COLORADO

Citation

Assisted living residences; Chapter VII, §1.1 et seq.

General Approach and Recent Developments

Revisions to rules based on legislation that passed in 2002 were approved by the Board of Public Health in March 2004. HB 02-1323 changed the licensing category to assisted living residences and added intermediate sanctions. Supply has remained fairly stable with new construction replacing smaller independently-owned homes. The Department anticipates that once the regulations are approved, work might begin on some issues that are not addressed in the pending regulations such as administrator requirements and staffing.

The Department of Public Health web site has links to interpretive guidelines, the survey protocol, and a consumer comparison checklist that covers provider agreements, license/certification, Medicaid participation, space, safety, care plans, personal services, staff, meals, socialization, communication, and facility tour/observations. It also posts the 10 most commonly cited deficiencies for each quarter.

SUPPLY						
Category	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living residences	525	13,779	538	14,291	551	13,868

Definition

The new law defines “assisted living residence” or “residence” as a residential facility that makes available to three or more adults not related to the owner of such facility, either directly or indirectly through a resident agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a 24-hour basis, but not to the extent that regular 24-hour medical or nursing care is required. The term “assisted living residence” does not include any facility licensed in this State as a residential care facility for individuals with developmental disabilities, or any individual residential support services that are excluded from licensure requirements pursuant to rules adopted by the department.

Unit Requirements

The rules allow no more than two people to share a room for facilities built after July 1, 1986. Single occupancy rooms must have at least 100 square feet and double occupancy rooms at least 60 square feet per person. One full bathroom is required for

every six residents. Cooking is not allowed in bedrooms, and facilities provide access to a food preparation area for heating or reheating food or making hot beverages subject to “house rules.” Cooking may be allowed in facilities that provide apartments rather than bedrooms. Facilities that are Medicaid certified are prohibited from cooking. However, microwaves can be used if the facility has assessed the resident for his or her ability to safely use the appliance.

Admission/Retention Policy

Assisted living residences may not admit or retain residents who are:

- Consistently, uncontrollably incontinent unless the resident or staff is able to prevent it from becoming a health hazard;
- Totally bedridden with limited potential for improvement;
- In need of 24-hour nursing or medical service;
- In need of restraints; or
- Have a communicable disease.

A facility may keep a resident who becomes bedridden if a physician describes the services needed to meet the health needs of the residents, there is an ongoing assessment and monitoring by a licensed home health agency or hospice service that ensures that the resident’s physical, mental and psychological needs are met, and there is adequate staff trained in the needs of bedridden residents.

Additional criteria are applied to facilities contracting with Medicaid as alternative care facilities (ACFs). ACFs may not admit or retain anyone needing more than intermittent skilled services; who has an acute illness that cannot be managed through medications or therapy; is unable or unwilling to meet his or her own personal hygiene needs under supervision; has ambulation limitations, unless compensated by assistive devices or staff; is consistently disoriented to the extent that he or she poses a danger to themselves or others; requires tray food service on a continuous basis; or is consistently unwilling to take prescribed medication.

Each facility develops admission criteria based on the capacity of the facility. A review of Medicaid pre-admission screening assessment forms showed that Medicaid waiver participants in ACFs had fewer skilled needs than nursing home residents.

Residents may be allowed to receive hospice care if they are long-term residents (i.e., the facility has been their home), the facility can continue to meet the needs of the other residents, and staff are trained and are not doing things outside their scope of practice. Residents requiring hospice care upon admission would not be accepted.

Nursing Home Admission Policy

Medical eligibility is determined by local Utilization Review Contractors according to guidelines based on a functional needs assessment of the following areas: confusion

or contact with reality; behavior; communication; mobility; bathing; dressing; eating/feeding; bowel continence; bladder continence; skin care; vision; hearing; need for supervision and observation; and living skills (i.e., cooking, shopping, laundry, etc.). Residents must need skilled or maintenance services at least 5 days a week. Skilled and maintenance services are performed in the following areas: skin care; medication; nutrition; activities of daily living; therapies; elimination; and observation and monitoring. (Note: The determinations were formerly made by the statewide Peer Review Organization.)

The scores in each of the functional areas are based on a set of criteria and weights developed by the PRO and approved by the State which measures the degree of impairment in each of the functional areas. When the combined score in each of the functional areas exceeds 19 points, the nurse reviewer may certify that the person being reviewed is eligible for placement in a nursing facility. If the score is less than 20 points, the PRO physician advisor may use professional judgment to determine the individual's need for the level of services provided in a nursing facility.

