WEST VIRGINIA

Citation

Assisted living residences, 64 CSR 14 et seq., in conjunction with §16-5D-1 Residential care communities, §16-5N-1 et seq.

General Approach and Recent Developments

Changes in 2003 combined personal care homes and residential board and care homes into one category of assisted living residences. Final rules for assisted living residences were promulgated in February 2004. The State is currently concerned about liability insurance for facilities. Due to the high cost of liability insurance in the State, facilities have indicated that they may need to go out of business or look to provide another kind of service. The State already revised the assisted living rules regarding the requirement to obtain liability insurance. Instead, facilities must disclose to all residents whether they hold liability insurance or not, and it is the resident's right to make an informed decision as to whether they want to move into that facility. Concerns regarding the potential loss of facilities due to liability insurance have been raised by the Health Care Advisory Board with this information presented to the Legislature, but there has been no additional legislation offering alternatives to the assisted living residences at this time.

Rules creating a separate category for facilities serving residents with dementia were effective July 1, 2002. Rules implementing the residential care communities were effective July 1, 1999.

SUPPLY						
Category	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living residences	113	3,197*	NA	NA	NA	NA
Personal care homes	NA	NA	50	2,310	52	2,342
Residential board and care	NA	NA	82	1,498	80	1,197
Residential care communities (apartments)	3	88	3	88	3	88
* Refers to bed capacity, not necessarily individual units						

Definition

Assisted living residences. Any living facility or place of accommodation in the State, however named, available for four (4) or more residents, that is advertised, offered, maintained or operated by the ownership or management, for the express or implied purpose of providing personal assistance, supervision, or both, to any residents who are dependent upon the services of others by reason of physical or mental

impairment, and who may also require nursing care at a level that is not greater than limited and intermittent nursing care. A small assisted living residence has a bed capacity of four (4) to sixteen (16). A large assisted living residence has a bed capacity of seventeen (17) or more.

Residential care communities were created by Chapter 163 in1997. A residential care community means any group of 17 or more residential apartments, however named, which are part of a larger independent living community and which are advertised, offered, maintained, or operated by an owner or manager, regardless of consideration or the absence thereof, for the express or implied purpose of providing residential accommodations, personal assistance, and supervision on a monthly basis to 17 or more persons who are or may be dependent upon the services of others by reason of physical or mental impairment or who may require limited and intermittent nursing care but who are capable of self-preservation and are not bedfast.

Alzheimer's/Dementia special care units means any licensed facilities, as defined in this rule, that provide specialized services, 24 hours per day, in a specialized unit in the facility, for residents with a diagnosis of Alzheimer's disease or related dementia; and that advertises, markets, or otherwise promotes the facility as providing a specialized unit for residents requiring Alzheimer's/dementia care services.

Unit Requirements

Assisted living residences must provide each resident with a bed in a bedroom. In an existing large assisted living residence, bedrooms shall contain at least 80 square feet of floor area per resident. In an existing small assisted living residence, semi-private bedrooms shall contain at least 60 square feet of floor area per resident and private rooms shall contain 80 square feet. In a newly constructed or renovated residence no more than two persons shall occupy a bedroom. Space requirements for new construction include 100square feet for a private room and 90 square feet per resident for a semi-private room. In an existing residence no bedroom shall be occupied by more residents than the bed capacity approved by the commissioner. A minimum of one toilet and lavatory is required for every six residents. A minimum of one bathing facility per floor, with a bath tub or shower, equipped with non-slip surfaces, a flushing toilet and a hand washing sink, are required for every ten residents.

Residential care communities must offer apartment units with at least 300 square feet, with lockable doors, at least one bedroom, a kitchenette with a sink and refrigerator, and one full bathroom. Multi-occupancy apartments must have at least 80 square feet of bedroom space per resident and no more than two residents may occupy an apartment.

Admission/Retention Policy

Assisted living residences may not admit individuals requiring ongoing or extensive nursing care and shall not admit or retain individuals requiring a level of service that the residence is not licensed to provide or does not provide. A resident whose condition

declines after admission, and is receiving services coordinated by a licensed hospice or certified home health agency, may receive these services in the residence if the residence has a backup power generator for services using equipment that requires auxiliary electrical power in the event of a power failure. The licensee shall ensure that a resident who requires ongoing or extensive nursing care is provided the care and services necessary to meet his or her needs. The provision of services to the resident receiving nursing care or hospice care shall not interfere with the provision of services to other residents. If a resident has care needs that exceed the level of care for which the residence is licensed or can provide, the residence must inform the resident of the need to move to another facility that can provide that level of care, and assist the resident in making that transition.

