

# Healthcare

**Know Your Rights – Legal Information Handbook**



**CNIB**

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## **Disclaimer**

This content is provided as general information and is not legal advice. If you need advice about a specific legal issue, contact a lawyer.

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To learn more about the Know Your Rights project, please visit [cnib.ca/KnowYourRights](http://cnib.ca/KnowYourRights)

## Table of Contents

<b>My Legal Rights .....</b>	<b>4</b>
Q: What legal rights do I have when it comes to healthcare services in Manitoba? .....	4
Q: Where do my legal rights come from? .....	5
Q: Who must comply with Manitoba's healthcare laws? .....	7
Q: What can I do to enforce my legal rights? .....	8
<b>Common Scenarios .....</b>	<b>9</b>
Q: I've been asked to fill out medical forms that are not in an accessible format. What can I do?.....	9
Q: I need to see a doctor, but the medical clinic's waiting room has an inaccessible queue (e.g., a "take a number" system). What can I do? .....	10
Q: When prescribed medication, I've been given instructions and information in an inaccessible format. What can I do? .....	11
Q: I feel that I'm being treated poorly by medical staff who do not understand my needs or lack basic etiquette when dealing with people who have sight loss. What can I do? .....	11
Q: I've been told that I have to pay for my healthcare-related accommodations – is this true?.....	12
Q: I've been told that my intervenor cannot participate in certain aspects of my healthcare – for example, accompany me to certain parts of the hospital. What can I do? .....	12
Q: I am a resident of a Personal Care Home and I feel that my rights have been violated. What can I do?.....	13
<b>Resources .....</b>	<b>14</b>

# My Legal Rights

## Q: What legal rights do I have when it comes to healthcare services in Manitoba?

**A:** Under Manitoba laws, people with disabilities have important legal rights when it comes to healthcare. People with disabilities have the right to equal access to healthcare and benefit from the healthcare system.

- You have the right to receive an equal level of service from healthcare providers as anyone else without discrimination because of your disability.
- You have the right to receive **accommodations** for your disability from healthcare service providers up to the point of **undue hardship**.
- You have the right to examine and receive a copy of your personal health information.
- You have the right to have your personal health information kept confidential and private by all healthcare service providers.
- If you live in a personal care home, you also have additional rights under the [Personal Care Homes Standards Regulation](#).

## Duty to Accommodate & Undue Hardship

A healthcare provider's "**duty to accommodate**" means that they are legally required to provide you with the supports you need to access an equal level of service. However, the duty to accommodate has a limit and this limit is called "**undue hardship**."

"**Undue hardship**" is a legal term. It means that if a healthcare provider can show that it would be very difficult for them to provide you with a certain type of accommodation, then they do not have to provide it.

It is important to note that it is **not enough** for a healthcare provider to **simply claim** undue hardship. A healthcare provider **must show clear evidence** of undue hardship. This evidence can relate to factors such as:

1. Whether the cost of the accommodation would be so high that it would significantly interfere with their ability to operate. When calculating cost, they must also consider outside sources of funding, such as grants or subsidies from government programs.

2. Whether the accommodation would create serious health and safety risks.

Even if a healthcare provider shows that a certain type of accommodation will create undue hardship for them, they still have a legal duty to provide you with the **next best** type of accommodation.

## **Q: Where do my legal rights come from?**

**A:** Your legal rights come from a variety of different laws, including:

- **Manitoba's [Human Rights Code](#)**
  - The Human Rights Code applies to all services, benefits, and programs available to the public, including healthcare.
  - The Human Rights Code prohibits discrimination based on physical or mental disability or related circumstances (such as using a service animal).
  - The Human Rights Code also requires reasonable accommodations to be made for people with disabilities.
- The **[Accessibility for Manitobans Act](#)**
  - The Accessibility for Manitobans Act requires the government of Manitoba to create Accessibility Standards that focus on five key areas of daily living. The Accessibility Standards set out detailed minimum accessibility requirements in the following contexts:
    - Customer Service
    - Employment
    - Information and Communications
    - Design of Public Spaces
    - Transportation

- The Accessibility for Manitobans Act applies to most organizations in Manitoba, and specifically applies to **regional health authorities** in Manitoba.

