



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #15-090-9010
CityLink

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations with services at CityLink. The complaints alleged the following:

1. Inadequate and inhumane transportation services when a public transportation bus driver refused services to a passenger with disabilities due to hygiene needs.

If found substantiated, the allegations would violate the Americans with Disabilities Act (ADA) (28 CFR 36) and the Code of Federal Regulations that governs transportation services for persons with disabilities (49 CFR 37).

CityLink is a bus company that services the Peoria Heights, West Peoria, Peoria, East Peoria, Bartonville and Pekin areas. They average approximately 2 million passengers per year, and their CityLift service, which primarily provides transportation for people with disabilities, services approximately 10,000 individuals per year. CityLink is a municipal corporation that has 168 total employees. The CityLink website includes a section on special services that lists CityLift as the paratransit service for Peoria area riders with disabilities. According to the CityLink “Rider’s Guide for People with Disabilities” (which is also posted on the CityLink website), “the CityLift paratransit service is a shared ride, door-to-door, transportation program utilizing specialized vehicles. The service is provided by MV Transportation under the supervision of the Greater Peoria Mass Transit District (CityLink).” The Rider’s Guide also states that CityLink’s Special Services Office determines eligibility for the CityLift services provided by MV Transportation; individuals must submit applications to CityLink in order to receive CityLift services. In addition, CityLink determines fees, service requirements and policies for CityLift service provision.

To investigate the allegations, HRA team members met and interviewed members of the CityLink staff and reviewed documents pertinent to the case.

COMPLAINT STATEMENT

A bus driver from CityLift stated that he would no longer transport riders from a community integrated living arrangement (CILA) who had body odor. The driver suggested that he would not transport a client if the body odor did not improve. The allegation states the passenger was even showered before boarding the bus. The complaint alleges the driver claimed that the passenger smelled like she defecated while using the services. He also reportedly threatened to no longer transport another resident because of breath odor.

INTERVIEW WITH STAFF

Interview with CityLink staff (9.22.2014)

Staff began the interview by stating that their paratransit service called CityLift is sub-contracted to another company, so the employee that is involved in the complaint is not a CityLift employee but rather an employee of MV Transportation. MV Transportation uses CityLift vehicles but supplies drivers, schedules the services and answers the telephone for CityLift in the sub-contracted arrangement. CityLink staff were in possession of a statement from MV Transportation regarding the incident which indicated that the driver did speak with CILA staff regarding the passenger's body odor. The driver told the staff that he did not know what would happen if the odor did not improve. Staff said that this statement could be construed in multiple ways. The driver was told by CILA staff that the resident did not like to be bathed and that they would improve the situation. The driver spoke to staff in mid-August and continued to transport the resident. CityLink staff stated that they would not allow the company to restrict transport and MV Transportation does not have a specific policy on restricting someone in the vehicle; any restriction would have to be discussed with CityLink. CityLink said that they have never restricted a rider because of body odor. They have restricted a passenger who was violent and also for a biohazard when a passenger had a sore that needed covered. CityLink staff said the driver never brought up the issue to the general manager of MV Transportation.

CityLink said that MV Transportation handles training. They said that drivers have been told that they can mention concerns about the riders to the staff at the CILA or day training program they attend, and then those staff members will resolve the situation. To provide quality assurance, CityLink staff perform "ride-alongs" with MV Transportation. They also have an American with Disabilities Act (ADA) committee that receives complaints about services. They have a good relationship with the CILA and the day training program involved so they can go to them directly with issues. The ADA committee has open meetings to the public every other month. Issues like this can be brought up at those meetings.

Staff explained that they have never had a complaint like this with the paratransit service in the past. They said that riders pay for the service and it would be a breach of regulations if they restricted them. It is regulated that staff cannot restrict a ride for a reason like body odor. Restrictions are only made by CityLink administration and before restricting, passengers receive warnings. There is also an appeal mechanism for the restriction process. MV Transportation follows CityLink policies, and although they may have some of their own procedures, CityLink sets the global policies.

