



## **PUBLIC NOTICE**

### **ADA ELIGIBILITY DETERMINATION PROCESS**

**Bay Metro Transit operates a paratransit service, for ADA-certified individuals in combination with a countywide, demand-response service for seniors of age 60 or over and individuals with a disability. This service is called DART, Dial-A-Ride Transportation.**

**This procedure establishes the ADA eligibility determination process for BMTA's paratransit service. The goal of the eligibility determination process is to accurately and consistently determine ADA paratransit eligibility, including conditions and limitations of eligibility, based on established ADA regulation.**

**It is in BMTA's best interest that the determinations that are made are accurate and in keeping with the established criteria and procedures, because the intent of ADA guidelines is to provide paratransit service while preventing self-inflicted, undue financial burden. The ADA requires the paratransit eligibility determination process strictly limits ADA eligibility to people who meet the ADA criteria. This should allow BMTA to avoid conferring ADA eligibility to everybody and causing an inevitable decline in ability to provide violation-free ADA service to its eligible riders due to cost and/or capacity constraints.**

**Being accurate and consistent is also important because the rights of individuals to be provided ADA paratransit service are established under federal law. The court system is the ultimate arbitrator in issues where an applicant feels the determination was not consistent with regulatory criteria. The liability for wrongfully limiting or not granting eligibility is enough to warrant thoroughness in our process.**

**Because, BMTA provides a demand-response service in addition its paratransit service, BMTA must make the distinction between those individuals with ADA eligibility and those without. BMTA ADA oversight policies and financial reporting of ADA-associated costs apply specifically to ADA-certified individuals taking ADA-eligible rides.**

### **Basic Eligibility Categories**

Individuals will be determined to be ADA-certified if they meet one of the following eligibility criteria:

- 1) Individual cannot board, ride, or disembark from an accessible, fixed route bus (Category 1)

If a physical or cognitive disability prevents the individual from being able to do any of the following, they would be considered eligible for ADA

Paratransit service:

- Get and remember BMTA route information
- Locate and recognize bus to take, included the ability to make transfers to other buses
- Use lifts and ramps as fixed routes are equipped
- Pay fare
- Get to seat or accessible area (with Vehicle Operator assistance)
- Recognize where to exit bus
- Signal for a stop
- Handle unexpected situations
- Travel safely in the community

- 2) Individual can use an accessible bus, but route is not assigned an accessible bus or bus stop location does not allow for the use of accessibility features of the bus. (Category 2)

All BMTA vehicles are accessible by ADA standards; however the posted bus stop locations may not. If the bus stop prevents the use of those features which make the assigned bus accessible for the individual, then the individual would be ADA-eligible. BMTA will pick-up and drop-off at any location along a fixed route considered safe for passengers boarding/ deboarding. If the designated safe location for boarding/ deboarding does not allow for the use of the accessibility features of the bus and the individual's disability requires the use of the features then they will be considered ADA-eligible. Examples of conditions that may make a stop inaccessible are as follows:

- Curb or curb cut at that stop which does not allow for use of lifts or ramps
- Surface conditions at stop; gravel, uneven or sloped; slick or slippery preventing use of lift equipment

- 3) Individual cannot access boarding location or destination because of disability in conjunction with environmental or physical barriers. (Category 3)

Physical barriers and limitations to traveling to and from the bus stop are grounds for ADA-eligibility. The following are examples of conditions which make travel to and from stops inaccessible:

- Lack of curb cuts when crossing streets is necessary
- Extremely busy intersections with no pedestrian signals or fast “walk/don’t walk” cycles
- Uneven path of travel
- Disability prevents physically travelling the distance necessary
- Cognitive disability which prevents travelling safely in the community
- Individual cannot wait without a bench/ bus shelter
- Surface conditions at stop; gravel, uneven or sloped; slick or slippery
- Individual unable to “flag” bus down if not at posted bus stop

### **Conditional/Trip-by-Trip Eligibility**

Category 1 individuals are assumed to be eligible for paratransit service regardless of the trip taken within the paratransit service area. However, Category 2 and 3 riders must have conditional eligibility.