Other important healthcare-related laws that may be relevant to your situation include:

- [Personal Health Information Act \(“PHIA”\)](#), which establishes rules about:
  - Keeping personal health information confidential,
  - How to access personal health information, and
  - How personal health information is collected, used, kept, and destroyed.
- Manitoba’s [Regulated Health Professions Act](#), which creates the following protections:
  - Establishes who may provide healthcare services in Manitoba,
  - Requires that there be minimum standards of practice, and
  - Requires that the health profession in Manitoba be regulated.
- Manitoba’s [Personal Care Homes Standards Regulation](#), which establishes the following:
  - The ability for Manitoba Health to licence and monitor all personal care homes in the province.
  - Eligibility for admission to a personal care home.
  - The right for residents to participate in their own care.
  - The right for residents to be safe from mistreatment and abuse.
  - Minimum standards to ensure safe and appropriate care for residents.
  - Operators of personal care homes are required to develop a **Residents’ Bill of Rights** for the home, in consultation with the residents. Every Bill of Rights must, at a minimum, reflect the following principles:
    - Residents are to be treated with courtesy and respect, and in a way that promotes their dignity.
    - Residents are to be sheltered, fed, dressed, groomed, and cared for in manner consistent with their needs.

- Residents or their legal representatives have the right to give or refuse consent to treatment.
- Residents are encouraged to exercise their freedom of choice whenever possible, including freedom of religion, culture and language; communication and visitation with friends and family; choice of recreational activities; keeping personal items; and, selection of clothing.
- Residents are to be afforded reasonable privacy while being treated and cared for.
- Residents are to be provided with a safe and clean environment.
- Residents may communicate and meet with their legal representative as often as necessary, and in private.

**Q: Who must comply with Manitoba's healthcare laws?**

**A:** The people, companies, organizations and governing bodies who are involved in delivering healthcare services in Manitoba are required to comply with the above laws, including:

- Individual healthcare providers, such as physicians, nurses, physiotherapists, optometrists, dentists, etc.
- Healthcare organizations, such as hospitals and Regional Health Authorities.
- Organizations that govern health professions in Manitoba, such as the College of Physicians and Surgeons of Manitoba, the College of Registered Nurses of Manitoba, the Manitoba Dental Association, etc.
- The Manitoba government and its agencies, including Manitoba Health.
- Patients – if you request an accommodation because of your disability, you have a duty to participate in good faith to develop and implement a suitable accommodation for your needs.

## Q: What can I do to enforce my legal rights?

**A:** If you feel you have been unfairly discriminated against by a healthcare provider, there are things you can do to challenge the discrimination.

In general, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

For more resources on self-advocacy, please visit the **Self-Advocacy** section of the [Know Your Rights website](#).

If the issue cannot be resolved in this way, you may wish to consider the following options:

- **Reporting a Critical Incident**

- A critical incident refers to an unintended event that occurs when health services are provided to an individual and results in a consequence that is:
  - Serious and undesired, such as death, disability, injury or harm, unplanned admission to hospital or unusual extension of a hospital stay, and
  - Does not result from the individual's underlying health condition or from a risk inherent in providing the health services.
- Anybody can report a critical incident, including patients, family members, and healthcare providers. If you believe that a critical incident may have occurred, contact your healthcare provider or your [Regional Health Authority](#).
- If deemed a critical incident, the health facility or Regional Health Authority is required to report it to Manitoba Health and Seniors Care, and investigate the incident. The purpose of the investigation is to learn what happened and to recommend changes to prevent similar incidents from happening again.

- At times, some incidents may not meet the definition of a critical incident, but patients or their families may still want to report the incident and have it investigated.
  - For concerns about care, other than critical incidents, contact your health care provider, their manager, or the [Regional Health Authority](#).



- For concerns related to abuse in hospitals or personal care homes, contact the [Protections for Persons in Care Office](#).
- Manitoba's health professions each have a [governing body](#) under the law that deals with concerns about the conduct of their members. If you have a complaint about the conduct of a regulated health professional, you can contact their regulatory body.
- If you believe a law has been broken related to your care, you can contact the [Manitoba Ombudsman](#).
- For concerns regarding discrimination, you may wish to file a complaint with the [Manitoba Human Rights Commission](#).

While you do not need to hire a lawyer to make these complaints, you may wish to consult with one to determine which of the option(s) above are specifically relevant to your unique set of circumstances.

## Common Scenarios

Even though there are laws to protect you from discrimination, people with disabilities still face barriers to receiving equal access to healthcare services.

