

Assistive Technology

A Self-Advocacy Guide

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Federal and state law can change at any time. If there is any question about the continued validity of any information in the handbook, contact the Arizona Center for Disability Law or an attorney in your community.

The purpose of this guide is to provide general information to individuals regarding their rights and protections under the law. It is not intended as a substitute for legal advice. You may wish to contact the Arizona Center for Disability Law or consult with a lawyer in your community if you require further information.

This guide is available in alternative formats upon request.

Assistive Technology

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Assistive Technology

Assistive Technology (AT) Device is defined as any item or piece of equipment that is used to increase, maintain or improve functional capabilities of individuals with disabilities.

Examples:

- ✧ Computers and computer accessories.
- ✧ Augmentative communication devices.
- ✧ Wheelchairs (manual or electric), and scooters.
- ✧ Magnifying glasses.
- ✧ Organizational aids.

AT Service means any service that directly assists an individual with a disability in the selection, acquisition or use of an assistive technology device.

Examples:

- ✧ Evaluation/Assessment.
- ✧ Training (*for consumers, friends and family members, and professionals in the use of an AT device.*)
- ✧ Purchasing, leasing, or otherwise providing for the acquisition of AT devices.
- ✧ Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing of AT devices.
- ✧ Coordinating and using other therapies, interventions or services with AT devices (*such as those associated with existing education and rehabilitation.*)

Individuals with disabilities use assistive technology devices for a variety of reasons:

- ✧ To achieve maximum independent functioning.
- ✧ To assist with communication.
- ✧ To increase success or abilities in the job market.
- ✧ To increase functional abilities.

Making Informed Choices About Assistive Technology

Making informed choices starts with asking the right questions. You may want to address the following questions before requesting an assistive device:



Begin by addressing your specific needs and what you seek to accomplish through an AT device.

- ✧ What needs am I seeking to meet through an AT device?
- ✧ Is there a device that will help to meet my needs independently or will I need someone to assist me in using it?

- ✧ Where will I use this equipment - at home, work, community?
- ✧ Can my environment (ie: home, office) support the technology?
- ✧ Will the equipment need to be transported often? If so, is it light weight and easy to handle?

 **Your next step should be to consider how you will obtain the device.**

- ✧ What is the cost of the device?
- ✧ Will my insurance cover the cost? If not, are there sources within the community that may help to cover the cost?

 **Next, make arrangements to speak with at least two dealers of the type of AT devices you are seeking to obtain.**

- ✧ Will I be able to try the device before I buy it?
- ✧ Will someone train me in the use and maintenance of the device?
- ✧ How long is the equipment expected to last?
- ✧ Can adjustments be made to the equipment to accommodate growth and change?
- ✧ If growth and/or change are considerations, what signs will tell me that the current device is no longer functionally appropriate?
- ✧ How do I maintain the device?
- ✧ What is the expected cost for maintenance? Will the funding source assist in covering maintenance costs?
- ✧ Is there a written warranty with the device? Are there limitations in the warranty coverage?
- ✧ Will the dealer repair my device at the store, or will it need to be sent out?
- ✧ If repairs cannot be made instantly, will the dealer loan me a device?

Self-Advocacy

Self-advocacy means representing yourself in an effort to obtain the rights provided to you under the law. It is...

✓ **Knowledge**

- ✧ Know and understand your own needs.
- ✧ Know why you need the requested device.
- ✧ Know your rights to:
 - Ask “why” when something is unclear.
 - Have records in your file explained to you.
 - Receive written notice of an unfavorable decision, including an explanation of the reasons behind the decision to deny your request.

