

Americans with Disabilities Act (ADA) & Service Animals Education Training

Transportation Providers 2021



modivcare



This course will provide information on:

Americans with Disabilities Act (ADA)

Defining Disability

ADA Guidelines

People First Language

Service Animals

Non-Canine Service Animals

Service Animal Guidelines



Americans with Disabilities Act (ADA)



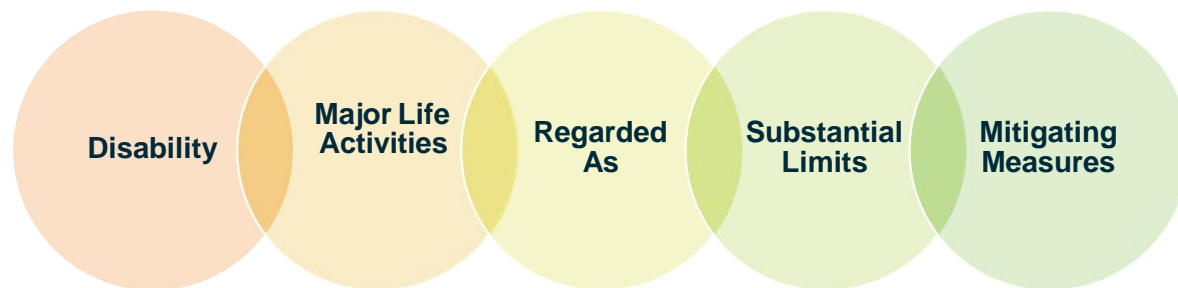
What is the Americans with Disability Act (ADA)?

- The **Americans with Disabilities Act (ADA)** prohibits discrimination on the basis of disability in employment, state and local government, public accommodations, commercial facilities, transportation, and telecommunications.
- To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability, for example, the parents of a child with a qualified disability under the ADA would also be protected as long as they are providing care or other essentials to the child.

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The ADA Amendments Act of 2008

The ADA Amendments Act of 2008 also known as (ADAAA) broadened the definition of the ADA by making it easier for an individual seeking protection under the ADA to establish that he or she has a “disability.”



- **Disability** – The burden is no longer on the individual to prove they have a disability, but instead the focus is on whether or not discrimination under the ADA took place
- **Major Life Activities** – ADAAA lists specific examples of “major life activities” and “major bodily functions” rather than leaving it open to interpretation.
- **Regarded As** – It redefined who is “regarded as” having a disability. Individuals have “regarded as” protections when they have been discriminated against because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. However, “regarded as” protection does not apply to impairments that are expected to last six months or less.
- **Substantial Limits** – It modified the regulatory definition of “substantially limits” The ADAAA explicitly states that “an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.”
- **Mitigating Measures** – It states that things that alleviate or reduce the effect of a disability, “mitigating measures”, other than “ordinary eyeglasses or contact lenses” shall not be considered in determining whether an individual has a disability