This section describes barriers that are commonly experienced and suggests practical next steps. Keep in mind that, in most situations, you should first try to resolve your concerns by speaking with the people who are directly involved in an informal and collaborative way.

## Inaccessible Information and Procedures

**Q: I've been asked to fill out medical forms that are not in an accessible format. What can I do?**

**A:** If you find a healthcare-related form you cannot access, you have the right to request that the healthcare provider give you the form in an accessible format, as an accommodation for your disability. By disclosing your disability and making a request for accommodation, you trigger the healthcare provider's legal duty to accommodate you up to the point of [undue hardship](#).

It is generally a good idea to be prepared, for example, by calling the office ahead of time to find out how you can access an accessible version of any necessary form, and perhaps have it sent to you in advance.

If the service provider is unable to send forms in advance (or does not have the forms available in an accessible format), tell them that you have a disability and that you require an alternative accommodation. For example, you can request that someone from their team assist you in reading and completing the forms in a private setting at the time of your appointment.

If a service provider says that you are responsible for having a sighted companion accompany you to the appointment, remind them politely that you have the right to receive an equal level of service as anyone else and they have a legal duty to accommodate your needs at no cost to you. You can also explain that since you have the right to keep your personal health information confidential, they cannot expect you to bring a sighted companion to your medical appointments, where important personal health information will be disclosed.

**Q: I need to see a doctor, but the medical clinic's waiting room has an inaccessible queue (e.g., a “take a number” system). What can I do?**

**A:** If you encounter an inaccessible queue, inform the staff, as soon as possible, that you are unable to participate in the queue process because of your disability, and that you require an accommodation. For example, you can request that when your number is called, a staff person should come to notify you and guide you to where you are required to be. Make sure to fully inform the staff about your needs, so they can find the best way to accommodate you. By disclosing your disability and making a request for accommodation, you trigger the healthcare provider's legal duty to accommodate you up to the point of [undue hardship](#).

If you still have trouble getting the accommodations you need, you may want to speak with a manager or supervisor. If this is not successful, then you may wish to engage the healthcare provider's formal complaint process or contact the [Manitoba Human Rights Commission](#). Please refer to the section of this handbook on [enforcing your legal rights](#) for a full list of ways you can report such conduct.

**Q: When prescribed medication, I've been given instructions and information in an inaccessible format. What can I do?**

**A:** When you are being prescribed medication, you can request that the physician or pharmacist spend additional time with you to provide you with key information. For example, you may request that they spend time to fully detail the instructions, warnings, and side effects. If you have questions or want clarification, be assertive and make sure to ask.

If the service provider does not want to do this and is unable to make equivalent accommodations for your needs (for example, by providing you with information in an accessible format), remind them politely that you have the right to receive an equal level of service as anyone else and that they have a legal duty to accommodate you.

Over the past few years, some pharmacies, including Shoppers Drug Mart, have implemented a service that allows consumers to obtain important information about prescription medications through text-to-speech technology. To access this service, let your pharmacy know that you use text-to-speech technology and request that your medication label be prepared in this format.

If you still have trouble getting the accommodations you need, you may want to speak with a manager or supervisor. If this is not successful, you may wish to engage the healthcare provider's formal complaint process or contact the [Manitoba Human Rights Commission](#). Please refer to the section of this handbook on [enforcing your legal rights](#) for a full list of ways you can report such conduct.

## **Poor Etiquette**

**Q: I feel that I'm being treated poorly by medical staff who do not understand my needs or lack basic etiquette when dealing with people who have sight loss. What can I do?**

**A:** Unfortunately, there are times that people who have sight loss are treated poorly in a healthcare setting. For example, when medical staff:

- Enter a room without introducing themselves or leave a room without notifying you

- Touch you without notifying you in advance
- Speak to your sighted companion or intervenor instead of addressing you
- Provide confusing or unhelpful directions

To reduce the chance of poor treatment, it is helpful to proactively inform staff about your needs, and about basic etiquette when working with people who have sight loss. For example, you can call ahead to inform a service provider about your needs or take time to speak with staff when you arrive.

If you have been treated poorly, consider following up with a staff person's supervisor, their senior management, or – if it's a large institution – an internal ombudsman or other complaint process.

If this is not successful, then you may wish to contact the [Manitoba Human Rights Commission](#). Please refer to the section of this handbook on [enforcing your legal rights](#) for a full list of ways you can report such conduct.