Services

Facilities must provide a physically safe and sanitary environment, room and board, personal services (transportation, assistance with activities of daily living and instrumental activities of daily living, individualized social supervision), social and recreational services, protective oversight, and social care. Written care plans, which must be reviewed at least annually, are required for each resident and include a comprehensive assessment of physical, health, behavioral and social needs and capacity for self-care, a list of current prescribed medications (dosage, time and route of administration, whether self-administered or assisted), dietary restrictions, allergies, and any physical or mental limitations or activity restrictions. Nursing and therapies may be received if provided by a home health agency.

Dietary

Three nutritionally balanced meals using a variety of foods from the basic food groups and snacks of nourishing quality are required. Therapeutic diets prescribed by a physician are provided, and the recipes are available for review. Meals cannot be routinely provided in resident rooms unless indicated on the care plan. Staff must receive on-the-job training or have experience in the tasks assigned to them.

Agreements

A copy of the resident agreement must be provided upon move-in. The agreement must include: charges, refunds and deposit policies; services included in the rates and charges, including optional services for which there will be an additional, specified charge; types of services provided by the facility, those services which are not provided, and those which the facility will assist the resident in obtaining; bed hold fees; transportation services; therapeutic diets; and whether the facility will be responsible for

providing bed and linens, furnishing and supplies. There must also be written evidence that the facility has disclosed the policies and procedures (admissions; discharges; emergency plan and fire escape procedures; illness, injury or death; resident rights; smoking; management of residents' funds; internal grievance process; investigation of abuse and neglect allegations; and restrictive egress devices); method of determining staffing levels and the extent to which certified or licensed health professionals are available on-site; whether the facility has an automatic sprinkler system; if the facility uses restrictive egress alert devices and the types of behavior exhibited by persons needing such devices.

Provisions for Serving People with Dementia

Facilities must disclose that they operate a secure environment, information about the type of diagnosis or behaviors served and for which staff are trained. Facilities serving people whose right to move outside the environment is limited must have a secured environment. For a facility to serve a resident in a secured environment, legal authority must be established by guardianship, court order, health care proxy, or durable power of attorney. Assessments that evaluate (by a qualified professional) the need for a secured environment must be completed. Reassessments must be completed within ten days of a significant change to determine whether placement is appropriate. Staff and the owner/operator must have appropriate training. Facilities with secured environments must establish a forum that meets at least quarterly for family members to make suggestions, and express concerns and grievances. Families meet with the administrator and a staff representative. Suggestions must be responded to in writing.

In addition to the interior common areas required by this regulation, the facility shall provide a safe and secure outdoor area for the use of residents year round. Fencing or other encloses may be installed around secure areas. Residents must be able to access the secure areas in facilities establishing a secured environment after June 1, 2004.

Medication Administration

Most larger facilities have hired LPNs to administer or manage medications and ensure that physicians' orders have been received and recorded. Staff who have completed a medication training course given by a licensed nurse, physician, physician's assistant, or pharmacist and who have passed a competency test may assist with and administer medications (except injections).

Public Financing

Services in alternative care facilities have been covered since 1984 under a 1915(c) waiver for elders, people with disabilities, MR/DD, and people with mental illness. Medicaid rules limit room-and-board charges for Medicaid recipients to $518 a month. The Medicaid rate for services is $36.03 a day. The rate covers oversight,

personal care, homemaker, chore, and laundry services. A pilot program tested the impact of an enhanced rate to create incentives to retain people as their needs increased and to accept residents with greater needs from nursing homes and hospitals. An additional $400 per month was available for residents who have enhanced needs in three of four areas: personal care, mobility, incontinence, and behavior/confusion. There is continuing interest in developing a tiered rate methodology.

The SSI payment is $564 and the PNA is $46 a month.

MONTHLY RATES 2004	
Room and board	$518.00
Service	$1,094.31
Total	$1,612.31

MEDICAID PARTICIPATION					
2004		2002		2000	
Facilities	Participation	Facilities	Participation	Facilities	Participation
273	3,804	266	3,773	243	2,654

Family members are allowed to supplement resident income for items that are not covered in the Medicaid rate. Most supplementation allows residents to move from a semiprivate to private unit. Medicaid allows residents up to 42 days “leave” per year for nonmedical purposes. Facilities receive the Medicaid payment during this period.

