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555 Lakeshore Blvd. Painesville Twp., OH 44077

## ADA Service Eligibility Process

### ADA Background

The Americans with Disabilities Act (ADA) of 1990 is a civil rights act for persons with disabilities prohibiting discrimination and ensuring equal opportunity and access to programs and services. Title II of the ADA covers public transportation and requires that transit programs and services be accessible to people with disabilities. Accessibility features on public transit vehicles includes lifts/ramps, accessible bus stops, alternate formats of materials and more. The ADA also requires that public transportation agencies that provided fixed route services, such as the Laketran Local Routes (1-9), also provide a complementary service for people with disabilities that are prevented from taking the fixed route service because of their disability. This service is a safety net and not intended for all people with disabilities. Laketran's eligibility process, described below, will be used to determine whether or not applicants are eligible for paratransit ADA Service based on the parameters detailed in the ADA.

### Laketran's ADA Service

Laketran's paratransit ADA Service is a door-to-door, assisted transportation, shared ride option for people with disabilities who are unable to independently access or ride the Local Routes due to their disability. ADA Service is provided throughout Lake County in the areas which all Local Routes operate. The ADA service area is a  $\frac{3}{4}$  of a mile corridor around each Local Route. ADA Service is also provided in any area completely surrounded by Local Routes in Lake County that is not  $\frac{3}{4}$  of a mile from a fixed route, for example Lost Nation Road.

**Laketran's Dial-a-Ride** is a door to door, assisted transportation, shared ride service available to all residents of Lake County. Transportation services are provided throughout Lake County and to limited medical facilities in Cuyahoga County. All Dial-a-Ride trips are scheduled by advance reservations of 2-12 business days.

### ADA Service Eligibility Process

The ADA requires that transit agencies strictly limit eligibility for paratransit ADA service to those that qualify based on the definition found in the ADA. The following are eligible for Laketran's ADA Service by ADA definition:

1. "Any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual, (except the operator of a wheelchair lift or other boarding device) to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities." (§ 37.123(e)(1))



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2. “Any individual with a disability who needs the assistance of a wheelchair lift or other boarding device and is able, with such assistance, to board, ride and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities. If the individual wants to travel on a route of the system during hours of operation at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route.”
  - (i) An individual is eligible under this paragraph with respect to travel on an otherwise accessible route on which the boarding or disembarking location which the individual would use is one at which boarding or disembarking from the vehicle is precluded as provided in § 37.167(g) of [Part 37].
  - (ii) An individual using a common wheelchair is eligible under this paragraph if the individual’s wheelchair cannot be accommodated on an existing vehicle (e.g., because the vehicle’s lift does not meet the standards of Part 38 of this title), even if that vehicle is accessible to other individuals with disabilities and their mobility wheelchairs.
  - (iii) With respect to rail systems, an individual is eligible under this paragraph if the individual could use an accessible rail system, but— (A) There is not yet one accessible car per train on the system; or (B) Key stations have not yet been made accessible” (§ 37.123(e)(2)).
3. “Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system.”
  - (i) Only a specific impairment-related condition which prevents the individual from traveling to a boarding location or from a disembarking location is a basis for eligibility under this paragraph. A condition which makes traveling to boarding location or from a disembarking location more difficult for a person with a specific impairment-related condition than for an individual who does not have the condition, but does not prevent the travel, is not a basis for eligibility under this paragraph.
  - (ii) Architectural barriers not under the control of the public entity providing fixed route service and environmental barriers (e.g., distance, terrain, weather) do not, standing alone, form a basis for eligibility under this paragraph. The interaction of such barriers with an individual’s specific impairment-related condition may form a basis for eligibility under this paragraph, if the effect is to prevent the individual from traveling to a boarding location or from a disembarking location” (§ 37.123(e)(3)).

In other words, Laketrans ADA Service eligibility is not based solely on the presence of a disability, but also on the functional ability of each applicant with regard to riding the Local Routes independently. Laketrans considers the following when making eligibility determinations:



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- A. The applicant's functional abilities and limitations in relation to the use of fixed route public transportation (Laketran Local Routes);
- B. The accessibility of the fixed route system;
- C. Architectural barriers that, in conjunction with the person's disability, prevent use of the fixed route system;
- D. Environmental conditions that, in conjunction with the person's disability, prevent use of the fixed route system.

### Laketran's Eligibility Determination Process

Laketran has developed this six step process to determine an applicant's ADA Service eligibility:

1. Interested applicants should complete the Laketran ADA Service application. Laketran's ADA Coordinator is available to assist the applicant with and answer any questions or concerns regarding the application process and can be reached at 440-350-1067. Page 8 of the ADA Service application should be completed by a healthcare professional, case worker, social worker, or other qualified professional familiar with the applicant's functional abilities. Should the applicant have any concerns with this later section of the application, please contact Laketran's ADA Coordinator at the number listed above.
2. Completed applications will be date stamped when received.
3. The ADA Coordinator will thoroughly review all parts of the application. Once reviewed, the ADA Coordinator will call the applicant. The ADA Coordinator will conduct a phone interview to review the application. If needed an in person interview will be scheduled and conducted to determine whether or not a more comprehensive review of the applicant's abilities is needed to make an eligibility determination. If it is determined necessary for an applicant to participate in a physical functional or a cognitive functional assessment, the assessment will be scheduled. If no assessment is needed, the process skips directly to Step 6.
4. If it is determined necessary, a functional assessment of the applicant's abilities to perform tasks necessary to use the fixed route service will be performed by an outside consultant. The assessment could include a physical functional assessment, a cognitive functional assessment, or both. The assessments are designed to determine whether or not the applicant has the physical and/or cognitive abilities to independently ride Laketran's Local Routes. **Transportation to and from the assessments will be provided by Laketran at no cost to the applicant.**



