

# VIRGINIA

<b>Overview</b>			
<p>The State Board of Social Services is required by state law to prescribe standards for certain activities, services and facilities for adult day care centers to protect aged, infirm, or disabled adults who are away from their homes during a part of the day by: (1) ensuring that the activities, services, and facilities of adult day care centers are conducive to the well-being of the participants and (2) reducing risks in the caregiving environment. Medicaid providers of adult day health care (ADHC) under the Home and Community-Based Elderly or Disabled Consumer-Direction (EDCD) Waiver must also be licensed by the Department of Social Services (DSS) and adhere to the DSS adult day care center standards summarized in this profile and shall comply with additional requirements in the provider manual developed by the Department of Medical Assistance Services (DMAS).</p>			
<b>Licensure and Certification Requirements</b>			
<b>Licensure Only</b> <input checked="" type="checkbox"/>	<b>Certification Only</b> <input type="checkbox"/>	<b>Both Required</b> <input type="checkbox"/>	<b>Other</b> <input type="checkbox"/>
<b>Definitions</b>			
<p><b>Adult day care center</b> means “a facility that is either operated for profit or that desires licensure and provides supplementary care and protection only during a part of the day to four or more aged, infirm or disabled adults who reside elsewhere except: (1) a facility or portion of a facility licensed by the State Board of Health or the State Board of Mental Health, Mental Retardation and Substance Abuse Services; and (2) the home or residence of an individual who cares for only persons related to him by blood or marriage.”</p>			
<b>Parameters for Who Can Be Served</b>			
<p>All participants shall be 18 years of age or older. The adult day care center shall have written admission policies consistent with the required program statement. Only persons who meet the admission criteria shall be admitted to the center.</p> <p>When participants’ needs can no longer be met by the program of care, plans shall be made for their discharge. Participants can be involuntarily discharged when their condition presents an immediate and serious risk to the health, safety, or welfare of the participants or others.</p>			
<b>Inspection and Monitoring</b>			
<b>Yes</b> <input checked="" type="checkbox"/>		<b>No</b> <input type="checkbox"/>	
<p>Requirements related to licensing and initial and ongoing inspections are found in a separate regulation that contains the generic requirements for all the department’s licensed programs. In these requirements, there are provisions about required approvals from other agencies. Approval from other agencies subsequent to initial licensure includes an annual fire inspection and annual approval from the local health department for water supply; sewage disposal system; and food service, if applicable.</p>			

Required and Optional Services		
	Adult Day Care	
	Required	Optional
Activities of Daily Living (ADL) Assistance	X	
Health Education and Counseling		
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		
Transportation		X
Provisions Regarding Medications		
<p>Unless it is contrary to the day care center's policy, a participant may take his own medication provided that a physician has deemed the participant capable of administering medication to himself and the physician has given written authorization for the participant to self-administer medication.</p> <p>Only persons authorized by state law may administer drugs. People authorized to administer medication include licensed physicians, registered nurses, licensed practical nurses, physician assistants, and other individuals who meet the requirements of the law. All staff responsible for medication administration shall successfully complete the most current medication training program developed by the department and approved by the Board of Nursing or be licensed by the state to administer medications.</p> <p>The use of PRN (as needed) medications is prohibited unless certain conditions exist including that a participant is capable of determining when medication is needed and a licensed health care professional administers the medication.</p>		
Provisions for Groups with Special Needs		
Dementia <input type="checkbox"/>	Mental Retardation/ Developmental Disabilities <input type="checkbox"/>	Other <input type="checkbox"/>
Staffing Requirements		
<p><b>Type of staff.</b> There shall be a <i>director</i> responsible for the center's program who is present at least 51 percent of the center's weekly hours of operation. The director shall demonstrate knowledge, skills, and abilities in the administration and management of the adult day care program. If the director is not routinely present in the center at least 51 percent of the weekly hours of operation, there shall be an officially designated <i>assistant director</i> who shall meet the qualifications of the director and who shall assume responsibility in the absence of the director. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the director or an adult staff member appointed by the licensee or designated by the director.</p> <p><b>Staffing ratios.</b> There shall be a minimum of one staff person on duty providing direct care and supervision for every six participants in care, whether at the center or on field trips. All staff persons who work directly with participants and who are counted in the staff-to-participant ratio shall be at least 18 years of age. The staff-to-participant ratio is to be calculated for the center rather than for a room or activity. The number of any additional staff persons required shall depend upon: (1) the program and</p>		

