

NEW YORK

Overview			
<p>New York State (NYS) law provides general standards under which some adult day programs operate, and the NYS Department of Health (DOH) is responsible for quality assurance of adult day programs. The standards to which the services must adhere relate to admission, assessment, staffing qualifications, and patients rights. There are three types of adult day care programs:</p>			
<p>Adult day health care (ADHC) provides medically supervised services for individuals with physical and mental impairments. The program is available through the Medicaid state plan and also serves private pay participants. All ADHC programs are operated by nursing homes, otherwise known as residential care facilities (RCFs), although they are not necessarily located at the nursing home. ADHC program operators must submit a certificate of need (CON) application and obtain written approval from the Department, and must comply with the pertinent provisions in Title 10, <i>NYS Health Rules and Regulations</i>. An RCF must be approved as a provider of specialized services by the Department to provide ADHC services for acquired immune deficiency syndrome (AIDS)/human immunodeficiency virus (HIV) registrants.</p>			
<p>Day programs, which provide personal care, supervision, and other services, serve nonresidents in certified adult care facilities (adult homes, residences for adults, or enriched housing programs) and must comply with the pertinent provisions in Title 18, <i>NYS Health Rules and Regulations</i>. The operator of an adult care facility must obtain written approval from the Department to provide services to nonresidents, which is granted only when the Department finds that a consistently high level of care is being provided to residents of the facility.</p>			
<p>Social adult day services (SADS) programs provide a variety of long-term care services to a group of individuals with functional limitations--due to either physical or cognitive impairments--in a congregate setting in accordance with an individualized plan of care. Social adult day services are not regulated unless the program is located in a certified adult care facility, where it will be subject to the facility's relevant requirements. Currently, there are over 200 social adult day programs in NYS supported by a wide array of sources with no dedicated funding stream. In 2004, the New York Legislature created an elder law for New York, which included provisions for the promulgation of rules and regulations to establish standards and requirements with regard to the operation of all social adult day care programs receiving funding from the State Office for the Aging. An analysis is underway regarding the projected costs and benefits of establishing uniform standards and requirements for SADS.</p>			
Licensure and Certification Requirements			
Licensure Only <input type="checkbox"/>	Certification Only <input type="checkbox"/>	Both Required <input type="checkbox"/>	Other <input checked="" type="checkbox"/> adult day health care--RCFs are required to submit a CON application and obtain approval from the NYS DOH day programs--operators must receive a letter of authorization from the NYS DOH SADS--some requirements if located in a certified adult care facility

Definitions

Adult Day Health Care

Adult day health care is defined as health care services and activities provided to a group of registrants with functional impairments to maintain their health status and enable them to remain in the community.

Operator of an adult day health care program is defined as the operator of a residential health care facility that is approved by the Department to be responsible for all aspects of the adult day health care program.

Registrant is defined as a person: (1) who is not a resident of a residential health care facility; 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 satisfactorily be met in whole or in part by the delivery of appropriate services in the community setting; and (3) who has been admitted to an adult day health care program based on an authorized practitioner's order and the adult day health care program's interdisciplinary comprehensive assessment.

Day Program

Day program means an organized program for nonresidents of adult homes, residences for adults, or enriched housing programs, which includes 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. Services are provided to nonresidents who are aged or disabled for the purpose of enabling such persons to remain in or return to the community.

Operator means any natural person or entity that provides or purports to provide residential care and services in an adult care facility and is responsible for the overall operation of the day program.

Parameters for Who Can Be Served

Adult day health care. The definition of "registrant" (above) specifies the parameters for who can be served. Additionally, 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 registrants or staff may be registered or retained for services on the premises of the program.

Day program. Persons over 18 years of age with social, physical, and/or mental dependencies and who require the program's services to remain in or return to the community may be served. Operators are required to give admission priority to persons who: (1) require supervision in order to live in the community, (2) need assistance with activities of daily living (ADL) in order 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 admit or retain any person who 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

Yes

No

Adult day health care. The program is surveyed when the RCF is being surveyed by the staff of the NYS DOH.

Day program. The commissioner of the NYS DOH administers a system of supervision, inspection, and enforcement for approved services for nonresidents in certified adult care facilities, to ensure compliance with department regulations and the maintenance of standards to ensure that appropriate care is provided to participants.