Staffing

Facilities must employ sufficient staff to ensure provision of services necessary to meet resident needs including services provided under the care plan and services provided under the resident agreement. Facilities contracting with Medicaid must maintain a 1:10 staff ratio during the day and a 1:15 ratio from 7 p.m. to 6 a.m., unless a lower ratio that does not jeopardize the health and safety of residents can be documented. Facilities that are Medicaid certified and provide a secure environment must have a 1:6 ratio and awake staff at all times.

Training

Administrators must meet the minimum education, training, and experience requirements by successfully completing a program approved by the department. Acceptable programs may be conducted by an accredited college; university or vocational school; or a program, seminar, or in-service training program sponsored by an organization, association, corporation, group, or agency with specific expertise in that area. The curriculum includes at least 30 actual clock hours of which at least 15 consist of a discussion of each of the following topics: resident rights; environment and fire safety, including emergency procedures and first aid; assessment skills; identifying and dealing with difficult behaviors; and nutrition.

The remaining 15 hours shall provide emphasis on meeting the personal, social, and emotional care needs of the resident population served.

Administrators of facilities contracting with Medicaid must complete training on rules and regulations for ACFs.

Staff. All staff, including volunteers, must be given on-the-job training or have related experience in the job assigned to them and shall be supervised until they have completed on-the-job training appropriate to their duties and responsibilities or have had previous related experience evaluated. Training and orientation in emergency procedures shall be provided to each new staff member, including volunteers, within three days of employment.

Staff members not serving as an operator of the facility who have direct responsibility for the provision of personal care, i.e. hygiene, of residents or for the supervision or training of residents in the residents' own personal care, shall provide documentation of either successful completion of course work in the provision of personal care or previous and related job experience in providing personal care to residents.

Before providing direct care, staff must receive training specific to the needs of the population served, resident rights, environment and fire safety, first aid and injury response, the care and services of current residents, and the facility's medication administration program.

The facility shall provide adequate training and supervision for staff comprising a discussion of each of the following topics: resident rights, environment and fire safety, including emergency procedures and first aid; assessment skills; and identifying and dealing with difficult situations and behaviors.

ACF staff must be trained in the needs of the population served.

Background Check

The owner or licensee may have access to and shall obtain any criminal history record information from a criminal agency for all persons responsible for the care and welfare of residents. Owners and administrators must undergo a finger print check. Owners are responsible for obtaining a criminal background check of administrators to determine whether they have been convicted of a felony and misdemeanor that could pose a risk to the health, safety and welfare of residents.

Monitoring

The regulations require that facilities provide the ombudsman program with access to the facility and residents at reasonable times. New remedies were incorporated in HB

02-1323 and include requiring written plans to correct violations found as a result of inspections; retaining a consultant to address corrective measures; monitoring by the department for a specific period; providing additional training to employees, owners, or operators of the residence; complying with a directed written plan to correct the violation; or paying a civil fine not to exceed $2,000 in a calendar year.

Civil fines are used for expenses related to continuing monitoring; education to avoid restrictions or conditions or to facilitate the application process or the change of ownership process; education for residents and their families about resolving problems with a residence, rights of residents, and responsibilities of residences; providing technical assistance to any residence for the purpose of complying with changes in rules or state or federal law; relocating residents to other facilities or residences; maintaining the operation of a residence pending correction of violations; closing a residence; or reimbursing residents for personal funds lost.

Fees

HB 02-1323 sets fee of $150, plus $23 per bed. Fees for facilities with a high percentage of Medicaid beneficiaries pay $15 per bed. Fees for new construction are $5,000. Facilities pay a fee of $2,500 to reissue a license due to a change in ownership. Facilities with secure environments are assessed a fee of $1,500.

The new rules establish fees for reviewing construction plans: new construction or remodeling of 2,000 square feet or less, $500; and $.25 per additional square foot over 2,000. Remodeling limited to installation or renovation of fire suppression systems: 3-16 beds, $500; 17-40 beds, $750; 41-60 beds, $1,000; and 61 or more beds, $1,250. Fees cannot exceed $2,000.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

Files Available for This Report

Cover, Table of Contents, and Acknowledgments
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