

Americans with Disabilities Act of 1990 (ADA) Appeal/Complaint Process

Introduction and Purpose: The U.S. Department of Transportation (U.S. DOT) regulations for implementing the Americans with Disabilities Act of 1990 (ADA) (49 CFR Part 37) require a public transit agency with ADA paratransit service to have an appeals process as part of its eligibility determination process [49 CFR Part 37, subpart 125(g)] and for service suspensions related to a pattern or practice of no-shows [49 CFR Section 37.125(h)].

Policy: Rolling Hills Transit has established an appeal process for the following:

An applicant for ADA eligible rider recertifying eligibility who is denied eligibility or given conditional or temporary eligibility may appeal the decision.

An ADA eligible rider receiving notice of a service suspension due to a pattern or practice of no-shows may appeal the decision.

Guidelines:

Reasonable Modifications: If reasonable modifications to the Rolling Hills Transit's (RHT) policies and procedures are necessary because of a disability, they are available on request. If practicable, these types of requests should be requested in advance, but vehicle operators shall be empowered to make modifications on-the-spot (i.e. if someone with diabetes needs to eat because of blood sugar concern, the driver would make a reasonable modification to the "no eating" rule and allow that). If information is needed about RHT's services in alternative accessible formats, it is available on request.

Submit an Intent to Appeal: The individual appealing, referred to as the appellant, must submit an intent to appeal in writing, and it must be filed within 180 days of notification of the eligibility determination or of a service suspension.

The written intent to appeal should be sent:

By first class mail to Director of Transportation, ADA Compliance, 400 Commerce Dr. SE, Kasson, MN 55944 or

By email RHTBus@semcac.org

The written intent to appeal may state the reason(s) for the appeal with supporting information, and this would be helpful for Rolling Hills Transit to review the appeal, but this is not required.

Appeals Hearing: Once the intent to appeal is received, Rolling Hills Transit will schedule an Appeals Hearing within 30 days.

The appellant will be notified in writing of the date, time, and location of the Hearing.

The appellant may attend in person along with an attendant or representative if desired; however, attending in person is not required.

If the appellant does not attend in person, they may have another person attend as the representative. This also is not required.

The appellant may provide before the Hearing or bring to the Hearing any information or evidence, orally or in written form, that supports the appellant's appeal.

Appeals Committee: The appeal will be heard by the Appeals Committee, which is composed of three staff members of Rolling Hills Transit. These include the Transportation Director, Operations Manager, Compliance & Safety Officer and Dispatch Coordinator appointed to the Appeals Committee.

[Depending upon the staffing of the transit agency, the three positions may vary but importantly, the staff member who made the determination on eligibility or the service suspension must not be involved as a member of the Appeals Committee. Section 9.7.4 of the FTA ADA Circular notes that an optional good practice for eligibility-related appeals is to compile a roster of specialists to call upon according to each appellant's disability. See Section 9.7.4 of the FTA ADA Circular for additional selections.]

Decision: The Appeals Committee will make a decision on the appeal within 30 days of the Appeals Hearing and provide the decision and reasons for the decision to the appellant in writing. If a decision on the appeal has not been made within 30 days after the Appeals Hearing, the appellant will be provided ADA transit service until a final decision is made.

The provision of ADA paratransit from the time when the appeal is received by Rolling Hills Transit to the time when a decision on the appeal is made depends on the reason for the appeal:

If the appellant is a new applicant for ADA paratransit, no ADA paratransit will be provided until a decision has been made by the Appeals Committee.

If the appellant is currently eligible for ADA paratransit and whose recertification is denied or given conditional or temporary eligibility, ADA paratransit will be provided until a decision has been made by the Appeals Committee.

If the appellant is appealing service suspension due to a pattern or practice of no-shows, ADA paratransit will be provided until a decision has been made by the Appeals Committee.

Recordkeeping: Documentation related to the appeal and its outcome will be retained for a period of three years, with a record in summary form kept for five years. [Recommended but not required by ADA regulations for appeals. Note that ADA-related complaints must be kept on file for one year, and a record of all such complaints, which may be in summary form, must be kept for five years.]