There was a handbook for CityLift that was created by the company's ADA Committee. If a rider is in danger of being restricted, they speak to them first and ask them to make a change in behavior and also send a certified letter regarding the request. A third warning of this nature results in restriction. When passengers are restricted on the CityLink buses, it has been for crimes. They do not want people riding the bus who have assaulted someone else on the bus. They have never had to restrict like this on the paratransit service. Usually if an incident occurs, staff can speak with the rider and it is resolved in that manner. They did this with an individual who was repeatedly incontinent while on the bus. When they take this approach, the staff are to let the general manager know so that there is a record of the discussion.

The passenger's CILA has one hour training for the bus staff every year. The training consists of information regarding the Illinois Office of Inspector General training but staff were unsure as to whether it was the Rule 50 training. They said it deals with abuse and neglect reporting. This is the first time an issue has come up regarding this specific passenger.

Staff said that in the rider's guide there should be a section on how to make a complaint. They also have an ADA hotline in the rider's guide. When there is a new CityLift customer, they receive a copy of the rider's guide. The book is also available online. There are no other grievances involving this passenger or driver and there are very few paratransit complaints.

Interview with MV Transportation staff (11.3.2014)

The interview consisted of MV Transportation administrative staff, MV Transportation bus drivers and members of CityLink administrative staff. One MV Transportation administrative staff member began the conversation by stating that most complaints regarding body odor are resolved by speaking with the CILA staff member who coordinates the resident's transportation. The bus drivers will not directly address the issue with anyone at the house but if they discuss the issue with staff, it is usually resolved. If there is an issue regarding blood or feces then the bus drivers must report this occurrence.

An MV Transportation bus driver said that bus drivers are taught that if riders have a body odor, then they do not have to transport. In this specific case, the resident's hygiene was reported to staff members and MV Transportation was told that the resident will not allow them to shower her. The bus driver told the CILA that if the problem persists then MV Transportation will not let them transport. The bus driver explained that they have never denied transportation to the resident. The drivers want to transport the passengers. Drivers are trained on this restriction. Five staff members perform behind the wheel training for drivers and then there is also classroom safety training. The information that passengers with poor hygiene may be restricted would have come from prior trainings that occurred years ago. When a driver is first hired they are trained and then there is ongoing training and monthly safety meetings.

During the interview, the MV Transportation administrative staff member stated that they did not think that staff were trained to prohibit passengers with poor hygiene. The staff member said that the issue would usually be written in an incident report that would be reviewed by administrators. From there, the issue is usually referred to the CILA's staff for resolution. The

MV Transportation bus driver stated however that they have never heard any follow up on the incidents reported to MV Transportation administrative staff.

The bus driver explained that it has always been the rule to not transport if there is a hygiene issue. The driver said that there have not been any changes in the training of new drivers regarding hygiene; it has always been part of the training. The issue must be persistent and they will not decline transportation for the first incident. Hygiene will not be reported until there is a problem.