### **Q: I've been told that I have to pay for my healthcare-related accommodations – is this true?**

**A:** Your healthcare provider cannot make you pay for reasonable accommodations for your disability. It is your healthcare provider's legal duty to accommodate you up to the point of undue hardship and your healthcare provider is responsible for paying the costs of reasonable accommodations.

## **Intervenors**

### **Q: I've been told that my intervenor cannot participate in certain aspects of my healthcare – for example, accompany me to certain parts of the hospital. What can I do?**

**A:** When you plan to have your intervenor accompany you to a medical appointment, do your best to plan ahead. For example, call the healthcare provider in advance to tell them that you will be accompanied by an intervenor and take some time to explain or to educate the healthcare provider about your intervenor's role.

Healthcare providers have a duty to accommodate your needs to the point of undue hardship. This means making exceptions to “patients only” policies in some cases. You can say that you require the support of an intervenor to receive an equal level of service.

You or your service provider may sometimes be worried that complicated medical information will not be properly communicated by your intervenor. To help address this concern, you can request that all important information from your appointment (for example, information about your prescriptions) is provided to you in an accessible written format.

If your support person is not permitted to attend with you, the healthcare provider may be able to provide you with a sighted health professional to support you during your visit.

The [Government of Canada](#) **advises** that special considerations, adaptations, and accommodations should be considered and provided for people with disabilities within the healthcare and public health systems.

The Government of Canada **specifically advises** that restrictions should take into account [the needs of people with disabilities](#), and **allow essential support staff, including sighted guides, interpreters and/or family members to be present in these places**. It also includes altering any signage being used in healthcare systems or information about where to go to receive necessary medical attention, to ensure they are accessible to all persons.

Finally, the Government of Canada states that this applies to acute care hospitals, long-term care homes, congregated residential settings, medical clinics, and other medical or paramedical appointments.

## Personal Care Homes

**Q: I am a resident of a Personal Care Home and I feel that my rights have been violated. What can I do?**

There are [125 licensed Personal Care Homes](#) in Manitoba. Each Personal Care Home **must** meet a minimum set of standards to ensure safe and appropriate care to residents. These standards are set out in the [Personal Care Home Standards Regulation](#).

Under this legislation, Manitoba Health licences and monitors all Personal Care Homes in Manitoba. Facilities are reviewed regularly, and any problems or concerns found during a review must be corrected within a specified time.

A regular standards review is conducted at each Personal Care Home at least once, every two years. In addition to these regular standards reviews, unannounced reviews are completed at approximately 20 per cent of Personal Care Homes each year. In 2020, Manitoba Health also conducted modified reviews at all 125 sites to consider care and resident safety in light of COVID-19.

Personal Care Homes are directly accountable to the **Regional Health Authority** where they are located. The applicable Regional Health Authority is required to establish a written policy for dealing with complaints made by residents about the home's care, services, or environment, for every Personal Care Home in its jurisdiction. An outline of how to file a complaint must be placed in a prominent and easily accessible location in every Personal Care Home.

So, a good starting place may be the complaints process established by the Personal Care Home. If this is not successful, then you may wish to contact the [Manitoba Human Rights Commission](#). Please refer to the section of this handbook on [enforcing your legal rights](#) for a full list of ways you can challenge rights violations.

## Resources

### Legal Resources

#### [Manitoba Human Rights Commission](#)

The **Manitoba Human Rights Commission** is an independent office of the Government of Manitoba that is responsible for receiving and investigating complaints of discrimination to determine if the [Human Rights Code](#) has been contravened.

For information on **filing a complaint** with the Commission, the Commission's website provides direction on [how to start the process](#) and a [Guide to Filing a Complaint](#).

The Commission also educates the public about human rights through seminars and workshops; and, prepares and distributes [guidelines](#) and [fact sheets](#) to assist the public in understanding the [Code](#).

## **[The Law Society of Manitoba](#)**

The **Law Society of Manitoba** oversees the legal professional in Manitoba. The Law Society is the only body that is authorized to determine who may become a lawyer in the province, and is responsible for responding to [complaints](#) about lawyers. The Law Society also has a [Lawyer Lookup](#) tool that enables the public to search for lawyers.

## **[Infojustice](#)**

**Infojustice** is a legal information centre committed to promoting access to justice in French. By providing information, support and referral services, Infojustice helps French-speaking individuals understand and respond to the various legal situations they face in their everyday lives.

