



LEGAL SERVICES, INC.

Mobilizing for Justice Since 1963



For more information contact:
Nahid Sorooshiyari (212) 417-3807 or
Kevin M. Cremin (212) 417-3759

In Face of Class Action, NYC Transit Agrees to Change Unfair Access-A-Ride Policies

Court Preliminarily Approves Settlement that Upholds Due Process

New York, NY, May 19, 2016 – The settlement of a class action lawsuit filed by Barbara Walsh, a Queens senior citizen, and four other people with disabilities in May 2015 against New York City Transit (NYCT) received preliminary approval today from the U.S. District Court, Southern District of New York. The suit challenged the unconstitutional policies of Access-A-Ride, the City’s paratransit service for people with disabilities. Represented by MFY Legal Services, Inc. and Pillsbury Winthrop Shaw Pittman LLP, the plaintiffs are among the tens of thousands of New Yorkers with disabilities who need Access-A-Ride for basic transportation.

Under the settlement, NYCT must dramatically change its procedures. Once the settlement is finally approved, NYCT may no longer simply send generic letters denying services. Rather, it must provide specific information why an applicant is denied and provide the applicant’s file to them for free within 30 days of a request for it. In addition, for applicants whose recertification applications were denied and who pursue an administrative appeal, NYCT must continue to provide services until the appeal is decided – including transportation to an in person appeal hearing. NYCT must also inform applicants whose administrative appeals are denied that they may pursue a further appeal in court.

Access-a-Ride clients who previously had no idea why their benefits were denied or terminated will now have a better chance of appealing and receiving services.

“Ms. Walsh’s case is typical of people with disabilities who relied on Access-A-Ride for years and were suddenly cut off with no meaningful notice or opportunity to challenge the denial,” said Nahid Sorooshiyari, a staff attorney at MFY Legal Services. “We’re glad that New York City Transit agreed to change its procedures and policies to give people who depend on these services a fair shot.”

Ms. Walsh received Access-A-Ride for more than five years because she was permanently disabled. When she attempted to recertify in 2014, NYCT changed its position and found her eligible for only three months of services, even though her disabilities had not improved. When she attempted to extend her services, NYCT changed its position again, finding her completely ineligible and cutting off her services altogether. “I got only generic form letters – never any real information explaining why NYCT was changing my eligibility,” Ms. Walsh said.

NYCT's current rules allow applicants to appeal denials within 60 days, but in order to obtain their file and find out why they were denied, they were required to file a FOIL request, which could take up to 90 days. When NYCT denied these administrative appeals, it failed to inform applicants that they could further appeal NYCT's decision in court.

"The U.S. Constitution and state and federal law require New York City Transit to tell applicants and those recertifying eligibility why they are being denied services or receiving reduced services," said Jay D. Dealy, a senior associate at Pillsbury Winthrop Shaw Pittman LLP. "New York City Transit's generic denial letters are practically useless. Without knowing why the application was denied, it's very difficult to appeal successfully. And when New York City Transit denies appeals, it sends another generic letter that says the only option for redress is to start a new application and fails to tell people that they have the right to appeal the denial in court. This settlement will redress these, and other, due process violations."

"We are delighted that this case builds on MFY's legacy in *Goldberg v. Kelly* that established due process rights for people when the government denies or terminates their benefits," said Jeanette Zelhof, MFY Executive Director.

MFY Legal Services is a non-profit organization that provides a wide range of free civil legal services to low-income New Yorkers and focuses extensively on protecting the rights of people with disabilities. MFY works closely with organizations that serve New Yorkers with disabilities and conducts Access-A-Ride Legal Clinics to help people to access services and file appeals if they are improperly denied. Pillsbury Winthrop Shaw Pittman LLP is a full-service law firm that has partnered with MFY to staff the legal clinics and increase services to people with disabilities. It provides a wide range of pro bono services including work on voting rights, political asylum proceedings, and prisoners' rights cases and providing bankruptcy assistance.

###