✓ **Organization**

- ✧ KEEP TRACK OF ALL IMPORTANT APPEAL DEADLINES!
- ✧ Keep all important papers regarding services and equipment together in a safe place (ie: notebook or file.)
- ✧ Keep copies of all letters you have written and of all documents submitted on your behalf.
- ✧ Never give your only copy of important papers to others.
- ✧ When meeting with a representative of the agency considering your request, write down any important points or questions you have before the meeting to avoid forgetting them.
- ✧ Take notes during meetings with the agency representative and request copies of all documents generated at the meetings.
- ✧ Take notes of all related telephone conversations, including with whom you spoke, date and time.
- ✧ Identify others whom understand your needs and believe the device will be of benefit to you, such as doctors, teachers, and family members. Ask for their assistance by:
 - Attending important meetings with you
 - Writing letters of support (see appendix - Letters of Medical Necessity)

✓ **Persistence**

- ✧ Do not give up requesting help until you have been helped.
- ✧ If you call someone for help, but your call is not returned, call back again.
- ✧ Go to the next person in charge if you don't get the help you need from the first person you contacted.
- ✧ Be polite, but firm when you ask for help or share ideas.

Problem Prevention

The best way to deal with problems is to prevent situations from becoming problems. Nevertheless, despite your best efforts, there will be times when disagreements occur between you and your AT provider. The following suggestions may be helpful:

- ✧ Maintain contact – It is vital to maintain contact with the AT provider agency working with you or your family member. Ask for status reports and follow the requested device as it proceeds through the approval process. Let the contact person at the agency know that you are concerned and want to be informed.
- ✧ Discuss the issues – If you are dissatisfied with the agency's decision or do not understand the agency policy upon which their decision is based, ask about it immediately. It is better to talk about each problem when it arises rather than waiting until you have numerous grievances.

- ✧ *Be flexible* – Listen to the agency’s position. Sometimes they may be right. Be sure you understand the reasons for their decision and consider how far you are willing to compromise.
- ✧ *Know your appeal rights* – If you disagree with the agency’s proposals and wish to challenge them, become informed about the agency’s appeal policies and procedures.
- ✧ *Give positive reinforcement* – Let the agency know when you feel that they are doing a good job. If you recognize their accomplishments, they may be more likely to listen to your concerns.

Assistive Technology Resources

The Arizona Rehabilitation Services Administration (RSA)

In Arizona, the RSA is the umbrella agency under which Vocational Rehabilitation (VR) and the Independent Living Rehabilitation Services (ILRS) programs are housed.

VR is a federally funded program, as developed by Title I of the Rehabilitation Act of 1973, designed to maximize a person’s employment potential. To receive such services, an individual must have a disability and require VR services in order to engage in gainful employment. This program assists individuals in assessing and acquiring appropriate assistive technology devices that will aid them in obtaining and maintaining employment.

ILRS is a federally funded program through Title VII, Chapter 1, Part B of the Rehabilitation Act. Through this legislation, the states are mandated to maximize leadership, empowerment, independence and productivity of individuals with disabilities by promoting a philosophy of independent living. This includes promoting a philosophy of consumer control, peer support, self-help, self-determination, equal access and individual and systems advocacy. The ILRS program often looks to assistive technology as a means by which to increase the independence of individuals with disabilities. Unlike VR, individuals seeking ILRS services do not have to have an employment goal. Rather, consumers partaking in this program are seeking to enhance their ability to function independently in their homes and communities.

School Districts

For some children with disabilities, an appropriate education requires school districts to provide children with assistive technology devices. Three federal laws offer protections to children with disabilities by requiring they be provided a free, appropriate public education. These include:

- ✧ The Individuals with Disabilities Education Act (IDEA) 20 U.S.C. §1400

The Individuals with Disabilities Education Act (IDEA) mandates a free, appropriate public education for infants, toddlers, preschoolers, children, and youth with disabilities. The Act relates to States and localities that receive federal funds to assist in their education. Several provisions of the law relate directly to assistive technology devices and services. IDEA’s 2004 regulations require that school districts provide Individualized Education Plans (IEP’s) for all children covered by the IDEA. In developing the IEP, the use of assistive technology devices and services

must be considered to help assure the child's successful completion of IEP goals and objectives. Further, the IDEA regulations require that a child may use the device at home as needed to implement his or her IEP.

