

## **LIFT Paratransit Eligibility Determination Appeal Policy**

Appellants found not eligible for LIFT paratransit or found eligible with specified conditions or found temporarily eligible, may request an appeal of those decisions. This document outlines the steps for requesting an appeal and the procedure governing the appeal process.

### **Requesting an Appeal**

The Appellant shall make the appeal in writing or via telephone.

The request for appeal must be received by TriMet not later than the 60<sup>th</sup> calendar day after the date that the Appellant receives the decision being appealed. For purposes of this requirement, TriMet assumes that the Appellant will have received the decision not later than five calendar days after the date the decision was mailed to Appellant's address of record. TriMet mails all determination decisions via regular U.S. first-class mail, unless the Appellant requests otherwise.

The 60-day appeal period begins to run on the sixth calendar day after the date the decision was mailed. For example, if the decision was mailed on June 1, the 60-day appeal period begins to run on June 6, and expires on August 4.

The Appellant shall timely mail a request for appeal to:

TriMet Transit Mobility Center  
Attn: LIFT Appeals  
515 NW Davis Street  
Portland, OR 97209

or

The Appellant shall timely fax a request for appeal to

(503) 962-8229

or

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The Appellant shall timely call and leave a message requesting an appeal to:

LIFT Administration at 503-962-5924.

Once a timely appeal is received, LIFT staff shall promptly contact the Appellant to determine whether the appeal may be resolved through administrative review. If the appeal is resolved through administrative review to the satisfaction of the Appellant, LIFT staff shall prepare a written notice of resolution and send it to the Appellant. If the Appellant disagrees with the notice of resolution, Appellant has an additional 10 calendar days from the date the notice of resolution was mailed, including the date of mailing, to object. For purposes of this requirement, TriMet assumes that the Appellant will have received the notice of resolution not later than five calendar days after the date the decision was mailed to Appellant's address of record. The 10-day objection period begins to run on the sixth calendar day after the date the resolution was mailed. Appellant's objection must be delivered to TriMet, and received by the tenth day in the same manner described above.

If the appeal cannot be resolved through administrative review, LIFT staff shall: (1) promptly advise the Appeal Panel of a timely request for an appeal; (2) determine whether the Appellant requests a hearing or not, and if the Appellant requests a hearing, coordinate a hearing date, time, and location with the Appellant and the Appeal Panel, and so notify the parties in writing; and (3) reserve sufficient time for the hearing. If necessary, LIFT staff shall arrange for the Appellant to receive LIFT transportation to and from the place of hearing at no charge.

### **Appeal with Hearing**

#### **Prior to Hearing:**

Appellant may request copies of documents relating to the decision being appealed. The Appeal Panel or its designee shall promptly consider and decide all requests for documents. The Appeal Panel shall timely provide all requested documents or things to the Appellant that are relevant and non-privileged.

Appellants may request the appearance of other individuals who have knowledge of information relevant to the decision the Appellant is appealing. The Appeal

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Panel or its designee shall promptly consider and decide all requests for the appearance of witnesses, considering the witness's relevance to the decision being appealed or the likelihood that the witness will assist the Appeal Panel in deciding the appeal. The Appeal Panel does not have subpoena power to order the appearance of witnesses.

Appellants may submit not later than three days before the appeal hearing, including the date of the hearing, written arguments, evidence, and any other information the Appellant wishes the Appeal Panel to consider before the hearing. For good cause shown by the Appellant, the Appeal Panel may consider written arguments, evidence, and any other information to be presented for the first time at the hearing.

#### **At Hearing**

Appellants may represent themselves at hearing, or may be represented by an attorney, paralegal or legal assistance, caseworker, care provider, or other person designated by the Appellant to present the Appellant's case.

The parties may present documents and offer other oral, written or recorded information to support their respective positions or to respond to each other's positions. TriMet shall present its position first, then the Appellant may present next. As required or appropriate, the parties shall be permitted to present additional documents.

The Appeal Panel may for good cause continue a hearing or permit the post-hearing submission of additional evidence, information and arguments. If a continuance or post-hearing submission is permitted, the Appeal Panel shall promptly advise the parties of the date, time and location of the continued hearing or the date by which the post-hearing submission must be received by the Appeal Panel.

The hearing will be electronically recorded.

#### **Appeal without Hearing**

If the Appellant declines an in-person appeal hearing, LIFT staff shall inform the Appellant of the date by which the Appellant must submit to TriMet any written

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materials the Appellant wishes the Appeal Panel to consider in determining the Appellant's appeal. Extensions of this date may be allowed for good cause.

Following the submission date, the Appeal Panel shall review the Appellant's file and written submissions, if any, and decide the matter.

### **Evidentiary Burden and Standard**

TriMet shall have the burden of demonstration that the Appellant's eligibility for paratransit service was appropriately determined. This burden must be satisfied by a preponderance of all the evidence submitted in connection with the appeal or otherwise in the customer's record. The standard of admissibility for evidence and information presented in connection with an appeal shall be whether the evidence or information is of the type that a reasonable person would rely upon in making decisions about their personal affairs. The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.

### **Decision and Notification of Decision**

The Appeal Panel may uphold or overturn the eligibility determination, modify the eligibility determination, impose conditions upon eligibility, or take another appropriate action to decide the matter.

The Appeal Panel shall notify the Appellant of its decision and the reasons for its decision in writing, not later than 30 days after the date of the appeal hearing, including the date of the hearing. Or if the Appellant declined a hearing, the Appeals Panel shall notify the Appellant of its decision and the reasons for its decision in writing not later than 30 days after the date the Appeals Panel reviewed and considered the matter.

If no decision is made on an appeal of eligibility determination within 30 days of the date of the appeal hearing or the Appeal Panel's consideration (inclusive of any time allowed for receipt of additional documents), the Appellant will be eligible for LIFT service as of the 31<sup>st</sup> day, until and unless a decision otherwise is rendered by the Panel. TriMet shall immediately inform the Appellant that he/she is presumptively eligible for LIFT service first by telephone and then follow up with a written communication at the Appellant's last known address of record.