

## TEXAS

### Overview

The Texas Department of Aging and Disability Services (DADS) licenses adult day care (ADC) facilities. When covered by Medicaid, ADC is called day activities and health services (DAHS). ADC providers can serve private pay participants and they can also enter into a contract with DADS to furnish DAHS to Medicaid-eligible individuals.

Medicaid covers DAHS under Star+Plus--an 1115 managed care waiver program--and under a 1915(c) waiver program.<sup>1</sup> Medicaid providers must be licensed.

### Definitions

An **adult day care program** is a structured, comprehensive program designed to meet the needs of adults with functional impairments through an individual care plan by providing health, social, and related support services in a protective setting.

An **adult day care facility** provides services through an ADC program on a daily or regular basis, but not overnight, to four or more elderly persons or persons with disabilities who are not related by blood, marriage, or adoption to the owner of the facility.

**Day activity and health services** are provided under a contract with DADS to participants residing in the community as an alternative to living in a nursing facility or other institution. Services address physical, mental, medical, and social needs. ADC facilities must: (1) provide services at least 10 continuous hours each day, Monday through Friday, except for published holidays; (2) serve eligible participants, unless an ADC facility is at licensed capacity; and (3) participate in the Child and Adult Care Food Program.

### Parameters for Who Can Be Served

Facilities may not admit or retain individuals whose needs it cannot meet.

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<sup>1</sup> DADS provides DAHS as a Medicaid State Plan service. On September 1, 2014, most of the individuals receiving Medicaid-funded DAHS from DADS began receiving this service from the Health and Human Service Commission's 1115 managed care waiver program--Star+Plus. DADS continues serve some Medicaid recipients under the State Plan who are not mandatory enrollees in managed care, such as persons with intellectual and other development disabilities, and individuals who for various reasons do not consistently remain eligible for Medicaid.

To receive DAHS, individuals must be Medicaid-eligible, age 18 years or older, have a medical diagnosis and physician’s order that care or supervision by a licensed nurse is required, have a functional disability related to a medical diagnosis, and need assistance with one or more personal care tasks.

## Inspection and Monitoring

DADS determines if a facility meets the licensing rules, including both physical plant and facility operation requirements. Department inspection and survey personnel may enter the premises of a facility at reasonable times and make an inspection necessary to issue a license or renew a license. They perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, and other contact visits as required for carrying out licensing responsibilities.

Generally, all inspections, surveys, complaint investigations, and other visits, whether routine or non-routine, made for the purpose of determining the appropriateness of participant care and day-to-day operations of a facility will be unannounced. Any exceptions must be justified.

The DAHS program may monitor providers to ensure that contract requirements are being met. The Health and Human Service Commission does not have specific inspection and monitoring requirements for DAHS provided under the Star+Plus program. However, the managed care organizations (MCOs) may have their own inspection and monitoring requirements, which can vary among MCOs.

## Required and Optional Services

All ADC 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.

Required and Optional Services	Adult Day Care	
	Required <sup>1</sup>	Optional
ADL Assistance	X	
Health Education and Counseling	X	
Health Monitoring/Health-Related Services	X	
Medication Administration	X	
Nursing Services	X	
Physical Therapy, Occupational Therapy, or Speech Therapy		
Skilled Nursing Services		
Social Services	X	
Transportation		X <sup>2</sup>
1. ADC providers with DADS contracts who furnish DAHS through Medicaid programs are required to provide physical rehabilitative services, which include restorative nursing and group and individual exercises, including range of motion exercises. 2. Transportation is a required service for DAHS providers.		

## Medication Provisions

**Self-Administration.** Participants who self-administer their own medications must be counseled at least once a month by licensed nursing staff to ascertain if they continue to be capable of self-administering their medications.

**Assistance with Self-Administration.** Assistance with self-administration of participants' medication regimen by licensed nursing staff may be provided to participants who are incapable of self-administering without assistance. Assistance with self-medication includes and is limited to: (1) reminders to take their medications at the prescribed time; (2) opening containers or packages and replacing lids; (3) pouring prescribed dosage according to medication profile record; (4) returning medications to the proper locked areas; (5) obtaining medications from a pharmacy; and (6) listing on an individual participant's medication profile record the medication name, strength, dosage, amount received, directions for use, route of administration, prescription number, pharmacy name, and the date each medication was issued by the pharmacy.

**Administration.** Participants who choose not to or cannot self-administer their medications must have their medications administered by a person who holds a current license under state law that authorizes the licensee to administer medications.