✧ The Rehabilitation Act (Section 504) 29 U.S.C. §794

Students with disabilities attending public schools who do not qualify for services under IDEA may be qualified under Section 504 of the Rehabilitation Act. The definition of disability is more broader. If a student is a qualified disabled individual under Section 504, then he or she is entitled to any assistive technology devices and/or services which are necessary to receive a free, appropriate public education.

Section 504 also prohibits unnecessary segregation of students with disabilities from other students. Therefore, if an assistive technology device could keep the child in a regular classroom, then the device would probably be required under Section 504.

✧ The Americans With Disabilities Act (ADA) 42 U.S.C. §12101 et seq.

The ADA requires the provision of auxiliary aids and services by private and public schools. In other words, the ADA would also require the provision of those necessary assistive technology devices that are not overly burdensome on a private facility. It is a comprehensive civil rights law that extends the protections provided by Section 504 beyond federally assisted programs to the activities of state and local government, as well as places of public accommodation and commercial facilities. Because all public schools receive federal financial assistance, protections and remedies under Section 504 are probably almost identical to those under the ADA.

 **Arizona Health Care Cost Containment System (AHCCCS)**

AHCCCS, Arizona's Medicaid system, provides medical services through its acute care program (AHCCCS) and long term care program (ALTCS). Both utilize a Health Maintenance Organization (HMO) or managed care program, and may cover assistive technology devices or services as ordered by your physician. Assistive technology devices are covered if they are medically necessary to:

1. *prevent disease, disability and other adverse health conditions or their progression, or;*
2. *prolong life.*

 **Private Insurance**

Individual private insurance policies elect to cover assistive technology devices or services as deemed medically necessary by your physician. Each insurance company has its own criteria for determining medical necessity. You must review your individual policy for information regarding coverage of assistive technology devices and services. Like AHCCCS/ALTCS, assistive technology can be covered if it falls within the terms and definition of durable medical equipment, prosthetics, speech therapy and rehabilitation services. For any questions or concerns regarding your insurance policy, please contact:

Investigations Division
State of Arizona, Department of Insurance

2910 N. 44th Street, Suite 210
Phoenix, Arizona 85018-7256
(602) 912-8430

Division of Developmental Disabilities (DDD)

The Division of Developmental Disabilities (DDD) coordinates care and services for those persons with developmental disabilities (autism, cerebral palsy, mental retardation and epilepsy). Services provided by DDD focus upon maximizing independence for individuals and families. Eligible persons are assigned a case manager within the program who assesses the needs of that individual, including assistive technology devices that will enable individuals to live as independently as possible.

Medicare

Medicare is a federal health insurance program covering medical equipment and services for persons aged 65 and above. It also covers goods and services for adults under age 65 and their offspring who have been receiving Social Security Disability Insurance benefits or Adult Disabled Child benefits for at least 24 months. Assistive Technology can be covered if it is medically necessary and falls within Medicare's definition of durable medical equipment or prosthetic devices.

Worker's Compensation

The worker's compensation system was created to protect individuals who are injured at work by providing them with cash benefits and medical care. All states require medical and hospital benefits to be extended to eligible employees who are injured within the scope of employment. Such benefits can include assistive technology.

Note: It is important to remember that each program has its own eligibility rules and appeal procedures. If you need more information on eligibility or appeal rights for these programs, call the Arizona Center for Disability Law at the numbers located on the cover of this guide.

“Magic Words” For Requesting Assistive Technology

Each program conducts assessments for assistive technology. Because each program was formed to serve a particular purpose, evaluations and assessments requesting assistive technology should include terms that are related to the objective of each program. Although these “magic words” will not guarantee success in obtaining assistive technology, they will help increase the chances of successfully acquiring needed assistive technology by describing how the requested device or service relates to the program's objective.

Vocational Rehabilitation: Use such phrases that reflect employment issues necessary to achieve individual employment plan goals; “as needed to achieve employment outcome,” or “necessary to remain employed.”

Medicare: Use such phrases that reflect medical considerations such as “reasonable and necessary,” “needed to maintain and improve functional limitation,” “as a prosthetic device,” or “needed to remain in the home setting.”

