



Submitted Electronically via www.regulations.gov

June 4, 2024

Office of the Secretary
Department of Transportation
Department of Health & Human Services
200 Independence Avenue, SW
Washington, D.C. 20210

Re: Comments on DOT-OST-2022-0144, RIN 2105-AF14, “Ensuring Safe Accommodations for Air Travelers with Disabilities Using Wheelchairs,” Proposed Rule, 89 Fed. Reg. 17766, March 12, 2024

Dear Secretary Buttigieg,

Introduction

The American Association for Homecare (AAHomecare) is the national association representing durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) suppliers, manufacturers, and other stakeholders in the homecare community. Our members are proud to be part of the continuum of care that assures beneficiaries and other patients receive cost effective, safe, and reliable home care products and services.

Our members include complex rehab technology (CRT) wheelchairs. CRT wheelchairs are individually configured manual and power wheelchairs, seating and positioning systems, and other adaptive equipment. This specialized equipment requires evaluation, configuration fitting adjustment, or programming to meet the individual’s medical needs and maximize function and independence. These products are designed to meet the specific and unique medical and functional needs of an individual with a primary diagnosis resulting from a congenital disorder, progressive or degenerative neuromuscular disease, or from injury or trauma.

Comments

1. Generally Support Comments of National Organizations Representing Consumers with Disabilities

Overall, AAHomecare generally supports the comments of national organizations representing consumers with disabilities, including comments from the United Spinal Association. Most notably, we concur with the implementation of better training for airline staff to prevent physical

injury and wheelchair damage, prompt return of wheelchairs and other mobility devices when repairs are needed, and airlines paying or otherwise providing for appropriate temporary use equipment when repairs will prevent prompt return of the consumer-owned wheelchair.

2. Comments Specific to Wheelchair Manufacturers and Providers

In the proposed rule, DOT asked a series of questions relevant to AAHomecare's membership. Following are our responses to those questions.

DOT Question: Sufficient Access to Repair/Replacement Services?

Are there sufficient vendors available to repair or replace passengers' personal wheelchairs or scooters? What is the average turnaround time once the vendor has the passenger's wheelchair in its possession?

AAHomecare Answer: We are concerned that there is not enough capacity in the complex wheelchair provider market because not all complex wheelchair providers service equipment (even when they sell that equipment). Turnaround times necessarily vary depending on the complexity of the repair needed and the scope of equipment being repaired. Access to repair services also depend on the proximity of the location or the repair facility to the location of the damaged wheelchair. There are often factors outside of the provider's or manufacturer's control which impact turnaround time for repairs including, but not limited to: supply chain shortages, parts being discontinued, little to no ability to provide like-for-like replacement (temporary or otherwise) especially for custom or complex equipment.

DOT Question: Should the Department Use Strict Detailed Timelines or a Reasonableness Standard for Repairs and Replacements?

Should the Department consider stricter and detailed timelines rather than using a reasonableness standard to which airlines must adhere when handling wheelchair and scooter repairs and replacement?

AAHomecare Answer: Stricter and more detailed timelines should be placed only around the airlines and their representatives' communication and responsiveness to initiating resolution/repair/replacement for damaged wheelchairs. The sooner that complex rehab providers receive information to begin the repair/replacement process, the faster the repair/replacement can be accomplished. Due to the many potential issues impacting how quickly the repair/replacement can occur, we recommend that a "reasonableness" standard be used for the providers responsible for the repair/replacement process. The historic and continuing systemic pressures on the complex wheelchair provider community would create significant compliance challenges with specific timelines. The wheelchair provider environment is a highly regulated space, there are few to no providers performing repairs that are solely cash companies – most if not all companies which perform repairs do so for consumers with health insurance coverage. This requires that the companies invest significant time, money, and resources into obtaining and maintaining licensure and accreditation, maintaining detailed records, and other necessary costs of doing business.

DOT Question: Are certain types of wheelchairs and scooters no longer repairable or replaceable?

AAHomecare Answer: There are times when a wheelchair/scooter manufacturer discontinues a certain device or certain parts for devices, or when supply chain delays significantly impede ability

to obtain necessary products/parts in a timely manner. In these instances, the wheelchair provider and/or manufacturer would be able to provide information on appropriate alternative device (depending on the person's diagnosis and functional/medical needs and the type of equipment which was damaged during air travel this may require assessment of the person).

DOT Question: What types of customizations should be required under this proposal, how much such customizations generally cost, and how quickly such customizations can be completed?

AAHomecare Answer: Depending on the level and type of customization of the consumer's wheelchair, it is possible that any customization of a "loaner" wheelchair to make it perform and have the same functions as the consumer-owned wheelchair would require additional money (i.e., in addition to the money needed to repair the damaged equipment) and would take an amount of time significant enough to delay the consumer from having mobility for several days or longer. Some consumers, for example individuals with ALS, will require a highly customized wheelchair that require significant time to adapt to the individual's form and seating and positioning needs. From the perspectives of consumer safety and provider liability, it is important to ensure the repair and customization process is performed properly. For the more complex diagnoses/medical conditions, an in-person assessment of the consumer will likely be required to determine the most medically appropriate solution relative to provision of a "loaner" piece of equipment. In these instances, it may be more cost effective/faster/safer for the consumer for the airline to pay for expedited parts shipping, expedited repair of the consumer-owned wheelchair rather than paying to customize a "loaner" wheelchair.

Not every provider will have a temporary loaner wheelchair that can be customized to meet the needs of a medically complex consumer. It is not logistically possible for a company to keep in stock, on its premises, identical loaner/rental/backup wheelchair for every customer. Access can be further exacerbated when the damaged wheelchair is in a geographic location that is far from the original provider's business location. Complex rehab providers who are capable of providing loaners are scarce, and may not be proximate to an airport, particularly in more sparsely populated areas. While customization for *available* loaners (if they are available with a local provider) is feasible for more standard wheelchairs, for medically complex consumers the level of customization required may not be possible or feasible from a cost/timing perspective and may take longer than repairing the original equipment.

Conclusion

AAHomecare appreciates the opportunity to provide these comments. Please contact me at TomR@aahomecare.org if you have any questions or would like further information.

Sincerely,



Thomas Ryan
President/CEO
American Association for Homecare