The bus driver told a story about a resident who touched feces and would have the feces underneath his/her fingernails. The route driver would not transport that resident because of the odor. The route driver dealt with the issue for 2 years and the CILA staff finally made the resident use another restroom where the resident could be easily supervised. That driver was said to have not transported the resident at least 3 times in the last year. It was explained that as a driver, you do have to work with clients closely. When transporting, the motto is safety first and they will not transport if the situation is unsafe. When a passenger unbuckles their seatbelt, the driver will stop the bus, and then they have to make a decision on whether the passenger is returned to where they were picked up. The bus driver said that sometimes they can discuss the situation with the passenger and resolve the issue and continue to transport. The bus drivers have told the passengers that they are not transporting them and then the passengers have calmed down. If a bus driver notices blood or a urine stain on a passenger, they will contact dispatch and then contact the CILA and explain that the issue needs to be resolved. Sometimes the passengers come from the CILA with urine stains and they cannot interact with other passengers on the bus. If the driver notices that the passenger has a stain prior to boarding the bus, then they will not transport the passenger. If it occurs while the passenger is on the bus, they will contact someone about the issue. Often, bus drivers will catch an issue before the passenger even enters the bus. If drivers see someone has a stain, they inform staff and sometimes they will wait while the passenger is cleaned or uses the restroom. Drivers are supposed to wait 5 minutes but it was explained that drivers will give 5 minutes if someone is ambulatory and 15 minutes for people that use wheelchairs. Drivers also will wait past the 15 minutes depending on the issue. Sometimes drivers do not have time due to the schedule. The bus drivers make no decisions without contacting dispatch. Drivers have training on bodily fluids and airborne hazards yearly as well as annual wheelchair securement training. The drivers do have other trainings throughout the year. Staff will discuss safety items such as tailgating in the monthly safety meetings.

Administrative staff explained that MV Transportation has its own policies and the CityLink rider's guide contains guidelines that are followed. They did not believe that MV had any policy regarding passenger body odor. In the handbook, it states that the drivers must be clean but they do not think there is any info regarding passengers. MV also does not have any policy regarding restricting passengers or incident reports.

In regard to the allegation concerning a passenger's breath odor, an MV administrative staff member stated that they were not aware of this incident and it was the first that they had heard of it. They said that there would be no basis for the driver to make this a statement and a

passenger would not be denied service for breath odor. They also stated that the driver is not authorized to take such action and the organization does not support such actions.

Peoria Regional HRA Board Meeting (11.19.2014)

Staff from CityLink and MV Transportation attended the November Peoria Regional HRA Board meeting to discuss the complaints. Staff stated that from a policy perspective, MV Transportation defers to the policies of CityLink. If there are any issues with the passengers, the issues are reported to the operator and administration works with the agency associated with the passenger to resolve the issue. The administrators are responsible for making decisions about the passengers. There is no policy in place which states the reasons why a passenger can be restricted and they would not arbitrarily restrict a passenger. Staff receive extensive training on how to interact and communicate with passengers. Drivers are trained that if anything out of the ordinary occurs, then they need to report the incident to administrators, and this includes hygiene issues and behavior issues. Staff then said that occasionally drivers will mention issues to house managers to facilitate resolution but, in this case, the passenger was not refused service. The staff said that they do not restrict because of body odor, but there would be an issue due to biohazards such as open wounds or urinating on seats. Also, if a passenger has an issue and they think the passenger needs assistance with, administration will contact the facility with which the passenger is associated.

When asked about the statements concerning body odor that that drivers made during the site visit, the staff said that both facilities have a large amount of staff and sometimes it is difficult to have all staff on the same page regarding policy, but with that being said, they never restricted transport to that passenger. The bus drivers are told that they cannot make the decision to restrict unless it is life or death and the restriction needs to be made by management. Also, they have only had a couple individuals go through the restriction process.

FINDINGS (Including record review, mandates, and conclusion)

The HRA reviewed records and policy pertinent to the complaints in this investigation.

Complaint #1 –

The HRA began by reviewing the CityLink Disruptive Passenger Policy which does not mention hygiene. The policy reads “It is expected that GPMTD [Greater Peoria Mass Transit Department] personnel will treat all of its passengers with dignity and respect. However, from time to time, there are situations when a passenger’s conduct is so disruptive or offensive that it threaten the welfare, comfort and safety of the passengers and GPTMD drivers and/or the safe operation of the Transit System. In such circumstances, GPMTD reserves the right to suspend and/or terminate a passenger’s riding privileges. This policy has been established to protect the welfare of, and to assure the safety and comfort for, the general public riding GPMTD vehicles or on GPMTD property and to protect the continuing safe operation of the Transit System.” The policy then states that there are times that a passenger’s conduct is “extremely offensive and/or disruptive to the other passengers or to the driver” and threatens safety. Examples of this conduct are listed and include: displaying a weapon, use of drugs or alcohol on the bus, and