AHCCCS, ALTCS, and Private Insurance: Use phrases that impact on a medical condition. The equipment should be described in terms of how it would treat the medical condition. Therefore, such phrases as “necessary to correct mobility impairment,” “needed to alleviate the impact of the impairment or disability,” or “necessary to improve the functional limitations of the disability.”

Letters of Medical Necessity


Letters of medical necessity are necessary when requesting treatment in today’s health care systems. An effective letter may expedite and ensure that the correct treatment is ordered. Letters of medical necessity are used to prescribe and certify that the use of certain equipment will: 1. prevent disease, disability and other adverse health conditions, or 2. prolong life. An effective letter of medical necessity should include:

- ✧ Your functional and/or psychological limitations.
- ✧ Your exact diagnosis(es) and ICM-9-CM codes.
- ✧ The anticipated duration of your condition.
- ✧ Anticipated limitations or adverse health problems which are likely to occur if the requested device/service is not authorized and provided to you.
- ✧ Rationale, e.g., increase access to home, maintain employment, safety, cost effectiveness, etc.

Additionally, requests for augmentative communication devices specifically require documentation that includes:

- ✧ Defining circumstances in which the communication device will be used, i.e.: community, work, school, etc.
- ✧ Examples of how you presently communicate.
- ✧ How the communication device will assist you in communicating effectively.
- ✧ How having the device will improve your quality of life.

Additional Information, Resources and Protections

 **Americans with Disabilities Act (ADA)**
42 U.S.C. § 12101 et seq.

The ADA gives civil rights protections to individuals with disabilities in the work place, while receiving services from state and local government, and physical access to public facilities. It is a federal anti-discrimination statute designed to remove barriers that prevent qualified individuals with disabilities from enjoying the same opportunities that are available to persons without disabilities. Assistive technology and devices may be considered as "reasonable accommodations" under certain circumstances.

 **Technology-Related Assistance for Individuals with Disabilities Act**
29 U.S.C.A. § 2201 et seq.

The federal Technology-Related Assistance for Individuals with Disabilities Act (Tech-Act) authorizes funds to states to develop comprehensive statewide, consumer-responsive assistive technology programs and studies of national significance. In Arizona, the Arizona Technology Access Program (AzTAP) is charged with these responsibilities. While this program does not fund assistive technology, it is a resource for additional information.

 **Social Security Disability (SSD) and Supplemental Security Income (SSI) Ticket to Work, Plan for Achieving Self-Support and other Employment Supports**

Through the Social Security Administration's Plan for Achieving Self Support (PASS), a person with a disability can use her/his Supplemental Security Income (SSI) to purchase assistive technology that would assist the person in achieving a vocational goal. The PASS provisions allow for the exclusion of income and resources, which are otherwise counted in determining SSI eligibility, if used toward the achievement of a vocational goal.

The Ticket to Work program provides persons with disabilities with options to access employment services, vocational rehabilitation and other support services. The Ticket to Work and Work Incentives Improvement Act of 1999 recognizes the importance of assistive technology in allowing an individual to regain employment, as follows:

*“Coverage... for [personal assistance services] as well as for prescription drugs, **durable medical equipment**, and basic health care are powerful and proven tools for individuals with significant disabilities to obtain and retain employment.”* 42 U.S.C. §1329b-19(a)(4) (emphasis added).

“Individuals with disabilities have greater opportunities than ever before, aided by... innovations in assistive technology, medical treatment and rehabilitation.” 42 U.S.C. §1329b-19 (a)(7)

For more information on the ticket to work program, call your local employment Work Incentives Planning and Assistance (WIPA) project:

Arizona Bridge to Independent Living (ABIL): Greater Phoenix Metro Area	(602) 443-0720 voice (602) 443-0737 TTY WIPA@abil.org
DIRECT Center for Independence: Tucson, Sierra Vista & Southern Arizona	(520) 624-6452 voice/TTY direct@directilc.org
New Horizons Independent Living Center Northern Arizona	(928) 772-1266 voice/TTY Nhilc@cableone.net
SMILE Independent Living Center Yuma & Southeastern Arizona	(928) 329-6681 voice (928) 782-7458 TTY Workincentives@smile-az.org

Many AT funding sources require you to seek advice from an appropriate professional when considering the purchase of any new assistive device. You may find it helpful to begin by consulting with your primary care physician, who may refer you to a specialist, therapist or other appropriate professional to assess your needs and make recommendations about a new device.

