

New Bedford Council on Aging Reasonable Modification Policy

Background

The **Reasonable Medication Policy** is in place to ensure that the New Bedford Council on Aging provides and implements equal, effective opportunities and access to public transportation services for older adults and persons with disabilities to fully comply with the provisions of Title II and Title III of the 1990 Americans with Disabilities Act.

Policy

The New Bedford Council on Aging is committed to providing equal access and opportunity to qualified individuals with disabilities who participate in programs, services, and activities. The New Bedford Council on Aging recognizes that to have equally effective opportunities and benefits, individuals with disabilities may need reasonable modifications to policies and procedures. The New Bedford Council on Aging will adhere to all applicable federal and state laws, regulations, and guidelines for providing reasonable modifications, as necessary, to afford equal access to programs for persons with disabilities. The New Bedford Council on Aging does not discriminate based on disability in admission to, participation in, or receipt of services and benefits under any transit service or program. The New Bedford Council on Aging will take appropriate steps to ensure that people with disabilities have an equal opportunity to participate.

No qualified individual with a disability shall, because of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the New Bedford Council on Aging, nor will they be subject to discrimination by the New Bedford Council on Aging.

Reasonable Modification: Definition

A reasonable modification is a change or exception to a policy, practice, or procedure that allows disabled individuals to have equal access to programs, services, and activities.

Eligibility Criteria

An individual eligible for consideration to be granted a reasonable modification is one who has: a) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; b) a record of such impairment; c) and/or has been regarded as having such impairment.

Reasonable Modification Request Process

The New Bedford Council on Aging shall provide information on how to contact the to make a Reasonable Modification Request readily available to the public through its

website and written Rider Policy Guidelines. The New Bedford Council on Aging shall follow these procedures when processing a request:

Title 49 CFR 37.169. § 37.169. Process to be used by public entities providing designated public transportation service in considering requests for reasonable modification.

A public entity providing designated public transportation, in meeting the reasonable modification requirement of [§ 37.5\(i\)\(3\)](#) with respect to its fixed route, demand responsive, and complementary paratransit services, shall respond to requests for reasonable modifications outlined in its policies and practices consistent with this section.

The public entity shall make information about how to contact that public entity to make requests for reasonable modifications readily available to the public through the same means it uses to inform the public about its policies and practices.

This process shall be in operation no later than July 13, 2015 and provide a means, accessible to and usable by, individuals with disabilities, requesting a modification in the entity's policies and practices applicable to its transportation services. Specifically:

- Individuals requesting modifications shall describe what they need in order to use the service.
- Individuals requesting modifications are not required to use the term “reasonable modification” when making a request.
- Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service; i.e., during the paratransit eligibility process, through customer service inquiries, or through the entity's complaint process.
- Where a request for modification cannot practically be made and determined in advance (*e.g., because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving*), operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with the entity's management before making a determination to grant or deny the request.
- Whenever possible, the New Bedford Council on Aging requests that individuals make such requests for modifications before the New Bedford Council on Aging is expected to provide the modified service.
- Where a request for modification cannot practically be made and/or determined in advance, operating personnel shall determine whether the modification should be

provided at the time of the request. Operating personnel may consult with the New Bedford Council on Aging's management before deciding to grant or deny the request.

- Modification requests may be made orally or in writing. The reasonable modification process begins as soon as the accommodation request is received. The request may be submitted in any written format. Alternative means of filing a request, such as: in-person requests, phone calls, or taped requests, will be made available for persons with disabilities who are unable to communicate their request in writing *or* upon request.

When a modification request is made, the New Bedford Council on Aging and the individual requesting that accommodation must engage in a good faith interactive process to determine what, if any, accommodation shall be provided. The petitioner and the New Bedford Council on Aging must communicate with each other about the request, the process for determining whether an accommodation will be provided, and the potential accommodation options. Communication is a top priority throughout the entire process.

Granting a Reasonable Modification Request

As soon as the New Bedford Council on Aging determines that a reasonable accommodation will be provided, that decision shall be immediately communicated to the individual. The notice must be in writing to comply with the required information for reporting purposes. Upon request, alternative means of communication will be provided.