Defining Disability & ADA Guidelines



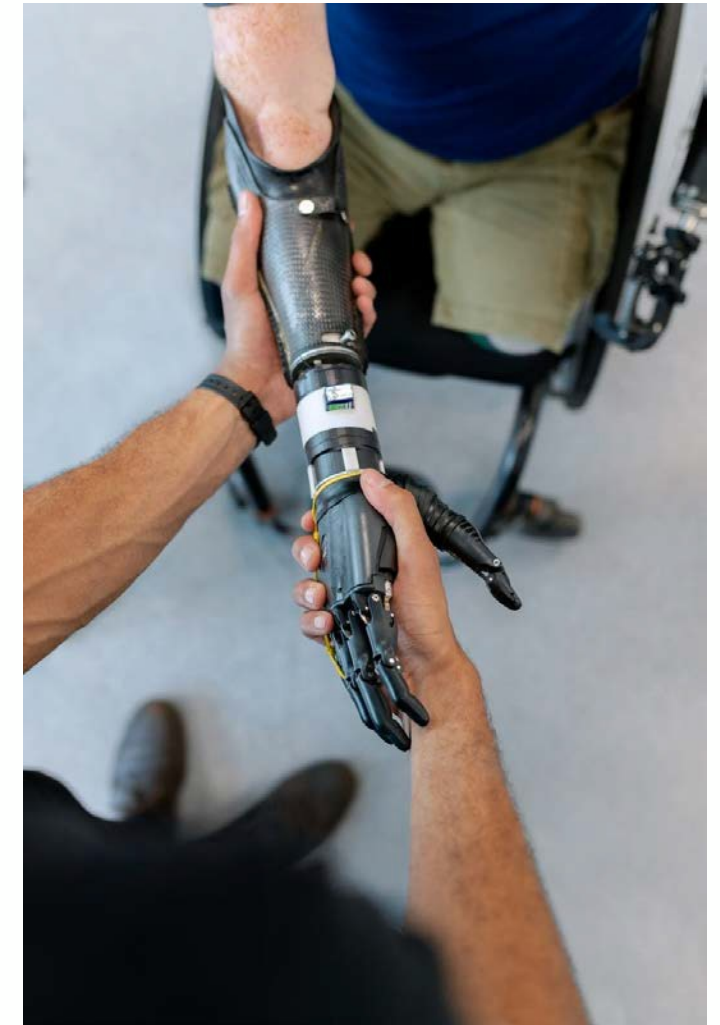
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Defining Disability

How Does The Americans With Disability Act (ADA) Define Disability?

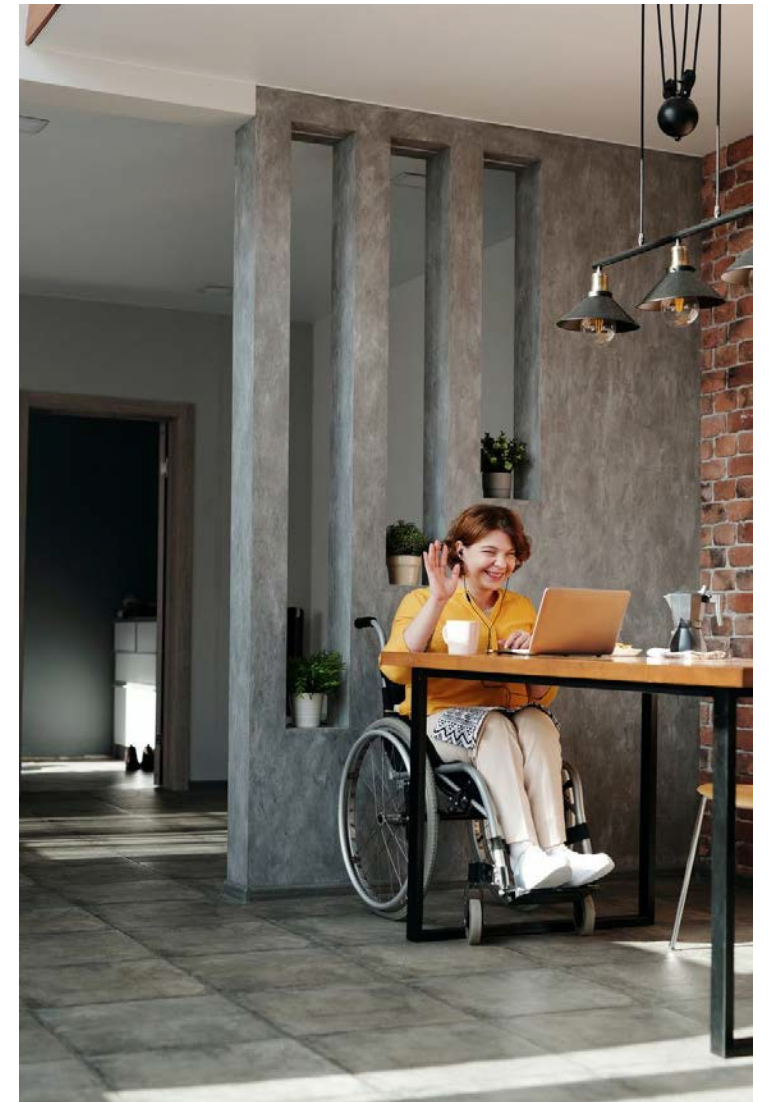
- An individual with a disability is defined by the ADA as a person who:
 - Has a physical or mental impairment that substantially limits one or more major life activities
 - Has a history or record of such an impairment
 - Is perceived by others as having such an impairment



