) business days of the receipt of the appeal. If third-

party review is required, the review should normally be conducted within one (1) week following the determination by the ADA Coordinator.



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- C. Appeals before the Review Board will normally be completed within the calendar month following the receipt of the appeal, pending the meeting schedule of the Review Board. The Review Board will render its determination within thirty (30) days of consideration of the appeal.

### 3. Review Board Procedures

- A. Copies of the original request including any supporting material submitted by the customer will be provided to the Review Board at least three (3) days in advance of the appeal hearing.
- B. The Review Board shall hear and consider:
  - 1. The information provided in the original application and through the medical verification;
  - 2. Any additional information, written or verbal, received from the appellant;
  - 3. Any report of the LCT 3<sup>rd</sup> party consultant;
  - 4. The statements of the appellant, his/her advocate and any other witnesses offered by the appellant;
  - 5. Information from LCT staff regarding its services, the architectural or other barriers impacting access to fixed route service or other eligibility criteria; and
  - 6. Any other material deemed by the Review Board to be germane to the consideration of the appellant's ability to utilize LCT's Fixed Route Service.
- C. After it has received, reviewed and considered the material presented as part of the appeal process, the Review Board shall render a decision and shall direct the ADA Coordinator to prepare a letter to the appellant regarding its determinations. The Board will specify and the letter shall explain in detail, the reasons for the maintenance, modification, or reversal of the matter(s) of the appeal.
- D. The Board will normally render its decision immediately after the hearing. If the Board determines that it must delay a decision in order to obtain further information regarding the appeal, USDOT regulations pertaining to presumptive eligibility will apply.

### 4. Interim Service

- A. During the period between the receipt of an appeal of an initial determination regarding eligibility and the determination of the Review Board no ADA Paratransit service will be provided to the applicant. You will have to give 48 hours notice as opposed to giving us 24 hours notice as you would with the ADA Paratransit eligibility. Service may be provided through other County transportation (i.e. Fixed Route bus service) pursuant to the regulation of those programs.
- B. If an appeal is taken based upon a determination of trip eligibility, service for the trip in question will be provided until an appeal hearing is concluded.
- C. If an appeal is taken based upon a suspension of for any reason other than violent or threatening behavior, service will be provided until an appeal hearing is concluded.



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- D. If an appeal is taken based on a suspension of service for violent or threatening behavior, service will not be provided during the appeal process.
- E. If the review board has not rendered its decision within thirty (30) days of the hearing, service will be provided on an interim basis pending final determination by the Board.

## 5. Privacy of Appellants

- A. All Review Board copies of appellants' requests and supporting documentation will remain the property of LCT and will be returned to the ADA Coordinator at the conclusion of the appeal hearing.
- B. Members of the Review Board are strictly prohibited from discussing the details of the appeal or regarding the name or other identifying characteristics of the appellant with any person not directly involved in the appeal. Members may discuss information of a general sort regarding a particular type of disability and its functional impact upon an individual's ability to use fixed route transit services in preparation for a hearing, but advised to take care that information regarding specific appellants is not shared.
- C. Appellants will be asked to state if they wish to have the hearing conducted in closed session. At the appellant's request, all parties except the Review Board, LCT staff, the appellant and his/her advocate and witnesses are necessary for the conduct of the hearing will be excluded from the hearing.
- D. Deliberations of the Review Board shall normally be conducted in executive session in order to allow for the full consideration of the appellant medical records and condition. Appellants may, however; request that these deliberations be conducted in a public session.
- E. The Vote determining the outcome of the appeal will be conducted in public, and the assessment of the appellant's functional ability to utilize LCT's fixed route, excluding medical diagnoses and other private medical information, will be rendered in writing.
- F. Audio tapes will be made of all Review Board meetings. The tapes of these meetings together with all supporting material will remain the property of LCT and will be held of a period of five (5) years, at which time they will be destroyed. Copies of these tapes will be made and released only through the process of legal discover (fact-finding) undertaken in any subsequent legal action.