If a resident exhibits symptoms of a mental or developmental disorder that seems to pose a risk to self or others, and the resident is not receiving behavioral health services, the residence must advise the resident or his or her legal representative of the behavioral health service options within the community. The resident must have thirty days to obtain necessary services. If the resident or his or her legal representative fails to seek treatment in a timely manner, then the residence, after consultation with the resident's physician, shall refer the resident to a licensed behavioral health provider.

The residence must seek immediate treatment for a resident or may refuse to admit or retain a resident if there is reason to believe that the resident may suffer serious harm, or is likely to cause serious harm to himself, herself or to others, if appropriate interventions are not provided in a timely manner.

Facilities may not admit those who require the use of routine physical or chemical restraints, require ongoing or extensive nursing services, or require a level of service of which the home is not licensed or does not provide. Individuals who become bedfast subsequent to admission may remain in the home for 90 days during a temporary illness or when recovery from surgery if the resident's care does not require nursing care in excess of limited and intermittent nursing care.

Residential care communities. Residents must be certified by a physician to be capable of self-preservation. Residents may need personal assistance in ADLs, supervision because of mental or physical impairment, or limited and intermittent nursing needs. Following admission, facilities may retain residents who receive hospice services. Residents who are not capable of self-preservation may be retained for 90 days during a temporary illness or recovery from surgery if they do not require nursing care that exceeds the regulations.

Services

Assisted living residences. Rather than specifying what type of services a residence must provide, ALRs must indicate up front what services they will provide to residents, as long as services are not at the level of a nursing home. ALRs may provide

limited and intermittent nursing services and may provide these types of services for a longer period of time as long as home health agencies are providing long-term nursing.

Residential care communities provide personal assistance; help with self-administration of medications; and help in following planned diets, activity regimens, or use of equipment. Staff must assist in making appointments for dental and medical services. Medications may be administered by licensed staff. Facilities that provide limited and intermittent nursing services must contract with or employ a registered professional nurse.

Dietary

Three meals, snacks, and special diets are required that substantially comply with the recommended dietary allowances of the Food and Nutrition Board. Therapeutic or modified diets must be prepared according to a physician or dietician's orders. The rules describe the variety of foods that must be served. Training must include nutrition. The residence shall accommodate residents who are unable to eat at the planned mealtime and provide for a meal substitution if the resident does not tolerate or like the foods planned for the meal.

Agreements

Assisted living residences. Agreements, at a minimum, must include the type of resident population that the residence is licensed to serve and will serve; the health and nursing care services that the residence will provide to meet the resident's needs, including cardiopulmonary resuscitation, and how they will be provided; an annual or monthly contract price, full disclosure of all costs including what changes in care needs will result in increases, additions or modifications to the costs, the refund policy and an assurance that the resident shall not be held liable for any cost that was not disclosed; discharge criteria, including notification policies; how to file a complaint; medication storage, handling, distribution, and disposition, and responsibility for payment; management of residents' funds; and whether or not the residence has liability insurance coverage. At the same time as providing the contract, the licensee must also provide the resident with the following information: house rules governing resident behavior and responsibilities; the resident's bill of rights; how the resident's personal property will be protected from loss and theft; the requirements for medical examinations and treatment orders; how the resident will be assisted in making appointments for medical, dental, nursing or mental health services, and how transportation to and from these services will be arranged; and how to access the residence's policies and procedures.

Residences are prohibited from entering into a life care contract without the prior written permission of the commissioner. Residences must provide residents with a thirty day written notice for any increases, changes, or modifications to the rates.

Each resident must have a health assessment conducted by a physician not more than sixty days prior to admission, no more than five days after admission, and annually thereafter. The assessment must include a screening for tuberculosis.

Within seven days of admission, each resident must have a functional needs assessment. At a minimum, the resident's assessment shall include a review of health status and functional, psycho social, activity and dietary needs. A service plan must be developed within seven days, and is based upon the functional needs assessment.

Residential care communities. The agreement covers admission, retention, and discharge policies; assurance that the community will meet the individual's needs; full disclosure of costs including an annual or monthly contract price; the refund policy and an assurance that the resident will not be liable for any undisclosed cost; how health care will be arranged or provided; the complaint process; how prescribed medications are obtained and responsibility for payment; and the storage, administration, and disposal of medications.