## Staffing Requirements

**Type of Staff.** The *director* is responsible for the overall operation of the facility, including managing the ADC program and the facility and training and supervising facility staff. The *activities director* is responsible for planning and directing the daily program of activities, including physical fitness exercises or other recreational activities, and may fulfill the function of facility director if he/she meets the qualifications for this position.

The *facility nurse* must be a registered nurse (RN) or a licensed vocational nurse (LVN), with a current Texas license. If a nurse serving as director leaves the facility to perform other duties related to the provisions of the ADC program, an LVN or another RN must fulfill the duties of the facility nurse. One person may not serve as facility nurse, activities director, and facility director, regardless of qualifications. A professional staff person must be at the facility when participants are present.

In facilities where the nurse employed is a LVN, a *registered nurse consultant* must provide on-site consultation 4 hours per week. The RN consultant must provide the consultation during the time when participants are present in the facility and document the consultation provided. The RN consultant may provide the following types of assistance: (1) reviewing care plans and suggesting changes, if appropriate; (2) assessing participants' health conditions; (3) consulting with the LVN in solving

problems involving participant care and service planning; (4) counseling participants on their health needs; (5) training, consulting, and assisting the LVN in maintaining proper medical records; and (6) providing in-service training for direct services staff.

*Attendants* provide personal care services (assistance with activities of daily living) and protective supervision (observation and monitoring), as well as assisting the activities director with recreational activities.

The facility must receive consultation at least 4 hours each month from a *dietitian consultant*, whether or not the facility has meals delivered from another facility with its own dietitian consultant. A consultant may provide consultation to several facilities as long as each facility receives at least 4 hours a month. The 4 hours cannot be “shared” by several facilities.

**Staffing Ratios.** Sufficient staff must be on duty at all times to meet participants’ needs. The facility must ensure that the ratio of direct services staff to participants is at least 1:8 during the provision of all covered services except during facility-provided transportation.

At a minimum, one RN or LVN must be working on-site, 8 hours per day. The facility may schedule nursing hours according to participant needs. Sufficient licensed nursing staff must be on site to meet participants’ nursing needs.

The facility director works a minimum of 40 hours per week performing duties relating to ADC services provision, and the activities director works 40 hours a week.

## Training Requirements

The director must show evidence of 12 contact hours of annual continuing education in at least two of the following areas: (1) individual and provider rights and responsibilities; abuse, neglect, and confidentiality; (2) basic principles of supervision; (3) skills for working with individuals, families, and other professional service providers; (4) individual characteristics and needs; (5) community resources; (6) basic emergency first-aid, such as cardiovascular pulmonary resuscitation (CPR) or choking; or (7) federal laws, such as Americans with Disabilities Act, Civil Rights Act of 1991, the Rehabilitation Act of 1993, and the Family and Medical Leave Act of 1993.

**Initial Training.** The facility must provide all staff with training in fire, disaster, and evacuation procedures within 3 work days of employment. The facility must also provide direct services staff a minimum of 18 hours of training during the first 3 months of employment. Training must include: (1) any nationally or locally recognized adult CPR course/certification; (2) first-aid; and (3) orientation to health care delivery, including the following components:

- Safe body function and mechanics;

- Personal care techniques and procedures;
- Overview of the population served at the facility; and
- Identification and reporting of abuse, neglect, or exploitation.

Staff employed as substitutes on an infrequent and irregular basis are not required to have 18 hours of initial training. Substitute and consultant staff must receive a minimum of 3 hours of orientation. Substitutes for direct services staff used by a facility on a regular basis must meet all training requirements as specified above.

**Ongoing Training.** The facility must provide a minimum of 3 hours of ongoing training to direct services staff quarterly and must ensure that they maintain current certification in CPR.

## Location of Licensing, Certification, or Other Requirements

*Texas Administrative Code*, Title 40, Chapter 98: Adult Day Care and Day Activity and Health Services Requirements. Department of Aging and Disability Services. [Various dates, the latest being May 1, 2013]

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=4&ti=40&pt=1&ch=98](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=98)

*STAR+PLUS Handbook*. Texas Health and Human Services Commission. [March 4, 2014]

<http://www.dads.state.tx.us/handbooks/sph/index.htm>

*Day Activity and Health Services Provider Manual*. Department of Aging and Disability Services. [February 28, 2005]

<http://www.dads.state.tx.us/handbooks/dahs/>

## Information Sources

Lorraine Brady  
 Program Specialist  
 Assisted Living Facilities, Adult Day Care  
 Texas Department on Aging and Disability Services  
 Regulatory Services

Armando Delgado  
 Program Specialist  
 Long-Term Services and Supports  
 Center for Policy and Innovation  
 Texas Department on Aging and Disability Services

Troy Carter  
 President  
 Adult Day Care Association of Texas

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

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