“Spitting or relieving oneself on the bus.” The policy states that “The bus operator shall document all incidents involving disruptive passengers via GPMTD Incident/Accident Report.” The policy illustrates the procedure for dealing with disruptive passengers, which includes a written warning, a final written warning, and then a suspension or service termination. The policy states “A bus operator may temporarily deny service in an emergency situation only.” The policy states what recourse can be taken by the passengers as well as, the length of suspensions, passenger notification process, and the appeal process.

The HRA also reviewed an incident report dealing with the passenger involved in this complaint. The report reads “[Passenger] came on the bus with a foul smell again, this happens all the time and I have said something about a couple of times, and still there nothing been done.” In the incident report, there is a section for investigation results. The investigation results read “Talked to [House manager] on 9/20/14 to correct this problem.” The HRA reviewed additional incident reports regarding other passengers. One incident report stated that “The Rider has very bad body odor. It was so offensive, I had to get sick.” This report was dated 2/24/14 and there were no comments in the investigation results/supervisor’s comments section and it is not determined if this individual is from a CILA home on the document. Another incident report dated 8/20/2014 states “Upon picking up [CILA house] rider [passenger] coughs and sneezing intentionally on the bus. I asked him to stop but he laugh and smile and continue to do this all the way to his drop off. I had a talk with 2 of the [CILA] staff employees about this matter. They stated that [passenger] does this on purpose and continues to do so. Staff members stated that they will talk with their supervisor about this matter. [Not legible] trying to make his self sick on the bus. He does this when I pick him up in the AM and also the return ride home.” There was no determination or outcome documented in the investigation results.

Another document dated 8/18/2014, relating to a passenger who receives disability services, reads that “This Driver had [passenger] on the bus once again, who had to be removed in re: of the smell of feces on him, riders are complaining about the odor, I’ve told [disability services program] staff numerous times and [CILA address] staff about this matter. This Driver will not continue to transport [passenger] if this matter is not resolved.” This appears to be in relation to the passenger discussed with MV Transportation staff. Another incident report dated 11/20/2013 reads “Well I have had numerous incidences with [Passenger]. She says racial comments all the time. Today she told me that ‘Black People’ should get off her land. Then she goes off into this black thing etc. ... She has this smell about her, it’s really bad. I think she might be schizophrenic or bipolar. She also told me that I needed to teach my daughter [daughter] some manners but she was talking about [another person]. She argued with me all the way to her job but I stayed professional like I was taught.” This was the same driver in the incident with the passenger involved in this complaint. This same passenger has another incident report written by a different driver on 1/11/2014 which reads “[Passenger] gave me two dollars with kitten dung on it. I cover the money with plastic for CityLink to receive. It also had kitten hairs. [Passenger] had kitten dung on both of her shoes, she smell like kitten pee, really smell up the bus. I’m allergic to any animals so, I really don’t want to ride her in these conditions.” It is unknown whether this passenger is from a CILA or disability service. The HRA saw no documentation regarding a passenger with breath odor.

The HRA reviewed the MV Transportation Handbook and saw nothing regarding hygiene or restricting rides for passengers. The handbook primarily deals with employment issues but there is a section regarding incidents which reads “Any occurrence, event or action (regardless of how minor) which does not follow Company procedures or presents a threat or problem to MV, its passengers, public or its employees is considered an incident. Any occurrence involving a passenger while under the care, custody and control of MV and its employees is considered an incident.” The procedure states that all incidents, regardless of how minor, should immediately be reported through the incident reporting procedure.

