

NEW YORK

Overview

New York has two types of adult day services (ADS) programs: social adult day services (SADS), which is neither licensed nor certified, and adult day health care (ADHC), which must be approved by the New York State Department of Health (DOH) through New York's Certificate of Need Process. ADHC providers must comply with state rules and regulations governing this service.

Medicaid requires that providers meet applicable state requirements. SADS providers serving Medicaid waiver participants and Medicaid managed long-term care (MLTC) participants must meet New York State Office for the Aging requirements. Current regulations prohibit facilities from operating ADHC programs and SADS programs in the same physical space during the same time period.

Medicaid covers ADHC under the State Plan and SADS under the 1915(c) Long-Term Home Health Care Waiver program. Both types of ADS programs are covered under the state's Medicaid MLTC program. MLTC plans have a contract with the state, which outlines expectations for the managed care plan and the providers with whom the MLTC contracts. Per their contract, MLTC plans are expected to credential the providers they use to furnish covered services.

Most social models operate with multiple diverse funding sources, including: (1) funds from the New York State Office for the Aging and local Area Agencies on Aging (AAAs); (2) contracts with agencies such as the Department of Veterans Affairs and the New York State Office of Mental Health; (3) private pay fees; and (4) grants. Depending on the demographics of a particular geographic area, some programs serve predominantly private pay participants and others primarily Medicaid participants enrolled in Medicaid MLTC programs.

SADS may be provided as a standalone service or in an adult care facility. When provided in the latter, they are called day programs. The term adult care facility includes adult homes, residences for adults, and enriched housing programs. Day programs provided in an adult care facility can only serve individuals who do not reside in the facility.

All ADHC programs are operated by nursing homes under their operating certificate, although they are not necessarily located at the nursing home.¹ For a nursing home to operate an ADHC program, approval must be obtained through the Certificate of Need process, which includes an analysis of the entity's financial viability,

¹ New York regulations refer to nursing homes as residential health care facilities. To avoid confusion, this profile uses the term nursing home(s).

adherence to strict environmental standards, and a character and competence review. DOH regulates and oversees ADHC programs, and requires all adult day health providers to adhere to the same standards for all the individuals they serve irrespective of funding sources.

New York's ADHC model is highly regulated and has high operational expenses because of state requirements for professional staff and the need to comply with health care facility environmental standards. The state imposed a moratorium on ADHC expansion for more than a dozen years beginning in 1998. Currently, the need for ADHC has been met in many of New York's 62 counties. If a provider wishes to open an ADHC program, it would only be allowed in a county with unmet need, and the provider would be required by DOH to demonstrate the need for their services in the community.

Definitions

Social adult day service programs provide services to groups of functionally impaired individuals in a protective congregate setting during any part of the day, but for less than a 24-hour period. Functional limitations may be caused by either physical or cognitive impairments. The four core services are: socialization/therapeutic recreation, supervision and monitoring, personal care/assistance with activities of daily living (ADLs), and nutrition. Additional services may include, but are not limited to, maintenance and enhancement of daily living skills, transportation, caregiver assistance, and case coordination and assistance. Services are provided in accordance with an individualized care plan.

Adult day health care is a community-based long-term care program that provides comprehensive health care services in a congregate day setting. Programs provide medically supervised services, as well as personal care and socialization to individuals with physical and mental impairments or chronic illnesses. All individuals must be functionally impaired and referred by a physician. Participants' needs are assessed and met through an individualized care plan that is developed and implemented by an interdisciplinary team of medical professionals, including the participant's personal community physician.

Day programs provided in adult homes, residences for adults, and enriched housing programs--for non-residents of these facilities--are structured programs that furnish personal care, supervision, and such other services that the operator is authorized to provide to residents of such facilities, but which are provided for less than 24 hours during any period of the day or night.

Parameters for Who Can Be Served

Social adult day services programs can only serve functionally impaired individuals whose needs can be met and managed by the program and who can benefit from the program. Participants who cannot be safely or adequately served must be discharged.

Adult Day Health Care. A participant in this setting is defined as a person: (1) who is not a resident of a nursing home; is functionally impaired and not homebound; and requires supervision, monitoring, preventive, diagnostic, therapeutic, rehabilitative or palliative care or services, but does not require continuous 24-hour-a-day inpatient care and services; (2) whose assessed social and health care needs can be met satisfactorily in whole or in part by the delivery of appropriate services in the community setting; and (3) who has been admitted to an ADHC program based on an authorized practitioner's order and the ADHC program's interdisciplinary comprehensive assessment.

