

130 CMR 404.000: ADULT DAY HEALTH SERVICES

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404.401: Statement of Purpose

130 CMR 404.000 establishes the MassHealth agency's requirements for providers of adult day health services. All providers participating in MassHealth must comply with all the MassHealth agency's regulations including, but not limited to, 130 CMR 404.000 and 130 CMR 450.000.

404.402: Definitions

The following terms used in 130 CMR 404.000 have the meanings given in 130 CMR 404.402 unless the context clearly requires a different meaning.

Activities of Daily Living (ADL) — includes but is not limited to the following personal care activities: bathing, dressing, toileting, transfers, ambulation, personal hygiene, and eating.

Adult Day Health (ADH) Program (Site) — a physical location that has been reviewed and approved by the MassHealth agency and by other appropriate authorities for the provision of adult day health services for a specific number of daily members. If a provider offers adult day health services in more than one location, each location is a separate site and must meet the provisions of 130 CMR 404.000.

Adult Day Health (ADH) Provider — a provider of Adult Day Health Services at an ADH program site.

Adult Day Health Services — all services provided by a MassHealth agency-approved ADH provider that meet the conditions of 130 CMR 404.000. The general goal of these services is to provide an organized program of nursing services and supervision, maintenance-therapy services, and socialization.

Basic Level of Care Services — provision by the ADH provider of ADH services when the member requires at least one skilled service from the list contained in 130 CMR 404.407(B), and/or daily assistance with at least one activity of daily living described in 130 CMR 404.407(C).

Case Management — an interdisciplinary, collaborative process to assess, plan, implement, coordinate, monitor, and evaluate the care and services required to meet the member's health-care needs.

Certified Capacity — a capacity approved by the MassHealth agency as outlined in 130 CMR 404.412(H). Once a provider is approved, the average daily census at the provider site must not exceed the certified capacity.

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Complex Level of Care Services — provision by the ADH provider of at least one skilled service daily from the list contained in 130 CMR 404.407(B) or the provision by the ADH provider of a combination of at least three services contained in 130 CMR 456.409(B) and (C), including at least one service described in 130 CMR 456.409(C).

Health Promotion and Prevention Level of Care Services (HPP) — provision by the ADH provider of an organized program of supervision, health promotion and health prevention services that include the availability of nursing services and health oversight, nutritional dietary services, counseling, therapeutic activities, and case management.

Maintenance-therapy Services — supplemental or follow-up physical, occupational, or speech therapy to maintain optimal functioning and to prevent regression. These services must be performed by adult day health program staff under the direction of the therapist, the program's registered nurse, or both.

Nursing Assessment — an assessment done by the program registered nurse that includes a review of the member's health status and medical needs.

Professional Staff — the program director, all licensed staff, the social worker, and the activities director.

Program Day — any day during which the ADH provider is in operation.

Significant Change — a major change in the member's status that is due to progressive disease, functional decline, resolution of a problem, or other issues. A significant change assessment must be completed on the form designated by the MassHealth agency no later than 14 days after determining a significant change has occurred. The significant change in the member's condition must represent a consistent pattern of changes with either one or more areas of decline, or one or more areas of improvement that:

- (1) are not self-limiting;
- (2) impact more than one area of the member's health status; and
- (3) require an interdisciplinary review or revision of the care plan.

404.403: MassHealth Member Eligibility Requirements

(A)(1) MassHealth Members. The MassHealth agency covers adult day health services only when provided to eligible MassHealth members, subject to the restrictions and limitations set forth in the MassHealth agency's regulations. The MassHealth agency's regulations at 130 CMR 450.105 specifically state, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.

(2) Recipients of the Emergency Aid to the Elderly, Disabled, and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled, and Children Program, *see* 130 CMR 450.106.

(B) For information on verifying member eligibility and coverage type, *see* 130 CMR 450.107.

404.404: MassHealth Provider Eligibility Requirements

To participate in MassHealth as an ADH provider, an individual or organization must

(A) enter into a provider contract with the MassHealth agency;

(B) operate in Massachusetts and meet the Massachusetts Bureau of Buildings and Standards requirements for adult day health programs, local fire department requirements, local board of health requirements, and the requirements of 130 CMR 404.412;

(C) agree to periodic inspections that assess the quality of member care and ensure compliance with 130 CMR 404.000. Programs found to be out of compliance will be subject to the provisions of 130 CMR 450.000; and

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(D) agree to comply with all the provisions of 130 CMR 404.400, 450.000, and all other applicable MassHealth rules and regulations.