Determination of ADA paratransit eligibility must consider the ability of applicants to travel to *any* origins and destinations in the paratransit service area under all possible conditions. All origins and destinations have different physical features. Environmental conditions, such as weather, may alter those features significantly. There is an innumerable amount of combinations of terrain, environment, and individual abilities which then requires a trip-by-trip determination to take place whenever a Category 2 or 3 passenger wants to book a ride. All circumstances which may affect travel for the individual must be clearly identified or inappropriate limitations may be placed on the individual. Individuals with these categories of eligibility may also be reasonably expected to make some trips on fixed route. Unconditional eligibility should not be awarded until an extensive determination takes place.

As an example, a person with an ambulatory disability may live only one block from the nearest bus stop and the terrain between their home and the stop may be level and accessible. They may not be able, though, to independently travel more than ½ mile and may not be able to negotiate steep terrain. Even though this person could get to the fixed route system from their home, there would be possible destinations more than ½ mile from fixed routes that they would not be able to reach. There may be destinations in areas of steep terrain that would also be inaccessible. Conditional eligibility would therefore be appropriate.

### **Temporary Eligibility**

ADA eligibility may be temporary for an individual that has a physical or cognitive disability which prevents them from using the fixed route for a limited period of time. The eligibility criteria are same as stated in Category 1, 2 and 3; however, further assessment must be made after the temporary eligibility time period.

## **ADA Eligibility Determination without Evaluation**

### **A. Determination made by Internal Certification**

Many riders in the Bay City area can be internally certified; certified by BMTA without going through a certification process. These individuals are generally associated with particular conditions or live at particular facilities that specialize in caring for individuals with a certain disability. Examples would be individuals receiving dialysis or individuals that attend Golden Horizons, a program for individuals with Alzheimer's. These conditions, facilities, and programs are listed on an attached page. BMTA needs to fill out a Certification Form on these individual's behalf which states that the individual was internally certified and why.

### **B. ADA-Certified Cardholder from Outside of Bay County**

If an individual is an ADA-Certified cardholder, it must be assumed that another transit system has already certified the individual and is entitled to BMTA ADA paratransit service. All conditions of certification should be found on the card issued by the certifying system or can be determined by calling the issuing transit system. Service standards for ADA service will apply for this individual, including what qualifies as an ADA-eligible ride. If the individual will be in the area for 21 days or more, BMTA will require a determination of eligibility take place.

## **ADA Eligibility Determination**

The BMTA ADA paratransit service area is the Bay City urbanized area and within a  $\frac{3}{4}$  of a mile corridor along the fixed routes outside the Bay City urbanized area. Individuals that live outside of the paratransit service area will only receive an ADA eligibility determination upon request or if the individual is known to travel within the paratransit service area. Individuals may also travel outside of Bay County and, according to ADA guidelines, could use ADA paratransit of another public transit system. BMTA cannot deny an individual an eligibility determination which, if eligible, allows them to use the other transit system's service.

BMTA has developed a Task/Skill List for the determination process. It includes all the tasks an individual must be able to do to use the fixed route system with a reasonable level of effort and risk, consistently, such as going to and from the stop, going throughout the service area, traversing various surfaces, and so on. A rider must be able to perform the tasks under a variety of environmental conditions and be able to handle unexpected situations. This list will be used for all assessments with the understanding that all applicants are assessed by the same standards and that the individuals are evaluated on capabilities, not necessarily on a diagnosis involving disability.

### **A. Self-Certification with Professional Verification as needed**

All applicants must fill out an application as part of the determination process. Upon receipt of the completed application, BMTA has 21 days to respond with the determination. This includes following up with the applicant with responses on the application and seeking professional verification. Any applicant that does not receive a response from BMTA will be presumptively approved until an actual determination is made. Applicants will be asked if an alternative format application is needed, and if so, what format would be appropriate. Time needed to supply the alternative format application counts against the 21 days before presumptive approval.

When assessing eligibility, BMTA staff needs be aware that applicants might not always list all relevant factors on their application forms, particularly if they are not frequent users of the fixed route service. The evaluator reviewing the application needs to consider the person's disability and functional ability, and have the Task/Skill List in the back of their mind. They should note the most limiting disabling condition for the applicant, and remember that for any particular disability and mobility aid, the assessment needs to evaluate every item on the Task/Skills List and how it affects the applicant. Given the many disabling conditions and all of the factors on the Task/Skills List, many determinations will require follow-up contact with the applicant or a healthcare professional.