Infojustice provides the following services:

- consultations via telephone and email, or in person if appropriate,
- courthouse or tribunal accompaniment,
- referrals to relevant organizations and resources, and
- referrals to French-speaking lawyers.

For contact information, [visit the Infojustice website](#).

## **[Community Legal Education Association](#)**

The **Community Legal Education Association (CLEA)** is a not-for-profit organization that provides legal information and education to Manitobans. CLEA develops programs and resources to help individuals better understand Manitoba's legal system, and how to resolve their legal issues.

CLEA can help members of the public by providing general legal information, suggesting resources, and telling people about different options for obtaining legal advice.

CLEA also operates the [Law Phone-In and Lawyer Referrals Program](#). Through this program, individuals can receive:

- legal information and advice,
- referrals to law-related agencies, and
- referrals to lawyers, when appropriate.

The Law Phone-In and Lawyer Referral Program allows Manitobans to call or email with legal questions, and staff lawyers will attempt to provide information, or connect them to a lawyer who can.

If you are referred to a lawyer through this program, your first consultation, up to half an hour will be free. This service is free and available to **all** Manitobans.

## **Legal Aid Manitoba**

**Legal Aid Manitoba** provides legal services to low-income Manitobans. To qualify for services from Legal Aid Manitoba:

- You must meet their [financial eligibility criteria](#); and
- Your case must have merit. To learn more about how Legal Aid Manitoba determines whether a case has merit, please refer to their [qualification criteria](#).

## **Public Interest Law Centre**

The **Public Interest Law Centre (PILC)** is an independent office of Legal Aid Manitoba. PILC represents clients at all levels of the court system; and, before boards, administrative tribunals and legislative committees.

PILC selects cases on the basis of social significance, legal merit and the availability of resources. Applications for public interest law cases will only be approved if:



- Funding is available to pursue the matter throughout the proceedings.
- There is a reasonable likelihood of success.
- The matter will impact a systemic issue in the law, or will impact a segment of the population of Manitoba.
- Clients meet Legal Aid Manitoba's financial eligibility criteria.

## **The University of Manitoba Community Law Centre**

The **University of Manitoba Community Law Centre** primarily handles [summary conviction criminal offences](#), but may also assist with Highway Traffic Act offences, small claims cases involving consumer problems, and Manitoba Public Insurance disputes.

## **Legal Help Centre**

The **Legal Help Centre (LHC)** provides legal information and assists self-represented litigants with certain non-urgent legal matters. LHC operates the following clinics:

- Drop-In Clinics
- Family Law Clinics
- Consumer Protection Clinics

To qualify:

- You must not be eligible for Legal Aid
- You must not already have a lawyer assisting you
- You must meet LHC's [financial eligibility guidelines](#)

## **Accessibility for Manitobans Act Website**

The **Accessibility for Manitobans Act website** offers a helpful overview of the Accessibility for Manitoba Act and Accessibility Standards.

## **Manitoba Courts**

The **Manitoba Courts** website provides general information about how Courts in Manitoba operate, and what to expect if you are attending Court. There is also a helpful resource on attending Court as a [self-represented person](#).

## **Manitoba Law Reform Commission**

The **Manitoba Law Reform Commission** is an independent law reform agency. Its role is to improve, modernize and reform the law and administration of justice in Manitoba.

Projects of law reform are initiated in response to the public, the legal profession, and Manitoba's Minister of Justice and Attorney General. The Commission carries out research and consultation and makes formal recommendations for law reform to the Minister of Justice and Attorney General.

[Publications](#) produced by the Commission, and Information about the [Commission's current projects](#), are available online.

## **Essential Non-Legal Resources**

### **Protection for Persons in Care Office**

The **Protection for Persons in Care Office** (“PPCO”) of Manitoba Health is created by the [Protection for Persons in Care Act](#). The Act requires the prompt reporting of abuse and neglect with respect to any adult being cared for by a hospital or Personal Care Home. Anyone who has a reasonable basis to believe abuse or neglect has occurred, or is likely to occur, must report these concerns as soon as possible.

The **PPCO** receives and investigates reports of suspected patient or resident abuse and neglect.

Facilities are required to report suspected abuse or neglect in writing to the PPCO. The public can report suspected abuse and neglect in any manner, including by calling the PPCO's confidential toll-free line at 1-866-440-6366 (outside Winnipeg) or 204-788-6366 in Winnipeg.