Agency Contacts

Information and Referral Services

Maricopa County:

(602) 263-8856

Pima County:

(520) 881-1794

Pima Council on Developmental Disabilities (DD)

www.disabilitydepot.com

Four County Conference on DD

(928) 778-3391

www.a2z.org/4ccdd

Arizona Council on Rural Disabilities

P.O. Box 3806

Kingman, Arizona 86402

(928) 692-4300

Central Arizona Advisory Council on DD

P.O. Box 130

Valley Farms, Arizona 85291

District VI Advisory Council on DD

400 W. Highway 66

Kingman, Arizona 86401

(928) 718-1313

AZ Department of Education - Exceptional Student Svcs.

Phoenix:

www.ade.az.us.gov/ESS

(602) 542-3183

Tucson:

(520) 628-6330

Flagstaff:

(928) 679-8100

Arizona DES/Division of Developmental Disabilities

Phoenix:

www.azdes.gov/ddd/

(602) 542-0419

Tucson:

(520) 628-6800

Raising Special Kids

www.raisingpecialkids.org

(602) 242-4366

Pilot Parents of Southern Arizona

www.pilotparents.org

(520) 324-3150

Arizona Rehabilitation Services Administration/

Vocational Rehabilitation Regional Office

Region I – Phoenix:

www.azdes.gov/rsa

www.azdes.gov/rsa/vr.asp

(602) 266-6752

Region II – Tucson:

(520) 628-6810

Region III – Flagstaff:

(928) 779-4147

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5025 E. Washington Street, Suite 202

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(602) 274-6287

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(800) 927-2260

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100 N. Stone, Suite 305
Tucson, Arizona 85701

Voice: (520) 327-9547
Fax: (520) 884-0992
Toll-Free: (800) 922-1447

Arizona Technology Access Program (AzTAP)
Institute for Human Development
Northern Arizona University
2400 N. Central Avenue, Ste. 300
Phoenix, Arizona 85004

Voice: (602) 728-9534
TTY: (602) 728-9536
Fax: (602) 728-9353
Toll-Free: (800) 477-9921

- OR -

P.O. Box 5630
Flagstaff, Arizona 86001-5630

Voice: (520) 523-5282
TTY: (520) 523-1695
Fax: (520) 523-9127
Toll-Free: (800) 553-0714

Governor's Council on Developmental Disabilities and
DD Network (GCDD, Arizona Center for Disability Law,
Sonoran UCEDD and Institute for Human Development)
www.azgcdd.org/dd_network.asp

(602) 277-4986

Sample Letter of Medical Necessity #1

RE: John Doe
ID: 000-00-0000

To Whom It May Concern:

This letter is written in support of my patient, John Doe's request for an electric wheelchair. Mr. Doe has been under my care for many years. His past medical history is significant for Diabetes Mellitus, chronic hypertension, moderate to severe depression without suicidal ideation, Pickwickian Syndrome, and morbid obesity.

The latter one has been unresponsive to multiple interventions. For approximately one year, Mr. Doe has been unable to walk due to his uncontrollable weight gain and has been totally reliant upon a wheelchair for his mobility. Although Mr. Doe has been provided with a manual wheelchair, this has failed to meet his mobility needs.

Because of his disproportional body habitus, he is unable to self propel the manual wheelchair. Mr. Doe is completely dependent upon other to move about - even to wheel himself to the bathroom for his basic needs.

It is my medical opinion that an electric wheelchair would allow Mr. Doe to function independently and safely meet his own daily living needs. Otherwise, his overall health status will gradually deteriorate to a point where his life will be in jeopardy.