The MV Transportation Study Guide reads that “Customer service is key to becoming professional. Knowing how to handle upset passengers can mean the difference between someone who rides with MV Transportation again or someone who tells all of their friends about a terrible experience. Repeat customers are essential to our business. Your ability to provide good service to the customer can help or hinder our business.” There is also a statement that the employee’s appearance should follow the company guidelines for uniform requirements and that the employees must remember that they represent the company. There is a section in the study guide that deals with blood borne pathogens. The study guide reads “Consider that as a driver of a motor vehicle transporting customers it is possible that you may at some time come in contact with potentially infected body fluids. In a motor vehicle collision a customer may be injured and bleeding; after dialysis a customer may bleed; after radiation or chemotherapy treatments a customer may vomit. Knowledge of, and compliance with, the Blood borne Pathogen regulation is the best way to protect yourself, your family, employer and other customers from infection.” The passage requests the use of “Universal Precautions” where drivers assume that an individual is infected with an infectious agent if in contact with their bodily fluids. It also explains a few steps like hand washing and use of protective barriers to prevent any issues. The section also explains types of blood borne pathogens such as hepatitis. The study guide also has a section regarding the basics of safety which deals more with the drivers than the passengers.

In addition to the above sections, there is an area introducing the employees to the American’s with Disabilities Act (ADA). The section states that the “ADA also protects disabled passengers from being discriminated against” and illustrates what is viewed as discrimination such as; being denied transportation, not providing individuals with disabilities the same reservation opportunities, special charges, and requests for people with disabilities to reschedule in a way that is different than how it is handled by others. The section states that “The law is very clear. Transportation companies must provide the same services to people with disabilities that they do for all of our other customers.”

There is another section of the book dealing with ADA sensitivity which reads “As an MV Transportation professional, it’s up to you to provide sensitive, courteous assistance to all your passengers.” The section illustrates some ways that a driver may provide service to people with disabilities such as providing extra time while the passenger boards, announcing upcoming stops, not requesting a passenger’s age or inquiring about their disabilities, and considering the passenger’s disability. The section discusses passengers with visual disabilities, service animals, customers who are deaf or hard of hearing, passengers with mobility issues, and passengers with developmental disabilities. There is no mention of hygiene within the study guide.

In the CityLink “Rider’s Guide for People with Disabilities,” under the Passenger Responsibilities section, it reads “Passengers should be clean and free of any offensive body odors.” Other passenger responsibilities include no smoking, no operating or tampering with equipment while on the van, paying prior to receiving a ride and showing respect to operators and other passengers including not using foul language. Another passenger responsibility deals with ensuring that walkways are cleared of snow and ice.

The HRA requested discrimination policies from both CityLink and MV Transportation. Both of the policies dealt with employee discrimination with no mention of passenger discrimination. The HRA also received a Title VI Program report that deals with discrimination, specifically those who believe they have received discriminatory treatment based on race, color, or national origin. The program report includes, among other items: a limited English proficiency plan, Title VI complaint process, service standards and minority population by census tract. The program report does not specifically deal with disability discrimination. The HRA saw no documentation that dealt specifically with a customer discrimination policy nor was there an ADA policy that dealt with customers.

The Code of Federal Regulations state “(a) No entity shall discriminate against an individual with a disability in connection with the provision of transportation service ... (h) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons” (49 CFR 37.5).

The ADA states "(a) General. A public accommodation shall afford goods, services, facilities, privileges, advantages, and accommodations to an individual with a disability in the most integrated setting appropriate to the needs of the individual. (b) Opportunity to participate. Notwithstanding the existence of separate or different programs or activities provided in accordance with this subpart, a public accommodation shall not deny an individual with a disability an opportunity to participate in such programs or activities that are not separate or different" (28 CFR s 36.203) and "(a) Prohibition of discrimination. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any private entity who owns, leases (or leases to), or operates a place of public accommodation" (28 CFR s 36.201).

“Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities” (49 CFR 37.173).