404.405: MassHealth Clinical Authorization

(A) Clinical Eligibility Requirement. The ADH provider must request and obtain clinical authorization for MassHealth payment of adult day health services from the MassHealth agency as a prerequisite to payment for ADH. In determining clinical authorization, the MassHealth agency applies the criteria set forth in 130 CMR 404.407. Clinical authorization determines only the medical necessity of the authorized service and does not establish or waive any other prerequisites for payment such as member eligibility or resort to health insurance payment.

(B) An ADH provider must obtain clinical authorization prior to initial service commencement, transfer from one ADH provider to another, or re-commencement of services if there has been a six-month gap in the delivery of ADH services.

(C) The ADH provider must submit requests for authorization of payment for ADH to the MassHealth agency or its designated agent. Requests must include all information required by the MassHealth agency and be submitted in the format designated by the MassHealth agency.

(D) Notification of Clinical Approval for Adult Day Health Services. If the MassHealth agency or its agent determines that a member is eligible for coverage of adult day health services, the MassHealth agency or its agent issues an authorization and the effective date of coverage. The notification includes the name of the screening agent and effective date of clinical eligibility.

(E) Notification of Clinical Denial for Adult Day Health Services and Right of Appeal.

(1) If the request for clinical authorization of adult day health services is denied, the MassHealth agency or its agent notifies both the member and the referral source. The notice of denial states the reason for the denial and contains information about the member's right to appeal, and of the appeal procedure.

(2) If the request for clinical authorization of adult day health services is denied, a member may appeal this decision by requesting a fair hearing from the MassHealth agency. The request for a fair hearing must be made in writing within 30 days of receiving the denial. The Board of Hearings will conduct the hearing in accordance with 130 CMR 610.000.

(F) Review Requirement. The provider must annually review all MassHealth members for continued eligibility. In addition, the provider must review the member if there has been a significant change in the member's status as defined in 130 CMR 404.402.

404.406: Adult Day Health Program Requirements

All providers of adult day health services must meet the requirements of 130 CMR 404.000 and 450.000 to enroll in MassHealth. To provide adult day health services at the complex level of care, providers must meet the requirements and provide the additional services in accordance with 130 CMR 404.402 and 404.408(A)(3). In addition, those programs serving members with cognitive impairments such as dementia or Alzheimer's disease who require complex level-of-care services must meet the requirements and provide the additional services listed in Appendix D of the Adult Day Health Manual.

(A) Administrative Requirements. All adult day health programs must have a mission statement that includes

- (1) the goals and objectives of the program;
- (2) the service components of each level of need;
- (3) an organizational chart describing the lines of authority and communication needed to manage the adult day health program; and
- (4) a description of the governing body.

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(B) Administrative and Medical Policies and Procedures. Each program must have written policies and procedures, including, but not limited to, the following issues:

- (1) service commencement criteria;
- (2) discharge criteria;
- (3) medication administration;
- (4) universal precautions;
- (5) communicable disease;
- (6) recognizing abuse;
- (7) grievance procedures for members;
- (8) staff evaluation;
- (9) staff training;
- (10) nondiscrimination;
- (11) annual quality improvement;
- (12) confidentiality;
- (13) member rights;
- (14) cultural competency;
- (15) counseling members and families; and
- (16) personnel policy and procedures.

(C) Hours of Operation. An ADH provider must operate at least Monday through Friday for eight hours a day.

(D) Scope of Services. All adult day health programs participating in MassHealth must provide the following services as part of their adult day health services.

(1) Nursing Services and Health Oversight. The ADH provider must provide nursing coverage on site for a minimum of eight hours a day, four hours of which must be provided by a registered nurse. The balance of the coverage may be provided by a licensed practical nurse. When the average daily census reaches 35 members or more, the ADH provider must provide nursing coverage on site for a minimum of 12 hours, four hours of which must be provided by a registered nurse. When the average daily census reaches 50 members or more, the ADH provider must provide nursing coverage on site for a minimum of 16 hours a day, eight hours of which must be provided by a registered nurse. When the average daily census reaches over 75 members, the ADH provider must increase the nursing coverage in proportion to the requirements listed above. Nursing services must be provided to meet the needs of each member and must include:

- (a) administration of medications and treatments prescribed by the member's physician during the time the member is at the program;
- (b) education in hygiene and health concerns;
- (c) development and coordination of each member's care plan;
- (d) monitoring each member's health status and documenting those findings in the member's medical record at least monthly and more often if the member's condition requires more frequent monitoring;
- (e) reporting changes in the member's condition to the member's physician;
- (f) oversight of maintenance-therapy treatment as recommended by a therapist; and
- (g) coordinated implementation of physician's orders with the member, family, and program staff.