Defining Disability (cont.)

An **impairment** is a physical or mental disorder, and does not include:

- Normal physical characteristics (such as hair and eye color)
- Conditions that are not the result of a disorder (such as normal pregnancy)
- Personality traits (such as poor judgement)
- Homosexuality/bisexuality
- Socio-economic disadvantages (such as a poor education)



Defining Disability (cont.)

Major Live Activities (ADAAA)

- In general, major life activities include, but are not limited to: caring for oneself, performing manual tasks, seeing, hearing, walking, speaking, learning, communicating, and working.



The ADA does not specifically name all of the impairments that are covered.

Major Bodily Functions (ADAAA)

- A major life activity also includes the operation of a major bodily function, including: functions of the immune system, digestive, neurological, respiratory, circulatory and reproductive functions.

People First Language



People First Language

- **People First Language** names the person first and the condition second, for example "people with disabilities" rather than "disabled people."
- This method of communication describes what a person **has**, not what a person **is**. It puts the person before the disability.
- When speaking to members with disabilities or when speaking about our members with disabilities to your managers or to providers, remember to use People First Language.



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People First Language (cont.)

Here are some examples of how we can eliminate prejudicial language:

Instead of....	Say this instead.....
He is mentally retarded	He has a cognitive disability
He's a quadriplegic or crippled	He has a physical disability
She's wheelchair-bound	She uses a wheelchair
He's emotionally disturbed	He has an emotional disability
Handicapped parking	Accessible parking
She's autistic	She has Autism

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Section 504 & 508

Section 504

- Requires agencies to provide individuals with disabilities an equal opportunity to participate in their programs and benefit from their services. Agencies must provide appropriate auxiliary aids where necessary to ensure an equal opportunity.
- These types of aids may include:
 - Braille or large print, electronic disks, audiotapes, qualified interpreters or readers, telecommunications devices for deaf persons, captioning of video (CC), and other methods.



Both statutes impose different, but somewhat related, obligations that protect individuals with disabilities from discrimination.

Section 508

- Requires Federal agencies to ensure that persons with disabilities have comparable access to and use of electronic information technology. That means that any electronic and information technology used, maintained, developed, or procured must be accessible to persons with disabilities.

Service Animals



Service Animals

- The Department of Justice published revised regulations implementing **the Americans with Disabilities Act (ADA) to include service animal requirements** on September 15, 2010.



- These service animal requirements clarify issues that have arisen over the past 20 years and contain new and updated requirements.

What Defines a Service Animal?

A Service Animal....



- Must be allowed by our Transportation Providers to accompany our members to their appointment
- Is any guide dog, signal dog, or other animal individually trained to provide assistance to individuals with a disability
- Must generally be permitted in public and private businesses to accompany people with disabilities in all areas where members of the public are allowed to go
- Do not always have a harness, a sign, or symbol indicating that they are service animals

What Defines a Service Animal? (cont.)