Provisions for Serving People with Dementia

Special care facilities must have a staff person with experience and training in dementia care to coordinate outside services, offer monthly educational and family support meetings, and advocate for residents. Staff training includes a minimum of 30 hours on care for residents with dementia covering the philosophy of care; nature, stages, and treatment of the disease; therapeutic interventions; communication techniques; medication management; therapeutic environmental modifications; assessment and care planning; the role of family and their need for support; staff burn-out prevention; and abuse prevention. Eight hours of annual training is required. Staffing patterns must be able to provide 2.25 hours of direct care time per resident per day. At least two staff must be present for units serving more than five residents. An RN must be available if residents require nursing procedures. Appropriate assessments must be completed and care plans developed. Appropriate activities are provided by a therapeutic specialist, occupational therapist, or activities professional. The rules describe special requirements for the physical environment with security measures; high visual contrast between floor, walls, and walkways; non-reflective surface; secured outdoor space; and other requirements.

Other licensed facilities that do not market themselves as offering special care units provide training to staff that includes activities, programs, and/or professionally-designed intervention strategies to help a resident with behavioral health needs to manage his/her own behavior. Residents with early symptoms of dementia may be served.

Medication Administration

Facilities may administer and assist with self-administration of medications. Aides who have passed required training may administer medications. A licensed health care

professional shall determine whether or not a resident is capable of self-administration of medications. The residence shall keep a record of all medications given to each resident indicating each dose given. The record shall include the resident's name;the name of the medication; the dosage to be administered and route of administration; the time or intervals at which the medication is to be administered; the date the medication is to begin and end; the printed name, initials and signature of the individual who administered the medication; and any special instructions for handling or administering the medication, including instructions for maintaining aseptic conditions and appropriate storage.

Public Financing

A small HCBS waiver was approved in August 2004 to support 150 people living in elderly housing in four counties. The public housing authorities (PHAs) will renovate and obtain a license for the portion of the buildings to be used for assisted living. The PHAs will become providers of waiver services which will include personal care, homemaker, chore, attendant care, companion, medication oversight, therapeutic social and recreational programming, transportation, and periodic nursing evaluations.

The State pays, from state revenues, assisted living residences the difference between the resident’s income (minus a personal needs allowance of $69), and $924.50 a month for room, board, and personal care services for eligible individuals. This is an option that previously existed for licensed personal care homes and residential board and care homes. Family supplementation is not allowed. In order to be eligible for this payment, the resident must need personal care services as determined by a physician and a comprehensive assessment, and must not have sufficient funds to pay for the service. There are currently 47 facilities accepting state funding, with a total of 319 residents. The State does not currently reimburse assisted living under Medicaid but is exploring a method to do so.

Staffing

Assisted living residences. Administrators in large ALRs must have an associate’s degree and be at least 21 years of age. Administrators in small ALRs must have a high school diploma or GED. Each assisted living residence shall have a minimum of one direct care staff person twenty-four (24) hours per day and shall have a sufficient number of qualified employees on duty to provide the residents with all of the care and services they require. The residence shall have one additional direct care staff on the day shift for each ten residents identified on their functional needs assessment to have two or more of the following care needs: dependence on staff for eating, toileting, ambulating, bathing, dressing, repositioning, special skin care, or one or more inappropriate behaviors that reasonably requires additional staff to control, such as sexually acting out, stripping in public settings, refusing basic care, or destroying property; or injurious behavior to self or others; one additional direct care staff on the evening shift for each fifteen residents identified on their functional needs assessment to have two or more of these care needs; and one additional direct care staff on the

night shift for each eighteen residents identified with two or more of these care needs. One employee who has current first aid training and current cardiopulmonary resuscitation training, as applicable, shall be on duty at all times. The licensee must have awake staff present in the residence during normal resident sleeping hours when residents require sleep time supervision. In multi-level residences, there must be at least one awake staff person on duty while residents are sleeping, unless the residents have been certified by a physician or licensed psychologist as not requiring sleep time supervision.

Residential care communities. The administrator must be at least 21 years old and have an associate's degree or equivalent in a related field. The community must have at least one staff member on duty per shift. Sufficient staff must be available to care for residents. Awake staff are required when residents require supervision or intermittent nursing services. Multi-story facilities must have one awake staff per floor unless supervision or intermittent nursing services are not needed and there is a call system.

Training

Administrators in assisted living residences shall participate in eight (8) hours of training related to the operation of a residence annually and a record of this training shall be available for review. Staff must participate in training within the first fifteen days of hire, with topics covering emergency procedures and disaster plans; the residence's policies and procedures; resident rights; confidentiality; abuse prevention and reporting requirements; the ombudsmen's role; complaint procedures; specialty care based on individualized resident needs and service plans; care of residents with dementia; the provision of group and individual resident activities; and infection control.

Administrators in residential care communities must receive at least 10 hours of training related to the operation and administration of personal care homes each year.