services the center provides, (2) the functional levels of the participants, and (3) the size and physical layout of the building. At least one staff member must be trained in first aid and cardiopulmonary resuscitation (CPR) on the premises during the center's hours of operation and on field trips. Volunteers may be counted in the staff-to-participant ratio if both of the following criteria are met: (1) these volunteers meet the qualifications and training requirements for compensated employees; and (2) for each volunteer, there shall be at least one compensated employee also counted in the staff-to-participant ratio.

### **Training Requirements**

Prior to working directly with participants, all staff shall receive training in their individual responsibilities in the event of fire, illness, injury, and other emergencies; standard precautions; and participant rights. Staff who work with participants shall receive at least 24 hours of training no later than 3 weeks after starting employment; part-time staff shall receive the training no later than 6 weeks after employment. Staff training shall cover a range of topics including needs of the center's target population (for example, those with dementia, developmental disability, depression); the purpose and goals of the adult day care center; behavioral interventions, behavior acceptance and accommodation, and behavior management techniques; and confidential treatment of personal information about participants and their families.

On an annual basis, employed staff who are primarily responsible for the direct care of the participants shall attend at least 8 contact hours of staff development activities which shall consist of in-service training programs, workshops, or conferences relevant to the needs of the population in care. These staff development activities shall be in addition to first aid, CPR, or orientation training.

### **Relevant Medicaid Contracting Requirements for Adult Day Services Providers**

To be enrolled as a Medicaid Adult Day Health Care (ADHC) provider, the center must be an adult day care center licensed by DSS. Each ADHC center participating with Medicaid is responsible for adhering to the DSS adult day care center standards. DMAS has special participation conditions for all HCBS waivers, which are imposed in addition to DSS standards.

#### ***Adult Day Health Care Services--General coverage and requirements for all Home and Community-Based Care Waiver Services***

**General.** ADHC services may be offered to individuals in a congregate daytime setting as an alternative to institutional care. ADHC may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with personal care, respite care, or Personal Emergency Response Systems (PERS) (an electronic device that enables certain recipients at high risk of institutionalization to secure help in an emergency).

#### Definitions

**Adult day health care center** means a participating provider that offers a community-based day program providing a variety of health, therapeutic, and social services designed to meet the specialized needs of those elderly and physically disabled individuals at risk of placement in a nursing facility.

**Adult day health care services** means services designed to prevent institutionalization by providing participants with health, maintenance, and coordination of rehabilitation services in a congregate daytime setting. These services may be offered to individuals in a congregate daytime setting as an alternative to institutional care. Adult day health care may be offered either as the sole home and community-based care service that avoids institutionalization or in conjunction with personal care, respite care, or personal emergency response services.

In order to be a participating provider, the ADHC center shall:

1. be an adult day care center licensed by DSS;
2. adhere to DSS adult day care center standards (DMAS special participation conditions included here are standards imposed in addition to DSS standards which shall be met in order to provide Medicaid ADHC services);

3. provide a separate room or an area equipped with one bed, cot, or recliner for every 12 Medicaid adult day health care participants; and
4. employ sufficient interdisciplinary staff to adequately meet the health, maintenance, and safety needs of each participant.

**Discharge/termination.** It is the responsibility of the provider agency to notify DMAS, or the designated preauthorization contractor, and the DSS, in writing when a recipient is discharged or terminated from services.