The application includes a waiver clause which gives the evaluator permission to seek information regarding the applicant's ability to perform tasks necessary to ride the fixed route service. A healthcare provider verification form will be sent to the professional list on the applicant's application. Judgment must be made as to whether the applicant's listed healthcare professional is the appropriate professional to do an evaluation. For example, if the applicants limiting condition is cognitive, the proper professional to consult may not be a physical therapist. The evaluator may need to contact the applicant for an additional healthcare professional reference. Phone interviews may be done with the form being filled out by the evaluator.

This process of determination relies on the information provided by the applicant and/or a healthcare professional. It is important that the nature of ADA paratransit eligibility is understood. The major issue which should be avoided is that the applicant or professional will identify a primary disability, but will not identify how the disability relates to the use of the fixed route service. Applications will be accompanied by a description of the eligibility requirements. Further follow-up after the application is received may have to take place to assure that there is full understanding of the intent of the application content.

## **B. In-Person Assessment**

If the assessment of an applicant's application and professional verification does not provide enough information or detail to make an accurate determination, an in-person assessment will be conducted. In this process, the reviewer, along with a third-party professional, will interview the applicant by asking a set of questions incorporating the Task/Skill List to make the determination. The applicant may, and should be encouraged to be, accompanied by an advocate to assist with the responses to the questions asked.

The interviewer and third-party evaluator should conduct a skills test as well. The skills test may include physical tests, such as the ability to board and deboard a bus with and without ramps and lifts, see and read signs and other visual information, and use sidewalks at varying slopes and distances. Cognitive tests may also be given to determine the applicant's ability to perform tasks such as asking for and following directions.

As with self-certification, the determination must be completed within 21 days before presumptive approval occurs.

### **Initial Determination Notification**

All applicants will be notified in writing, by certified mail, about the initial eligibility determination. If an alternative format was requested for the application, a similar format will be used for the determination notification. If someone acting on behalf of the applicant filled out the application form, they will also be sent the notification.

Specific reasons for the findings must be stated in the notification and should cite assessment findings directly related to question in the application, professional verification, and the in-person interview.

If an individual is found not to be eligible, specific reasons must be stated, for example;

“The particular reason included in the application for why you could not use the fixed route service was that you are unable to independently travel distances great than ½ mile to get to or from bus stops. Your diagnosis of disability, provided by the professional named in your application, did not, however, indicate a disability that limits your ability to independently travel the paratransit service area.”

Or;

“Your application indicated that you do not feel safe traveling on the fixed route bus. While the possibility of an incident occurring while traveling may be a factor in your decision to use public transit, it is not a

reason, in and of itself, one which requires the use of paratransit service.”

If the determination limits eligibility under certain conditions, the notification, again, must be very specific as to what those limitations are. Just as the scheduler must have specific information to make a determination on a trip-by-trip basis when scheduling this rider, the riders themselves must have adequate information to make the same judgment before calling DART. An example of a specific eligibility finding is;

“Trips to your current work site from your current place of residence are not ADA paratransit eligible as you indicated in the in-person assessment that you have received instruction in the use of the fixed route service to make this particular trip.”

Notification of ineligibility and conditional eligibility will also contain information about the appeal process; requesting appeals, the number of days within which appeals must be made, how the appeal will be administered, and how long before the applicant should expect a response.

#### **Appeal Process**

Appeals must be made within 60 days of the notification of ineligibility or limited eligibility. The certified mail receipt will be used to calculate the deadline for appeals. Appeals are made to the ADA Administrator in writing or in-person. The ADA Administrator must make arrangements with the Transportation Services Manager, a third-party contracted professional, and the appellant to allow for the opportunity to be heard, present information and arguments, and allow for advocates and professional healthcare officials with knowledge of the appellant to provide new information or a clarification to originally submitted information. The BMTA Transportation Services Manager, under the advisement of the contracted professional, will hear and consider all appeals and must respond within 30 days. If a decision is not rendered and the appellant is not notified within 30 days, the appellant will be provided ADA service until and unless an adverse decision is rendered.

#### **Documentation of ADA Paratransit Eligibility**

All individuals receiving eligibility, including limited eligibility, will receive an ADA Paratransit Eligibility ID. The Dispatch Supervisor must maintain hard-copy files on all applicants, regardless of eligibility determination, with any relevant information used in the determination process, details of limitations if the individual received conditional approval and any appeal documentation.