Staff of residential care communities must receive employee orientation and training. Training shall be provided to new employees and new admissions (within the first 24 hours of association with the home) in emergency procedures, evacuation of the home, procedures to report a missing resident, medical emergencies, accidents, fire, natural disasters, or other emergencies.

The home shall maintain a written plan of orientation and training for employees. Such training will be provided within the first 15 days of employment inclusive of the following:

- Policies and procedures of the home;
- The rights and responsibilities of residents including protection of resident privacy and confidentiality;
- Complaint procedures of the home;
- Procedures and agencies available in instances of abuse, neglect, mistreatment;

- The care of aged, infirm, or disabled adults with consideration for individual capabilities and needs;
- Personal assistance procedures as needed for resident care, including at a minimum, personal grooming care, personal hygiene care, nutritional services, and signs and symptoms of alteration of skin integrity;
- Specific duties and responsibilities of the residential staff for assisting current residents of the home (i.e., a review of individualized service plans, the activities program, and/or professionally-designed intervention strategies to help a resident with behavioral health needs to manage his or her behavior);
- Cardiopulmonary resuscitation (CPR), as applicable, and First Aid; and
- Infection control.

Background Check

Assisted living residences. All staff in an ALR shall have a personal history that is free of evidence of abuse, fraud, or substantial and repeated violations of applicable laws and rules in the operation of any health or social care facility or service organization, or in the care of dependent persons; or conviction of crimes related to the care to a dependent persons as evidenced by a criminal investigative background check by the West Virginia state police through the central abuse registry.

Monitoring

The licensing agency makes on-site unannounced inspections as needed and investigates complaints. The licensing agency prepares a written report of any inspection within fifteen (15) days of the completion of the inspection and sends a report to the licensee or administrator outlining the statement of deficiencies. The licensee of an assisted living residence must develop, sign and date a plan of correction, and send it to the licensing agency within fifteen working days of the receipt of the statement of deficiencies. Immediate correction is required for violations identified as constituting immediate and serious threats to the health or safety of a resident or employee.

Fees

Fees for assisted living facilities are $6.00 per bed and $4.32 per bed for residential care communities.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

Files Available for This Report

Cover, Table of Contents, and Acknowledgments
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom.pdf

SECTION 1. Overview of Residential Care and Assisted Living Policy
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom1.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom1.pdf

SECTION 2. Comparison of State Policies
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom2.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom2.pdf

SECTION 3. State Summaries (All States)
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom3.pdf

Links to Individual States

Alabama
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#AL.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-AL.pdf

Alaska
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#AK.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-AK.pdf

Arizona
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#AZ.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-AZ.pdf

Arkansas
- HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#AR.htm
- PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-AR.pdf

California
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#CA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-CA.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#CO.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-CO.pdf

Connecticut
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#CT.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-CT.pdf

Delaware
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#DE.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-DE.pdf

District of Columbia
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#DC.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-DC.pdf

Florida
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#FL.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-FL.pdf

Georgia
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#GA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-GA.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#HI.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-HI.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#ID.htm
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PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-IN.pdf

Iowa
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#IA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-IA.pdf

Kansas
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Kentucky
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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#LA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-LA.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#ME.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-ME.pdf

Maryland
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#MD.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-MD.pdf

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PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-MA.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#MN.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-MN.pdf

Mississippi
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#MS.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-MS.pdf

Missouri
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#MO.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-MO.pdf

Montana
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#MT.htm
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Nebraska
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NE.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NE.pdf

Nevada
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NV.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NV.pdf

New Hampshire
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NH.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NH.pdf

New Jersey
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NJ.htm
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PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NM.pdf

New York
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NY.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NY.pdf

North Carolina
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#NC.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-NC.pdf

North Dakota
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#ND.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-ND.pdf

Ohio
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#OH.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-OH.pdf

Oklahoma
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#OK.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-OK.pdf

Oregon
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#OR.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-OR.pdf

Pennsylvania
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#PA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-PA.pdf

Rhode Island
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PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-RI.pdf

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HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#SC.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-SC.pdf

South Dakota
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#SD.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-SD.pdf

Tennessee
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#TN.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-TN.pdf

Texas
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#TX.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-TX.pdf

Utah
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#UT.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-UT.pdf

Vermont
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#VT.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-VT.pdf

Virginia
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#VA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-VA.pdf

Washington
HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#WA.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-WA.pdf

West Virginia

HTML http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#WV.htm
PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-WV.pdf

Wisconsin

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PDF http://aspe.hhs.gov/daltcp/reports/2005/04alcom-WI.pdf

Wyoming

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