(2) Therapy Services.

- (a) The program must provide occupational, physical, and speech/language services at a maintenance level based on a physician's order and a therapy assessment. Maintenance services must be supervised by the program's registered nurse.
- (b) The program must arrange for restorative therapy based on a physician's order and a therapy assessment.
- (c) The appropriate licensed personnel must review therapy assessments and services every six months. Providers must document this review.

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(3) Activities of Daily Living. The program must provide assistance with the activities of daily living, as described in the adult day health care plan for each member needing such assistance.

(4) Nutritional and Dietary Services.

(a) The program must provide to members each day of attendance

(i) a hot meal equivalent to at least $\frac{1}{3}$ of the recommended daily dietary allowance established by the American Dietary Association;

(ii) special diets, if required by a member and prescribed by a physician;

(iii) an alternate food choice; and

(iv) two snacks, one in the morning and one in the afternoon.

(b) The program must also offer nutrition counseling, consumer-shopping advice, and menu planning provided under the supervision of a registered nurse or dietitian to the member and, if necessary, the member's family.

(c) The program must provide dietary services based on a dietary assessment, a physician's order, or both. Dietary services must be supervised by the program's registered nurse.

(d) The appropriate licensed personnel must review dietary assessments and services every six months. Providers must document this review.

(5) Counseling Services. A social worker must provide individual and group counseling services to members and their families.

(a) Licensed professional staff may provide this service if the program's daily census is under 24 members and a social worker is not employed by the program. (See 130 CMR 404.408 for personnel requirements.)

(b) A staff person who is not a social worker must demonstrate that they have had training, experience, or both, in counseling adults.

(c) Counselors must offer assistance with personal, social, family, and adjustment problems the member may experience at the program.

(d) If the member or the member's family requires specialized counseling, the program must refer the member or family to the appropriate community resource.

(6) Therapeutic Activities.

(a) The program must provide therapeutic activities, on an individual and group basis, designed to improve or maintain the member's self-awareness and level of functioning.

(b) Before the start of each month, the program must make available to members and staff a monthly calendar of activities and events.

(c) The dignity, interests, and therapeutic needs of individual members must be considered in the development of activities.

(7) Case Management. If a member needs services from other community agencies, and if no agency is acting as coordinator of services for that member, the ADH provider must assume the role of coordinator.

(E) Recordkeeping Requirements.

(1) Administrative Records.

(a) The program must make all records available to the MassHealth agency as needed for evaluation and review.

(b) The program must maintain documentation of the following:

(i) the number of members served;

(ii) the number of individuals waiting for service commencement;

(iii) the number of staff;

(iv) incident reports;

(v) complaint and grievance reports;

(vi) a personnel file on each staff person and their qualifications;

(vii) contracts for therapy, nutritional, and other services;

(viii) daily attendance records outlining each member's arrival and departure times; and

(ix) other records as may be required by the MassHealth agency.

(2) MassHealth Participation Agreement. Once a member has been determined to be clinically eligible for MassHealth payment of adult day health services, the ADH provider must provide a written agreement to the member and, if appropriate, to the member's legal guardian. This agreement must specify