In you're not sure whether a situation needs to be reported, call the PPCO for assistance.

## The Manitoba Ombudsman

The **Manitoba Ombudsman** is an independent office of the Legislative Assembly of Manitoba. The Ombudsman conducts independent, impartial and non-partisan investigations of complaints regarding the following issues:

- access to information and privacy matters,
- the fairness of government actions or decisions, and
- serious “wrongdoings” by the government.

Complaints may be related to any act, decision, recommendation, or omission relating to a matter of administration by any department or agency of the provincial or a municipal government.

For information on filing a complaint with the Manitoba Ombudsman, please refer to the information and [guidelines outlined on the Ombudsman's website](#).

## Manitoba 211

Manitoba 211 is a free, confidential service that operates 24 hours a day, seven days a week. It exists to connect individuals to government, health and social services that are available across Manitoba. The service helps Manitobans who are looking to find the right community or social resource, but do not know where to start.

In addition to searching on the 211 Manitoba website, there are various ways for people to [contact](#) Manitoba 211, including calling 2-1-1 to talk with trained professionals to help identify the services that they need.

Services are grouped together into the following categories:

- [Emergency Resources](#)
- [Covid-19 Information](#)
- Food and Clothing
- Housing and Homelessness

- Health
- Mental Health
- Employment
- Newcomers
- Children and Parenting
- Youth

## **CNIB Programs**

We're here to help – contact CNIB for more programs, support, and resources. Some ways we can assist include:

- **CNIB Virtual Programs**
  - CNIB offers a range of free virtual programs for children, youth, adults and families.
  - You can access a list of CNIB's virtual program offerings on [CNIB's website](#).
  - You can access a list and schedule of CNIB Manitoba's program offerings on [CNIB – Manitoba's website](#).
- **Technology Training**
  - Join CNIB tech leads from across the country for programming that highlights the suite of programs, apps, products and services that will help empower you to achieve your personal and professional goals.
- **Virtual Vision Mate**
  - The Virtual Vision Mate program exists to address the feelings of isolation that many people with sight loss experience. Through the Virtual Vision Mate program, people who are blind or partially sighted are connected with sighted volunteers to engage in virtual, weekly conversation.
- **CNIB SmartLife**

- CNIB SmartLife is an interactive retail experience that gives people with disabilities hands-on access to the latest breakthroughs in assistive technologies, as well as tried-and-true favourites.
- SmartLife's goal is not necessarily to sell products but is to give customers the skills and confidence they need to make the most out of assistive tools that can help them lead better lives.
- **CNIB Advocacy Team**
  - The CNIB Advocacy Team can assist participants with advocating for themselves and understanding their rights. You can contact us at [advocacy@cnib.ca](mailto:advocacy@cnib.ca) if you have questions.
- **CNIB Guide Dogs**
  - CNIB Guide Dogs can assist guide dog handlers with advocating for themselves and understanding their rights. This program also provides public education to organizations about the rights of guide dog users.

## **Vision Loss Rehabilitation Canada**

**Vision Loss Rehabilitation Canada (“VLRC”)** is a not-for-profit national healthcare organization and the leading provider of rehabilitation therapy and healthcare services for individuals with sight loss. VLRC's services are tailored to the unique needs and goals of each person they assist. Specifically, VLRC certified specialists provide a range of services that help individuals with sight loss lead more independent, active lives.

Contact information for VLRC's Manitoba offices is available in the **“Locations” section of the VLRC website**.

## **Wayfinding**

Wayfinding refers to technological tools that assist people who are blind, partially sighted or Deafblind with navigation and orientation. Such tools include:

- [BlindSquare](#): a GPS-app developed for people with sight loss that describes the environment and announces points of interest and street intersections.
- [Key 2 Access](#): a pedestrian mobility app that allows users to wirelessly request crossing at intersections without having to locate the button on the pole. It also allows users to wirelessly open doors and obtain information about indoor spaces.
- [Access Now](#): a map application that shares accessibility information for locations based on users' feedback.
- [Be My Eyes](#): a volunteer-based app that connects people with sight loss to sighted volunteers, who can assist with tasks such as checking expiry dates, distinguishing colors, reading instructions or navigating new surroundings.
- The [American Foundation for the Blind](#) provides an overview of some of the apps that are available to assist consumers with reading items such as product labels and menus.

