



Warranty Provisions on Hearing Aids

California Song-Beverly Consumer Warranty Act
Civil Code Sections 1790 – 1793.2
Attorney General Opinion No. 97-1208

The California Song-Beverly Consumer Warranty Act provides a 30-day warranty on all new and used hearing aids sold in California. If the hearing aid is not specifically fit for the buyer's particular needs, the device may be returned to the hearing aid dispenser within 30 days of the date of actual receipt by the buyer or completion of fitting by the seller, whichever occurs later. If the buyer returns the device, the seller must either adjust or replace the device or promptly refund the total amount paid.

If the buyer returns the device within the 30-day period, the seller is required, without charge and within a reasonable time, to adjust, repair or replace the device. If, after the adjustment, repair or replacement, the device is still not specifically fit for the buyer's particular needs, the device may be returned for a refund of the total amount paid including all payments and any trade-in exchanged as part of the transaction. The Office of the Attorney General's legal opinion confirms that "the seller may NOT retain any portion of the total amount paid on the basis that such part payment was for fitting the device or other ancillary service or for one or more of the component parts that the seller refuses to take back." This means the hearing aid dispenser may not retain any fees or other charges in connection with the purchase, fitting, financing, or return of the device, and no fee should be listed as "non-refundable" on the purchase agreement. This includes any cancellation fees.

Application of the Law

The hearing aid may be returned at any time within 30 days of the date of the actual delivery or completion of the fitting, whichever occurs later. For example, if the device is ordered on July 1, and delivered on July 15, it may be returned for adjustment or replacement through August 13. If, however, the process of the fitting only begins on July 15 and the fitting is not completed until August 20, the buyer is entitled to return the device for adjustment or replacement through September 18.

The hearing aid dispenser has the right to attempt to achieve a proper fitting by adjusting, repairing or replacing the device. If, after the adjustment, the device is still not suited to the buyer's particular needs, then the device may be returned for a refund of the total amount paid. Note: The buyer is entitled to a full refund after only one adjustment, as long as that adjustment was made within 30 days of the date of actual receipt by the buyer.

Buyer's and Seller's Responsibilities

The hearing aid dispenser must act in good faith in honoring the buyer's rights, and the buyer too must act in good faith in enforcing such rights. Whether the device is or is not specifically fit for the buyer's particular needs will always be a question of fact. The fact that the buyer sincerely believes that the device is unfit is relevant, but will never be conclusive, just as the fact that the seller believes that the device is fit will never be conclusive. In a dispute, the opinion of an unrelated third person will be helpful -- but again, never conclusive. As usually is the case, the seller and buyer will have to work to resolve any differences to each other's satisfaction.

The buyer does not have an unqualified option to return the device for a refund and may return the hearing aid for a refund only if:

- (a) the device is not specifically fit for the particular needs of the buyer, and
- (b) the buyer has not abused the device, and
- (c) the buyer has returned the device to the seller for adjustment or replacement within the 30 days, and
- (d) the seller has failed to adjust the device or, if appropriate, replace it with a device that is specifically fit for the buyer's particular needs.

The hearing aid dispenser is not required by law to provide a refund if:

- (a) the device has been abused or damaged by the buyer;
- (b) the buyer keeps the device for more than 30 days from the date of delivery without seeking an adjustment;
- (c) the buyer does not allow the dispenser an opportunity to adjust, repair or replace the device;
- (d) the buyer feels he/she paid too much and returns the hearing aid; or
- (e) the hearing aid is returned after the death of the buyer.

It is important that both the buyer and the seller keep accurate written records of the dates of all adjustments. In a dispute, the records will be essential in making a determination of the issue.

The Purchase Agreement Written Warranty Requirement

The following warranty language must appear on the hearing aid purchase agreement/receipt delivered to the buyer:

This assistive device is warranted to be specifically fit for the particular needs of you, the buyer. If the device is not specifically fit for your particular needs, it may be returned to the seller within 30 days of the date of actual receipt by you or completion of fitting by the seller, whichever occurs later. If you return the device, the seller will either adjust or replace the device or promptly refund the total amount paid. This warranty does not affect the protections and remedies you have under other laws.

If the buyer returns the device within the period specified in the written warranty, the seller shall, without charge and within a reasonable time, adjust the device or, if appropriate, replace it with a device that is specifically fit for the particular needs of the buyer. If the seller does not adjust or replace the device so that it is specifically fit for the particular needs of the buyer, the seller shall promptly refund to the buyer the total amount paid, the transaction shall be deemed rescinded, and the seller shall promptly return to the buyer all payments and any assistive device or other consideration exchanged as part of the transaction and shall promptly cancel or cause to be cancelled all contracts, instruments, and security agreements executed by the buyer in connection with the sale. When a sale is rescinded under this section, no charge, penalty, or other fee may be imposed in connection with the purchase, fitting, financing, or return of the device.

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board exists to protect consumers through its licensing and enforcement functions. Consumers are encouraged to file a formal complaint if there is any question regarding care provided by a hearing aid dispenser.

If you have any questions regarding a hearing aid dispenser, the purchase or return of hearing aids, or if you wish to obtain a complaint form, please visit our website at www.speechandhearing.ca.gov. We are located at 2005 Evergreen Street, Ste. 2100, Sacramento, CA 95815, and our telephone number is 916-263-2666.