ADHC operators may admit and retain only those persons for whom adequate care and needed services can be provided and who, according to their interdisciplinary needs assessments, can benefit from the services and require a minimum of at least one visit per week to the program. No individual suffering from a communicable disease that constitutes a danger to other participants or staff may be admitted or retained.

Day programs can serve non-residents with social, physical, and/or mental dependencies to enable them remain in the community. Operators are required to give admission priority to persons who: (1) require supervision in order to live in the community; (2) need assistance with ADLs to remain in the community; (3) are socially isolated or disoriented and need opportunities for social interaction to prevent deterioration that would lead to placement in congregate facilities; (4) are in transition from a higher level of care; (5) are in danger of being neglected or abused by a caregiver or have needs that the caregiver is unable to meet; or (6) are receiving services as part of a protective services for adults program.

The operator of an adult home, residence for adults, or enriched housing program may not serve anyone in a day program if that person would be inappropriate for admission to the facility (e.g., individuals who have a serious physical or mental dysfunction that constitutes an immediate and present danger to themselves or others).

Inspection and Monitoring

Social Adult Day Services. The New York State Office for the Aging and the local AAAs are responsible for the oversight of SADS programs that they fund, and they monitor them on a regular basis. If funded under a managed care contract, the managed care entity monitors providers to ensure that they are in compliance with state requirements.

Adult day health care programs are surveyed by the staff of DOH. This may or may not happen at the same time that the sponsoring nursing home is surveyed.

Day Program. To ensure compliance with department regulations and the maintenance of standards to ensure that appropriate care is provided to participants, DOH administers a system of supervision, inspection, and enforcement.

Required and Optional Services

All SADS and ADHC programs furnish socialization, social activities, nutrition services, and supervision to ensure safety. They also monitor participants' health and functioning at a basic level to determine if the program can continue to meet participants' health and functional needs. The table below lists additional required and optional services.

To provide specialized ADHC services for individuals with AIDS/HIV, a nursing home must be approved to do so by DOH. ADHC programs may offer the following additional services for persons with AIDS: (1) substance abuse services, if appropriate; (2) mental health services; (3) HIV prevention and counseling services; (4) pastoral counseling; (5) tuberculosis screening and ongoing follow-up; and (6) specialized medical services including gynecology, as needed. ADHC services are provided under the Medicaid State Plan.

The only mandatory service for day programs is ADL assistance; transportation and medication assistance are optional services.

Required and Optional Services	Social Adult Day Services ¹		Adult Day Health Care	
	Required	Optional	Required ²	Optional
ADL Assistance	X		X	
Health Education and Counseling		X	X	
Health Monitoring/Health-Related Services			X	
Medication Administration			X	
Nursing Services			X	
Physical Therapy, Occupational Therapy, or Speech Therapy			X	
Skilled Nursing Services			X	
Social Services			X	
Transportation		X	X	
1. Caregiver support services are optional.				
2. Case management is also a required service in all ADHC programs.				

Medication Provisions

Social Adult Day Services. SADS providers do not administer medications. Programs must have policies and procedures for assisting participants with self-administration, which includes prompting the participant with regard to time, identifying

the medication, bringing the medication and any necessary supplies or equipment to the participant, opening the container, and disposing of used supplies and materials.

Adult Day Health Care. The operator must develop and implement written policies and procedures governing medications brought to the program site by participants. All medications administered to participants must be ordered in writing by a legally authorized practitioner unless unusual circumstances justify a verbal order, in which case the verbal order shall be given to a licensed nurse or to a licensed pharmacist, immediately recorded in writing, authenticated by the nurse or registered pharmacist, and countersigned by the prescriber within 48 hours.

In the event a verbal order is not signed by the prescriber or a legally designated alternate practitioner within 48 hours, the order must be terminated and the facility must ensure that the participant's medication needs are promptly evaluated by the medical director or another legally authorized prescribing practitioner. Each participant's drug regimen must be reviewed by a licensed pharmacist every 6 months. Any potential negative drug interactions/issues must be reported to the program director and community physician.

Day Program. Participants must be permitted to retain and self-administer their own medications provided their physicians have certified, in writing, that they are capable of doing so. For participants who require, by order of their physicians, assistance with self-administration of medication, the operator may: (1) remind the participant when it is time to take the medication; (2) read the label to the participant; (3) help the participant to open the container; and (4) observe the participant to see that the correct dosage is being taken according to the prescription. If participants are assisted in self-administration, the operator must keep a record of the assistance provided. Neither the operator nor staff of a non-resident services program can administer medication to a program participant.

Every 6 months, beginning on the date of admission to the program, participants must obtain and provide to the operator a written, dated, and signed statement from their physician indicating whether there are changes in their needs for assistance with self-administration of medication.