If you need any further assistance and additional documentation, please do not hesitate to call me.

Sincerely Yours,

Dr.

Sample Letter of Medical Necessity #2

RE: Jane Doe
ID: 111-11-1111

To Whom It May Concern:

Let this serve as a letter of medical necessity for Jane Doe and her request for a motorized scooter. It is my understanding that Ms. Doe has significant congestive heart failure requiring oxygen. I am not her primary care physician for that, however, I can provide the additional medical information regarding her right shoulder.

Her right shoulder was injured several years ago in an assault. She sustained significant fracture and has ongoing pain, disability and limitation of function since that time. I've seen her on many occasions in the past, as well as on May 4, 2000.

At this time, her functional limitation is that of only 120 degrees of active flexion, about 90 degrees of abduction. She has pain with these maneuvers and significant difficulty with any resisted motion in those planes. She is using a walker at this time, but has great difficulty doing that. Her pain is significant and real. Her X-rays today show no particular glenohumeral arthrosis, but we are considering a possible underlying rotator cuff tear as it relates to this prior injury. An MRI is pending at this time.

I anticipate Ms. Doe will continue to have difficulty with this right shoulder. She does not appear to be a particularly good surgical candidate at this time even if the surgical type of lesion was identified on the basis of the MRI. It is clear that with her significant shortness of breath, weight and inability to use the right shoulder particularly well, I think she is likely to be wheelchair bound on a permanent and indefinite basis.

It should be noted that Ms. Doe has tried diligently to use a manual wheelchair but cannot function with this due to limitations of her right shoulder. The pain is far too significant and her fatigue strength is too poor.

Sincerely Yours,

Dr.

Sample Letter of Medical Necessity #3

RE: George Smith
ID: 123-11-1234

Dear Sir or Madam:

George Smith is a 5 year old child with serious medical problems. Specifically, he has Leigh's Syndrome (a mitochondrial disorder) characterized by hypoglycemia, multiple surgeries, apnea and frequent recurrent pneumonias as a result of aspiration of secretions.

Leigh's disease (subacute necrotizing encephalomyopathy) is caused by at least four known genetically determined causes: pyruvate dehydrogenase complex deficiency, complex I deficiency, Complex IV deficiency, and complex V deficiency. These defects can occur sporadically or by inheritance. Leigh disease first presents in infancy with feeding and swallowing problems, vomiting and failure to thrive. Delayed motor and language milestones become evident and are followed by seizures, weakness, hypotonia, ataxia, tremor, pyramidal signs and nystagmus. Intermittent respirations occur, followed by sobbing and are suggestive of brain stem dysfunction.

George is followed by me, a Pediatric Pulmonologist, for treatment of recurrent pneumonia due to recurrent aspirations of his oral secretions as a result of his inability to swallow normally. George's pulmonary treatment plan includes daily chest physiotherapy four to six times per day, preceded by SVN treatments (small volume nebulizer) with the head of the bed elevated to improve overall lung volumes, and postural drainage four times per day. Chest physiotherapy involved positioning George in eight different positions to facilitate drainage from all areas of the lung. Between therapy, George requires frequent oral deep suctioning due to his inability to swallow and clear oral secretions. George requires rapid position change during suctioning as the secretions pool and accumulate in any position that he is kept in for any length of time beyond 30 minutes. To further complicate his respiratory status, George has frequent seizures. During the seizure episodes, George needs to be placed in a side lying position rapidly, without any restrictions, and also positioned so that continued clearance of his airway can be maintained by his caregiver. It is imperative that George have an electric bed to facilitate rapid and frequent position changes. The use of a hand crank bed delays care, causes frequent aspiration or oral secretions, which results in hospitalization, expensive antibiotics, and further deterioration of his clinical status. Failure to provide an electric bed for basic care only complicates his respiratory problems further, and can lead to respiratory failure and death.

Please approve this bed for George so that he can continue to receive and benefit from the high quality of care that he deserves.

Sincerely,

Dr.