**Nonemergency termination.** The participating ADHC, personal care, and respite care provider shall give the recipient or family, or both, 5 days written notification of the intent to terminate services. The letter shall provide the reasons for and the effective date of the termination. The effective date of the termination of services shall be at least 5 days from the date of the termination notification letter. The PERS provider shall give the recipient or family, or both, 14 days' written notification of the intent to terminate services. The letter shall provide the reasons for and the effective date of the termination. The effective date of the termination of services shall be at least 14 days from the date of the termination notification letter.

**Emergency termination.** In an emergency situation when the health and safety of the recipient or provider agency personnel is endangered, DMAS, or the designated preauthorization contractor, must be notified prior to termination. The 5-day written notification period shall not be required.

DMAS, or the designated preauthorization contractor, termination of home and community-based care services: the effective date of termination will be at least 10 days from the date of the termination notification letter. DMAS, or the designated preauthorization contractor, has the responsibility and the authority to terminate home and community-based care services to the recipient for any of these reasons:

1. The home and community-based care service is not the critical alternative to prevent or delay institutional placement.
2. The recipient no longer meets the level-of-care criteria.
3. The recipient's environment does not provide for his health, safety, and welfare.
4. An appropriate and cost-effective plan of care cannot be developed.

If the recipient disagrees with the service termination decision, DMAS or the designated preauthorization contractor shall conduct a review of the recipient's service needs as part of the reconsideration process.

**Inspection/monitoring.** DMAS shall conduct ongoing monitoring and compliance with provider participation standards and DMAS policies. A provider's noncompliance with DMAS policies and procedures, as required in the provider's contract, may result in a retraction of Medicaid payment or termination of the provider agreement.

**Type of staff.** The adult day health center shall employ a *director*, an *activities director*, *program aides*, and a *registered nurse*. *Program aides* must have satisfactorily completed an educational curriculum related to the needs of the elderly and disabled. The registered nurse shall be registered and licensed to practice nursing in the Commonwealth of Virginia. The registered nurse shall be present a minimum of 8 hours each month at the center. DMAS may require the registered nurse's presence at the ADHC center for more than this minimum standard depending on the number of participants in attendance and according to the medical and nursing needs of the participants. Although DMAS does not require that the nurse be a full-time staff position, there shall be a nurse available, either in person or by telephone, to the center's participants and staff during all times that the center is in operation.

**Staffing ratios.** The center shall maintain a minimum staff-to-participant ratio of one staff member to every six participants. This includes Medicaid and other participants. There shall be at least two staff members at the center at all times when there are Medicaid participants in attendance. In the absence

of the director, the activities director, registered nurse, or therapist shall be designated to supervise the program. Volunteers can be included in the staff-to-participant ratio if these volunteers meet the qualifications and training requirements for compensated employees; and, for each volunteer, there shall be at least one compensated employee included in the staff-to-participant ratio. Any center that is collocated with another facility shall count only its own separate identifiable staff in the center's staff-to-participant ratio.

**Required services.** ADL assistance, medication administration, nursing and skilled nursing services, physical/occupational/speech therapy, nutrition, adult day health care coordination (coordinating the delivery of the activities as prescribed in the participants' plan of care), and recreation and social activities.

**Home and Community-Based Elderly or Disabled Consumer-Direction Waiver**

**Definitions.** ADHC centers offer community-based day programs providing a variety of health, therapeutic, and social services designed to meet the specialized needs of elderly and physically disabled recipients who are at risk of being placed in a nursing facility. ADHC services enable recipients to remain in their communities and to function at their highest level possible by augmenting the social support system already available to the recipient, rather than replacing the support system with more expensive institutional care.

**Staff requirements.** The number of staff required for an ADHC center depends upon the level of care required by its participants. Each ADHC center is required to employ sufficient interdisciplinary staff to adequately meet the health, maintenance, and safety needs of each recipient. The following staffing guidelines are required by DMAS. However, DMAS reserves the right to require an ADHC center to employ additional staff if, on review, DMAS staff find evidence of unmet recipient needs.