More examples of service animals include:

Dogs whose sole function is to provide comfort or emotional support **do not** qualify

This definition does not affect or limit the broader definition of “assistance animal”

Some state and local laws also define service animals more broadly than the ADA

Any questions regarding “service animals” should be directed to ModivCare’s Legal Department

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Work or Tasks Service Animals Perform

Here are some examples of work or tasks service animals can perform:

- Guiding people who are blind or have low vision and retrieving dropped items for them
- Alerting people who are deaf or hard of hearing to sounds and the presence of others
- Carrying or picking up items, opening doors, or flipping switches for people with disabilities who have limited use of hands or arms, limited use of their legs, or limited abilities to bend or stoop
- Calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties
- Another example of work performed by a service animal is pulling a wheelchair
- Alerting people with disabilities to the onset of medical conditions such as seizures, protecting them and cushioning them if they fall, reviving them, and performing other tasks that reduce the risk of disability-related injury
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities, or psychiatric disabilities such as reminding the person with depression to take medication, wake him up, orient people with schizophrenia to reality,
- And helping people with intellectual or cognitive disabilities to locate misplaced items, find places, or follow daily routines



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What is a Service Animal?

Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability.

Keep in mind:

- Do not **touch** the service animal or the person it assists, without permission.
- Do not **feed** the service animal.
- Speak directly to the person with a disability – do not **speak through** the service animal.



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Transporting Policy

- ModivCare does not discriminate against any persons with disabilities, including those accompanied by service animals. These members will be treated with the same courtesy and respect afforded to all transportation recipients. Service animals are welcome onboard any transportation vehicle performing trips referred by ModivCare.
- No additional fee or deposit may be charged to transport service animals.
- Neither ModivCare nor the Transportation Provider is responsible for the care or supervision of any service animal.
- ModivCare shall not require transportation recipients with service animals to provide proof that the service animal is licensed or certified as a service animal.
- If ModivCare, or one of its contracted Transportation Providers is uncertain whether an animal is a service animal, a customer service representative or the driver may ask the member whether the animal is required because of a disability.
- If the animal has been trained to perform services and the nature of the services performed by the animal assists the transportation recipient, then no other inquiry into the service animal or the member's disability is permitted.
- ModivCare and its contracted Transportation Providers may exclude any service animal that displays vicious or aggressive behavior towards drivers or other passengers, or otherwise poses a direct threat to the health and safety of others.
- ModivCare and its contracted Transportation Providers shall not make assumptions about how a particular animal is likely to behave; each situation must be considered individually.
- Complaints about vicious or aggressive service animals are to be reported to Management and Quality Assurance for resolution.



Non-Canine Service Animals



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Non-Canine Service Animals

- Only dogs and miniature horses are considered “service animals” by federal law and can legally accompany our members to their appointments.
- Under the ADA, service animals must be harnessed, leashed or tethered, unless these devices interfere with the service animal’s work or the individual’s disability prevents them from using these devices. In that case, the member must maintain control of the service animal through voice, signal or other effective controls.
- Any questions regarding “service animals” should be directed to ModivCare’s Legal Department for further assistance.



Non-Canine Service Animals (cont.)

A person with a disability cannot be asked to remove his or her service animal from the premises unless:

- The animal is out of control
- The animal is not house broken

When there is a legitimate reason to ask the member to remove their service animal, you must offer the member with the disability the opportunity to obtain services without the animal's presence.



Scheduling Reservations Procedures/Service Animal Guidelines



Scheduling Reservations Procedures

The following steps should be used when scheduling reservations for members with disabilities accompanied by a service animal. If we are unsure whether an animal meets the definition of a service animal, it is our policy to:

- 1. Ask the following two clarifying questions to confirm that the animal is indeed a service animal**
 - ✓ Is the dog a service animal required because of a disability?
 - ✓ What work or task has the dog been trained to perform?
- 2. If the member says yes to the first question and explains the work or tasks that the animal is trained to perform, complete the reservation and add a rider note indicating that a service animal will be traveling with the transportation recipient**
 - ✓ Do not ask individual questions about the member's disability
 - ✓ Do not ask members to show a license, certification, or special identification card as proof of their animal's training
- 3. If the member answers no to either of the questions or is unwilling to provide details about the services performed, escalate the call to a supervisor who will then consult with legal for direction**