Staffing Requirements

Social Adult Day Services

Type of Staff. Each program must have a paid qualified *director* with appropriate educational qualifications and work experience to ensure that activities and services are provided appropriately and in accordance with participants' needs.

Staffing Ratios. During hours of operation when participants are present, the program must have at least two staff on site, one of whom must be a paid staff person

and the other can be a volunteer. No staffing ratio is specified but programs are required to have an adequate number of qualified staff, which may include volunteers, to perform all of the required functions and to ensure participants' health, safety, and welfare.

Adult Day Health Care

Type of Staff. The operator must designate a *director* responsible for day-to-day management and administration of the ADHC program, including, but not limited to, assigning adequate and appropriately licensed personnel to be on duty at all times when the program is in operation to ensure safe care of the participants. Each program must have a full-time *registered nurse (RN)*, a *social worker*, a *certified nursing assistant (CNA)*, a *physical therapist*, an *occupational therapist*, a *dietitian*, a *pharmacist consultant*, and a *medical director*. The ADHC program is also required to employ or contract with *speech therapists*.

Nursing services are provided to participants under the direction of an RN who is on site in the ADHC program during all hours of program operation. Based on the participants' care needs, for a program located at the sponsoring nursing home, a *licensed practical nurse* may provide the on-site services when an RN is available in the nursing home or on the campus to provide immediate direction or consultation.

The ADHC program must employ a full-time or part-time qualified social worker to ensure that psychosocial needs are assessed, evaluated, and recorded, and that services are provided to meet the identified needs as part of the coordinated care plan.

Additional staffing requirements for services provided to participants with AIDS include: (1) specialty oversight of the AIDS program by a practitioner who has experience in the care and clinical management of persons with AIDS; and (2) nursing services for the AIDS program under the supervision of an RN with experience in the care and management of persons with AIDS.

Staffing Ratios. No mandatory staffing ratios are specified. A program's approved Certificate of Need establishes how many of each type of staff will be needed based on each program's DOH-approved capacity.

Day Program

Type of Staff. The operator must designate a *program director* who will coordinate the services provided to both day program recipients and residents of the adult care facility. If fewer than 15 daily participants are enrolled in a day program, the following facility staff, approved by the department, may act as program director: the facility administrator, the case manager, or the activities director.

Staffing Ratios. The operator must ensure that adequate personnel are on duty at all times when the non-resident day program is in operation to ensure care of the

program's participants. Adequate is defined as a ratio of one staff member in addition to those required for residents of the home to each seven full-time participants receiving day and evening care, and one additional staff member for each 15 daily participants receiving night care. This ratio may include the program director, if the program director is not serving in any other capacity on the adult home staff, or if the individual's time as director is in addition to the hours required for adult home or residence duties.

Each operator must designate sufficient staff to provide supervision during all hours of operation. Staff must be immediately accessible at all times while on duty, and provision must be made for backup staff. At least one individual currently qualified by a recognized organization to administer basic first-aid must be on duty and on site at all times.

Training Requirements

Social Adult Day Services

All staff--including volunteers--must receive: (1) an orientation to the program provider, the community, and the program itself; (2) training on working with the elderly, participants' rights, safety, and accident prevention; (3) at least 6 hours of in-service training annually to develop, review, or expand skills or knowledge; and (4) training at least annually in the use of fire extinguishers, written procedures concerning evacuation and emergency situations, and emergency telephone numbers.

Prior to delivering any social adult day care (ADC) services, all service staff, including volunteer service staff, must complete basic training in--or have equivalent knowledge and skills related to--personal care skills, body mechanics, and behavior management. Within 3 months of being assigned to provide social ADC services, all service staff, including volunteer service staff, must complete 20 additional hours of training in--or have equivalent knowledge and skills related to--socialization skills and activities; supervision and monitoring; personal care skills, taught by an RN; family and family relationships; mental illness and mental health; and cardiovascular pulmonary resuscitation.

The program must also provide all service staff with periodic on-the-job training, as considered necessary by the program director or an individual who supervises service staff according to criteria for evaluating job performance and the ability to function competently and safely.

Adult Day Health Care

The operator must designate a person responsible for arranging in-service orientation, training, and staff development. Staff in ADHC programs must meet licensing and educational requirements established by the New York State Department of Education. ADHC programs must also follow staff development standards

established for nursing homes in New York State. The standards include requirements for recertifying CNAs, whose initial training requirements are the same as for CNAs in nursing homes: 100 hours in long-term care skills.