Complaint #1 - Conclusion

After reviewing the evidence, the HRA discovered a discrepancy between the bus drivers and administration regarding CityLink services. Administration states that staff are not to restrict

passengers from riding based on body odor, while the bus drivers state that they are able to restrict passengers based on body odor. According to CityLink staff, the driver told CILA staff that he did not know what would happen if the odor did not improve, which could be construed as threatening to restrict. It was also stated in the complaint that the bus driver told the CILA staff if the problem persists, then MV Transportation will not let them transport. Additionally, it was stated by the drivers that they are able to restrict transportation based on body odor. The HRA recognizes that in this case, there is no evidence that the passenger was actually restricted from transportation, and because of the lack of evidence, the HRA finds the complaint **unsubstantiated** but, because of the discrepancy in statements made by statements made by CityLink and MV Transportation administration and the MV Transportation bus drivers, the HRA **strongly suggests** the facility ensure that staff are not in violation of federal transportation regulations (49 CFR 37.5) and not restricting passengers based on results of an individual's disability that results in "appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons." The HRA also **strongly suggests** the creation and implementation of a policy regarding hygiene issues and staff training on this topic in order to resolve the discrepancies between staff and administration regarding these compliance issues.

The HRA is also very concerned with the incident reports (dated 2/24/2014 and 8/20/2014) that had no apparent investigation or response regarding the passenger's body odor or the passenger pretending to be sick on the bus. During the interview process, the administrative staff stated that the drivers are to alert them of issues so that the administrators can investigate, but it appears that in this case the facility neglected to investigate these issues. The HRA **suggests** investigating these situations to see if these issues have been resolved and to also put in place a procedure that ensures all future incident reports are reviewed by administration and documented accordingly.

Finally, the HRA suggests that CityLink ensures that there is clear accountability with regard to paratransit service provision. The CityLink website lists CityLift as a service under CityLink and states that CityLink determines service eligibility. In addition, interviews with CityLink staff also indicated that CityLink would handle any service restriction. However, CityLink staff also implied that the sub-contracted entity was accountable for service provision. The HRA contends that CityLink is ultimately responsible for the services sub-contracted out.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.



Ms. Debra Goodwin
Chairperson
Regional Human Rights Authority
401 Main Street, Suite 620
Peoria, IL 61602

RE: Case #15-090-9010 CityLink Report of Findings

Dear Ms. Goodwin:

CityLink wishes to document our response to the findings regarding the above case. A signed copy of the form indicating our desire is attached.

CityLink has taken the following steps to ensure that staff members of our contract operator are not in violation of federal transportation 49 CFR 37.5 and will not restrict providing service based on an individual's "appearance or involuntary behavior".

The CityLink policy that specifies when service can be denied by CityLink or its contract operators is being revised to provide greater clarity around hygiene issues, and we are working with our staff and our provider at enhancing training in that regard.

We have put into place a stronger mechanism to insure that our contracting agency does not neglect its obligation to investigate situations where incident reports indicate that a violation of this policy and other CityLink policies are not adequately investigated. CityLink staff will include a review of incident reports and appropriate follow-up as part of our monthly checklist of our contractor's adherence to contract requirements.

We understand that CityLink has ultimate responsibility for the enforcement of CityLink policies by our contractor. On top of invoking financial penalties tied to performance as outlined in CityLink contracts, we intend to actively work with contractors to improve driver training, adherence to policies and the responsibility to investigate 49 CFR 37.5 complaints and other service issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Stanek", is written over a large, stylized "A" that also serves as a signature element.

Al Stanek
General Manager

CC: Josh Moore, Assistant General Manager, Operations
John Williams – Director, Special Services
Mark Nash MV –General Manager, MV Transportation

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REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE NO. 15-090-9010

SERVICE PROVIDER: Citylink


Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

- We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.
- We do not wish to include our response in the public record.
- No response is included.



Al Stank NAME
General Manager - CityLink

TITLE
2/10/15

DATE