In choosing alternatives for meeting nondiscrimination and accessibility requirements concerning new, altered, or existing facilities, and designated or specified transportation services, the New Bedford Council on Aging shall give priority to those methods that provide services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate to the needs of individuals with disability.

Reasonable Modification Request Denial

The New Bedford Council on Aging will make reasonable modifications to policies, practices, and procedures when necessary to ensure access to transit services for qualified individuals with disabilities, unless:

- Granting the request would fundamentally alter the nature of the entity's services, programs, or activities;
- Granting the request would create a direct threat to the health or safety of others;
- The individual with a disability is able to fully use the entity's services, programs, or activities for their intended purpose *without* the requested modification.

In determining whether to grant a requested modification, public entities shall be guided by the provisions of Appendix E to this Part.

In any case in which a public entity denies a request for a reasonable modification, the entity shall take, to the maximum extent possible, any other actions (that would not result in a direct threat or fundamental alteration) to ensure that the individual with a disability receives the services or benefit provided by the entity.

Public entities are not required to obtain prior approval from the Department of Transportation (DOT) for the process required by this section. DOT agencies retain the authority to review an entity's process as part of normal program oversight.

Should the New Bedford Council on Aging determine that a request for reasonable accommodation be denied, the Council on Aging will communicate the basis for the decision in writing to the individual who requested the modification. The explanation for the denial will clearly state the following:

- The specific reasons for the denial;
- Any alternative accommodation that may create the same access to transit services as requested by the individual;
- The opportunity to file a complaint relative to the New Bedford Council on Aging's decision.

Discrimination Complaints

The New Bedford Council on Aging has a process for investigating and tracking complaints from qualified individuals. The process and forms necessary to file a complaint are readily available on the website. Alternative means of filing complaints, such as phone calls, personal requests, or taped requests, will be made available for persons with disabilities if unable to communicate their requests in writing or upon request.

Any person who believes they have been discriminated against in obtaining a reasonable modification may file a complaint by completing and submitting the New Bedford Council on Aging complaint form. The New Bedford Council on Aging investigates complaints received no more than 30 days after receipt. The New Bedford Council on Aging will process complaints that are complete. Once the complaint is received, the complainant will receive an acknowledgment of receipt. If more information is needed to act on the complaint, the New Bedford Council on Aging shall contact the complainant. The complainant has 30 business days from the date of the letter to provide the requested information to the New Bedford Council on Aging.

If the New Bedford Council on Aging is not contacted by the complainant or does not receive the additional information within 30 business days, the New Bedford Council on

Aging may administratively close the complaint. In addition, a complaint may be administratively closed if the complainant no longer wishes to pursue their case.

After the New Bedford Council on Aging investigates the complaint, a decision will be rendered in writing to the complainant. The New Bedford Council on Aging will issue either a Letter of Closure or a Letter of Finding.

- Letter of Finding. This letter will summarize the complaint, include any interviews conducted regarding the complaint, and explain what actions will be taken by the New Bedford Council on Aging to address the complaint.
- Letter of Closure. This letter will explain why the New Bedford Council on Aging has determined that the complaint does not merit accommodation under the Americans with Disabilities Act (1990) and that the complaint will be closed.

If the complainant disagrees with the decision of the New Bedford Council on Aging, an opportunity to appeal the decision may be pursued provided the complainant files a Notice of Appeal within 21 days of the Council's initial decision.

The New Bedford Council on Aging shall designate one official within the organization responsible for processing reasonable modification requests. This individual is:

New Bedford Council on Aging Director
181 Hillman St., Building # 9
New Bedford, MA 02740
508-991-6251
Pamela.Amaral-Lema@newbedford-ma.gov

Appeals.

An individual who wishes to challenge the Council's decision may file with the City of New Bedford's ADA Coordinator.

Joshua Amaral, ADA Coordinator
Office of Housing and Community Development
608 Pleasant St., New Bedford, MA 02740
Voice: 508.979.1500
Telecommunications Relay Service- 711

Records Retention

The New Bedford Council on Aging will maintain all records related to reasonable modification requests and denials for a minimum of three years.