Adult day health care minimum staffing requirements:

1. The ADHC center will always maintain a minimum staff-recipient ratio of one staff member to every six recipients (Medicaid and other participants).
2. There shall be at least two staff persons at the center at all times when there are Medicaid recipients in attendance.
3. In the absence of the director, a professional staff member shall be designated to supervise the program.
4. Volunteers shall be included in the staff-recipient ratio only when they meet the qualifications and training requirements as paid staff and for each volunteer, there shall be at least one paid employee also included in the staff-recipient ratio.
5. Any center that is co-located with another facility shall count only its own separate identifiable staff in the center's staff-recipient ratio.
6. The adult day health care center must employ staff sufficient to meet the needs of the recipients. These staff are the *director, activities director, program aides, and registered nurse*. The nurse must be present a minimum of 1 full day (8 hours) each month at the adult day health care center to render direct services to Medicaid ADHC recipients. The ADHC center may use one person to fill more than one professional position as long as the requirements for both positions and other staffing requirements are met.
7. The director will assign a professional staff member to act as ADHC coordinator for each recipient. The identity of the ADHC coordinator must be documented in the recipient's file. The ADHC coordinator is responsible for management of the recipient's plan of care and review of the recipient's plan of care with the program aides.

**Admission.** ADHC Services in Virginia may be offered to elderly and physically disabled recipients who have been assessed to be at risk of institutionalization, meet the criteria for nursing facility care, and have been authorized for ADHC services by a Screening Team or by West Virginia Medical Institute (WVMI) review analysts (DMAS preauthorizing agents). ADHC services cannot be offered to recipients who are residents of intermediate care facilities, skilled care facilities, assisted living facilities, or adult foster homes licensed or certified by DSS.

**Discharge.** Whenever the professional staff determines that ADHC services, either alone or in combination with other community resources, are no longer appropriate for a recipient, the center will contact a review analyst at WVMI. The review analyst will conduct a reevaluation of the recipient's needs to ensure that the recipient is receiving services which meet his or her needs and ensure the recipient's continued health and safety in the community in a cost-effective health care setting. If the provider determines the recipient is no longer appropriate for attendance at the center, the provider may terminate the recipient from their center, but not from authorization for the waiver. It is the responsibility of the provider to notify WVMI when the provider believes the recipient no longer qualifies for services under the waiver. Only DMAS or WVMI may terminate the recipient from the waiver.

**Services required.** The services offered by the ADHC center must be designed to meet the needs of the individual recipient. Thus, the range of services provided by the ADHC center to each recipient may vary to some degree. There must, however, be a minimum range of services available to every Medicaid ADHC recipient: nursing services (including health monitoring and medication administration), rehabilitation services coordination, transportation, nutrition, social services, recreation, and socialization services. A center can admit recipients who have skilled needs only if there is professional nursing staff immediately available on site to provide for the specialized nursing care required by these recipients.

#### **Location of Licensing, Certification, or Other Requirements**

1. <http://leg1.state.va.us/000/reg/TOC22040.HTM#C0060>
2. <http://leg1.state.va.us/000/reg/TOC12030.HTM#C0120>
3. <http://websrvr.dmas.virginia.gov/manuals/EDW/EDWtoc.htm>

#### **Citations**

1. *Standards and Regulations for Licensed Adult Day Care Centers* (22VAC40-60-10 through 1020). Department of Social Services. [Effective July 1, 2000]
2. *Adult day health care services-General coverage and requirements for all home and community-based care waiver services* (12VAC30-120-10 through 40). Department of Medical Assistance Services. [Effective February 1, 2003]
3. *Elderly and Disabled Waiver Services Manual* (Chapters II & IV). Department of Medical Assistance Services. [Effective July 1, 2003]

#### **Additional Information**

The Elderly or Disabled Waiver became the Elderly or Disabled Consumer-Direction Waiver on February 1, 2005, and the revised manual is awaiting release. In the interim, Elderly or Disabled Waiver Manual (#3 in Citation box above) is still in effect.

# REGULATORY REVIEW OF ADULT DAY SERVICES: Final Report

## PDF Files Available for This Report

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

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

SECTION 2. State Regulatory Profiles

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

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