Day Program

The operator must conduct an initial program of orientation and in-service training for employees and volunteers, which includes: (1) orientation to the characteristics and needs of the population; (2) discussion of the participants' rights and the facility's rules and regulations for residents; (3) discussion of all staff members' duties and responsibilities; (4) discussion of the general duties and responsibilities of the individual(s) being trained; (5) discussion relative to the specific duties and tasks to be performed; and (6) training in emergency procedures.

The operator must conduct ongoing in-service training and must provide opportunities for employees and volunteers to participate in work-related training provided by the operator or others.

Location of Licensing, Certification, or Other Requirements

Official Compilation of Codes, Rules, and Regulations of the State of New York, Title 10, Part 425: Adult Day Health Care. [March 17, 2004]

<http://w3.health.state.ny.us/dbspace/NYCRR10.nsf/56cf2e25d626f9f785256538006c3ed7/d5974737f3482af8852568c500605c7f?OpenDocument>

Official Compilation of Codes, Rules, and Regulations of the State of New York, Title 9, Part 6654.20: Social Adult Day Care Programs. [January 31, 2013]

http://www.nysadulday.com/uploads/2/7/3/1/2731986/title_9_part_6654_20.pdf

Official Compilation of Codes, Rules, and Regulations of the State of New York, Title 18, Part 492: Adult Care Facilities, Standards for Day Programs for Non-Residents.

<http://w3.health.state.ny.us/dbspace/NYCRR18.nsf/56cf2e25d626f9f785256538006c3ed7/06be90fb78d322fe8525672200769087?OpenDocument&Highlight=0,Adult,Day,Programs>

Standards for Adult Homes. New York State Department of Health.

<http://www.ny-assisted-living.org/nysdoh/pdf/DOHPart487.pdf>

Long Term Home Health Care Program Medicaid Waiver Program Manual. New York State Department of Health, Office of Health Insurance Programs, Division of Long Term Care. [May 18, 2012]

http://www.health.ny.gov/health_care/medicaid/reference/lthhcp/lthhcpmanual.pdf

Information Sources

Elizabeth Geary, MEd, LMSW
President
New York State Adult Day Services Association

Christine M. Fitzpatrick
Executive Director
Adult Day Health Care Council

REGULATORY REVIEW OF ADULT DAY SERVICES: FINAL REPORT, 2014 EDITION

Files Available for This Report

FULL REPORT

Executive Summary <http://aspe.hhs.gov/daltcp/reports/2014/adultday14es.cfm>
HTML <http://aspe.hhs.gov/daltcp/reports/2014/adultday14.cfm>
PDF <http://aspe.hhs.gov/daltcp/reports/2014/adultday14.pdf>

SEPARATE STATE PROFILES

[**NOTE:** These profiles are available in the full HTML and PDF versions, as well as each state available as a separate PDF listed below.]

Alabama	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-AL.pdf
Alaska	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-AK.pdf
Arizona	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-AZ.pdf
Arkansas	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-AR.pdf
California	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-CA.pdf
Colorado	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-CO.pdf
Connecticut	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-CT.pdf
Delaware	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-DE.pdf
District of Columbia	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-DC.pdf
Florida	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-FL.pdf
Georgia	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-GA.pdf
Hawaii	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-HI.pdf
Idaho	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-ID.pdf
Illinois	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-IL.pdf
Indiana	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-IN.pdf
Iowa	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-IA.pdf
Kansas	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-KS.pdf
Kentucky	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-KY.pdf
Louisiana	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-LA.pdf

Maine	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-ME.pdf
Maryland	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MD.pdf
Massachusetts	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MA.pdf
Michigan	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MI.pdf
Minnesota	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MN.pdf
Mississippi	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MS.pdf
Missouri	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MO.pdf
Montana	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-MT.pdf
Nebraska	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NE.pdf
Nevada	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NV.pdf
New Hampshire	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NH.pdf
New Jersey	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NJ.pdf
New Mexico	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NM.pdf
New York	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NY.pdf
North Carolina	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-NC.pdf
North Dakota	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-ND.pdf
Ohio	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-OH.pdf
Oklahoma	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-OK.pdf
Oregon	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-OR.pdf
Pennsylvania	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-PA.pdf
Rhode Island	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-RI.pdf
South Carolina	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-SC.pdf
South Dakota	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-SD.pdf
Tennessee	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-TN.pdf
Texas	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-TX.pdf
Utah	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-UT.pdf
Vermont	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-VT.pdf
Virginia	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-VA.pdf
Washington	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-WA.pdf
West Virginia	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-WV.pdf
Wisconsin	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-WI.pdf
Wyoming	http://aspe.hhs.gov/daltcp/reports/2014/adultday14-WY.pdf