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- Functional assessments will be scheduled as needed at the testing facility. Applicants will be instructed to request transportation to and from the testing facility via the ADA Coordinator who will assist in scheduling the trip. Functional assessment times vary. Please ask the ADA Coordinator for an estimate of time the assessment(s) will take.
  - Laketran understands that circumstances arise beyond applicants' control. Should a cancellation or rescheduling of the appointment be needed, please contact the ADA Coordinator at the number above as soon as possible. In an effort to retain efficiency in our determination process, a pattern of cancellations will result in an applicant's application being listed as non-responsive. Should this happen, the applicant must start the process again from Step 1.
5. The outside consultant will complete the assessment(s) and submit documentation and an eligibility recommendation to Laketran.
6. The ADA Coordinator will review all information provided and issue an eligibility determination to the applicant.
- Upon completion of the eligibility determination process, ADA Service eligibility will be determined. Should the applicant be found eligible, an approval letter and Laketran ADA photo I.D. card will be issued to the eligible customer. Should the applicant be denied eligibility, a letter stating the reasons for this decision will be mailed to the applicant along with Laketran's ADA Service appeals process.
  - The applicant will be notified of ADA eligibility status within 21 business days of the date Laketran receives the completed application. A completed application includes the initial application, the phone interview and any needed assessment provided that the assessment is completed within 2 weeks of the receipt of the initial application.

### Types of Eligibility

There are two types of paratransit ADA Service eligibility that Laketran implements.

**Unconditional:** This eligibility is granted if the applicant's disability prevents him/her from using Local Routes 1-9.

**Temporary:** This eligibility is for a specific time period due to a temporary, non-permanent, physical or cognitive impairment preventing the applicant from using the Local Routes 1-9.



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### **ADA Service Visitor Status**

Laketran's ADA Service will be made available for visitors to our area that are eligible for paratransit ADA service in their hometown. Visitor status is available for 30 days during a calendar year. Should visitors need more than 30 days of service, they will be asked to apply for the Laketrans ADA Service and complete the process listed above.

### **ADA Service Eligibility Denial**

If as a result of the process above, it is determined that the applicant can reasonably be expected to take all trips within the service area using the Local Routes, ADA Service eligibility will be denied. In this case, the ADA Coordinator will mail a detailed letter explaining the reason for denial as well as Laketrans written appeals process. Appellants have 60 days to file an appeal and may choose to be heard in person and/or provide additional information to be reviewed during the appeal.

### **ADA Service Recertification**

Laketran's unconditional ADA Service eligibility status is active for 2 years. At that time, based on factors affecting customers' ability to ride the Local Routes, such as a change in a person's functional ability, a change in the accessibility of the transit system, etc., customers will go through a recertification process that could include repeating the process above in its entirety. Prior eligibility for services does not guarantee future eligibility. For more information, please contact the Laketrans ADA Coordinator at 440-350-1067.

## **ADA Service Appeals Process**

### **APPEALING LAKETRAN'S ADA SERVICE ELIGIBILITY DETERMINATIONS**

#### **Introduction**

Pursuant to the US Department of Transportation regulations implementing paratransit ADA eligibility standards requirements (USC 49 Part 37 Subpart F, Section 37.125), Laketrans will accept appeals from its determinations of eligibility. Applicants for paratransit ADA or customers of Laketrans service may appeal:

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

In addition, Laketrans 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 Laketrans services.



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## 1. Filing an Appeal

- A. All appeals must be filed in writing with the Laketrans 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 Laketrans Local Route service, or why the suspension 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 Laketrans 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 material 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 Laketrans 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 requests by the ADA Coordinator will normally be complete 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.
- 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 Laketrans 3<sup>rd</sup> party consultant;



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4. The statements of the appellant, his/her advocate and any other witnesses offered by the appellant;
  5. Information from Laketrans 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 Laketrans Local Route Service.
- C. After it has been 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 Service will be provided to the applicant. You will have to give 48 hour notice to schedule reservations, as opposed to giving us 24 hour notice as you would with the paratransit ADA Service eligibility. Service may be provided through other Laketrans transportation services (i.e. Local Routes or Dial-a-Ride) 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 service for any reason other than violent or threatening behavior, service will be provided until an appeal hearing is concluded.
- 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 Laketrans 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 an 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



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individual's ability to use fixed route transit services in preparation for a hearing, but are 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, Laketrans staff, the appellant and his/her advocate and witnesses as 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's 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 Laketrans's fixed route, excluding medical diagnoses and other private medical information, will be rendered in writing.
- F. Audio recordings will be made of all Review Board meetings. The recordings of these meetings together with all supporting material will remain the property of Laketrans and will be held for a period of five (5) years, at which time they will be destroyed. Copies of these recordings will be made and released only through the process of legal discovery (fact-finding) undertaken in any subsequent legal action.