Required and Optional Services

	Adult Day Health Care		Day Program	
	Required	Optional	Required	Optional
ADL Assistance	X		X	
Health Education and Counseling	X			
Health Monitoring/Health-Related Services	X			
Medication Administration	X			Medication assistance
Nursing Services	X			
Physical Therapy, Occupational Therapy, or Speech Therapy	X			
Skilled Nursing Services				
Social Services	X			
Transportation				X

Adult day health care. Services may be provided for registrants with AIDS that include all of the required services and the following additional services: (1) case management services; (2) substance abuse services, if appropriate; (3) mental health services; (4) HIV prevention and counseling services; (5) pastoral counseling; (6) tuberculosis (TB) screening and ongoing follow up; and (7) specialized medical services including gynecology, as needed.

Provisions Regarding Medications

Adult day health care. The operator must develop and implement written policies and procedures governing medications brought to the program site by registrants. All medications administered to residents shall 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 shall be terminated and the facility shall ensure that the resident's medication needs are promptly evaluated by the medical director or another legally authorized prescribing practitioner.

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. Neither the operator nor staff of a nonresident services program can administer medication to a participant in the program.

Provisions for Groups with Special Needs

Dementia <input checked="" type="checkbox"/>	Mental Retardation/ Developmental Disabilities <input type="checkbox"/>	Other <input checked="" type="checkbox"/> persons with AIDS (ADHC)
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Staffing Requirements

Adult Day Health Care

Type of staff. Operators of ADHC programs in licensed residential care facilities must, without limiting its responsibility for the operation and management of the program: (1) assign the operator's residential health care facility's medical board, medical advisory committee, medical director, or consulting practitioner responsibility for: (a) developing and amending clinical policies; (b) supervising medical services; (c) advising the operator regarding medical and medically related problems; and (d) establishing procedures for emergency practitioner coverage, records, and consultants; and (2) ensure that medical services, including arranging for necessary consultation services, are provided to registrants of the program.

The operator must designate a person responsible for day-to-day direction, management, and administration of the ADHC services, 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 registrants.

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

The ADHC program shall employ a full 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 registrants 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 a registered professional nurse with experience in the care and management of persons with AIDS.

Staffing Ratios. None specified.

Day Program

Type of staff. The operator shall provide staff sufficient in number and qualified by training and experience to render, at a minimum, those services mandated by statute or regulation. In a facility with a resident census in excess of 200 persons, a significant number of mentally disabled persons, or a population with special needs, the department may require additional staff or specially qualified staff. Such requirements shall be based upon the number of residents, resident needs, physical layout, and location of the facility.

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*.

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

Staffing ratios. The operator must ensure that adequate personnel are on duty at all times when the nonresident services program is in operation to assure safe 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.

Training Requirements

Adult day health care. The operator must designate a person responsible for arranging in-service orientation, training, and staff development.

Day program. The operator shall 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 residents' rights and the facility's rules and regulations for residents, (3) discussion of the duties and responsibilities of all staff, (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 shall conduct ongoing in-service training and shall provide opportunities for employees and volunteers to participate in work-related training provided by the operator or others.

Relevant Medicaid Contracting Requirements for Adult Day Services Providers

ADHC services are provided under the Medicaid State plan. There are no additional requirements for ADHC services providers. The Department requires all providers to adhere to the same standards irrespective of funding sources.

Location of Licensing, Certification, or Other Requirements

1. <http://public.leginfo.state.ny.us/menugetf.cgi>
2. <http://www.health.state.ny.us/nysdoh/phforum/nycrr10.htm>
3. <http://www.health.state.ny.us/nysdoh/phforum/nycrr18.htm>
4. http://www.health.state.ny.us/nysdoh/cons/cons_application/data_ready_con/sch_19.doc

Citations

1. *Social Model Adult Day Services Programs*, Elder Law 215, Laws of New York.
2. *Adult Day Health Care*, (Title 10, Part 425). NYS Health Rules and Regulations. [Effective 3/17/2004]
3. *Services For Nonresidents of Adult Care Facilities*, (Title 18, Section 485). NYS Health Rules and Regulations. Law upon which Title 18 was authorized was first passed in 1986 (Chapter 779), as Section 461-k of the Social Services Law. [Extended every 3 years, most recently 2005]
4. *Schedule 19--Certificate of Need (CON) Forms Specific to Adult Day Health Care Programs*. Department of Health. [Effective 09/09/2004].

REGULATORY REVIEW OF ADULT DAY SERVICES: Final Report

PDF Files Available for This Report

Cover, Table of Contents, Acknowledgments and Introduction

<http://aspe.hhs.gov/daltcp/reports/adultday.pdf>

SECTION 1. Overview of Adult Day Services Regulations

<http://aspe.hhs.gov/daltcp/reports/adultday1.pdf>

SECTION 2. State Regulatory Profiles

<http://aspe.hhs.gov/daltcp/reports/adultday2.pdf>

Each state can also be viewed separately at:

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