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- (a) the services offered to the member by the ADH provider;
 - (b) the responsibilities of the member and his or her family to the program;
 - (c) the days and hours of the ADH program operation, including
 - (i) a schedule of holidays when the ADH program is closed;
 - (ii) the days per week the member will attend;
 - (iii) the procedures for notifying members of unexpected closing of the ADH program due to disaster or inclement weather; and
 - (iv) arrangements for transporting the member to and from the ADH program;
 - (d) minimum attendance schedule established by the program;
 - (e) emergency procedures; and
 - (f) reasons for discharge from the program. (*See* 130 CMR 404.406(G).)
- (3) Emergency Services. The ADH provider must establish emergency policies and procedures in writing. These procedures must include the following:
- (a) an emergency file (such as a Kardex or emergency fact sheet) on each member that must contain
 - (i) the name and telephone number of the member's physician;
 - (ii) the member's diagnosis;
 - (iii) any special treatments or medications the member may need;
 - (iv) insurance information; and
 - (v) the name and telephone number of a family member, sponsor, or friend to be notified in case of emergency;
 - (b) a policy for emergency evacuation that is in compliance with local fire department requirements;
 - (c) a procedure for emergency evacuation that is conspicuously posted throughout the ADH program site;
 - (d) monthly evacuation drills, records of which must be kept on file;
 - (e) training and certification of all drivers of vehicles owned by the ADH program or contracted vehicles, in emergency procedures, cardiopulmonary resuscitation (CPR) by an approved CPR instructor, and basic first aid. The ADH provider must keep records of drivers' CPR and first-aid training and certification on file;
 - (f) training of all direct care staff in CPR and first aid. The ADH provider must keep records of all direct care staff CPR and first-aid training on file;
 - (g) a procedure to be followed in the event a member is missing or lost;
 - (h) a procedure for relocation of members in an emergency; and
 - (i) procedures for handling medical emergencies at the ADH program.
- (F) Documentation Requirements.
- (1) Member Records. The ADH provider must have available, and maintain on site for at least 12 months, a medical record for each member as required by the MassHealth agency. The ADH provider must maintain the member record for seven years from the date of the member's death or discharge. The record retention rules apply to all members regardless of the member's length of stay. The member record must contain
- (a) service commencement information, including
 - (i) the member information sheet;
 - (ii) the clinical authorization by the MassHealth agency or its agent; and
 - (iii) the MassHealth Participation Agreement;
 - (b) medical information, including
 - (i) a copy of the most recent physical examination;
 - (ii) the physician orders;
 - (iii) medical history;
 - (iv) tuberculosis screening documentation;
 - (v) a list of any known allergies;
 - (vi) information concerning member's dietary requirements;
 - (vii) the medication administration record (MAR);
 - (viii) the initial nurse's assessment;
 - (ix) the results of the functional assessment annually and at significant change;
 - (x) advanced directives; and
 - (xi) the name of the health-care proxy;

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- (c) progress notes, including
 - (i) nursing notes;
 - (ii) therapy notes;
 - (iii) activity notes;
 - (iv) social service notes;
 - (v) dietary notes; and
 - (vi) ADL daily records (staff log of care received by member);
 - (d) correspondence from family, therapists, physicians, or others pertaining to the care of the member in the ADH program, including
 - (e) the discharge plan;
 - (f) the attendance record;
 - (g) legal documentation, for example, signed authorizations for release of information;
 - (h) the individual plan of care; and
 - (i) documentation supporting the member's level of care.
- (2) Physician's Documentation.
- (a) Before the member's first attendance day, the ADH provider must obtain the necessary documentation from the member's physician.
 - (b) The physician's documentation must include
 - (i) physician orders for adult day health services;
 - (ii) the member's medical history;
 - (iii) results of a physical examination given within the past 12 months. If the individual has been hospitalized in the preceding three months, a complete discharge summary may be used to fulfill the physical examination requirement;
 - (iv) a list of current medications and treatments;
 - (v) a statement of special dietary requirements;
 - (vi) a statement indicating any contraindications or limitations to the individual's participation in program activities; and
 - (vii) recommendations for therapy, when applicable.
 - (c) In the case of an emergency service commencement, the ADH provider must request from the MassHealth agency an extension of the physician's documentation requirements. The program must obtain the physician's signature as evidence of review of the quarterly care plan within three business days.
- (3) Member Care Plan.
- (a) Care Plan Development. Within six business days after a member's date of service commencement, the ADH provider's staff must complete an adult day health care plan for the member. The ADH provider's registered nurse must coordinate the development of the member care plan. The plan must include
 - (i) a treatment plan based on the member's physician's orders;
 - (ii) a nursing assessment;
 - (iii) if applicable, therapy services;
 - (iv) a social service and activity plan designed to meet the member's psychosocial and therapeutic needs; and
 - (v) documentation of any other health or supportive services the member is receiving off-site (for example, homemaker, home health, personal care, or therapy services).
 - (b) Ongoing Care Plan Reviews and Progress Notes for Members Receiving Health Promotion and Prevention (HPP) Level of Care Services. The ADH provider's professional staff must review and update each member's care plan on an annual basis, or significant change in the member's status as defined in 130 CMR 404.402. In addition to the annual care plan review the ADH provider must ensure that the following progress notes are completed in a timely manner:
 - (i) licensed nursing progress notes completed on a semi-annual basis;
 - (ii) therapist notes: completed on a semi-annual basis;
 - (iii) activity notes: completed on an annual basis; and
 - (iv) social service notes: completed on an annual basis.

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(c) Ongoing Care Plan Reviews and Progress Notes for Members Receiving Basic Level of Care Services. The ADH provider's professional staff must review and update each member's care plan, on a semi-annual basis, or if there is a significant change in the member's status as defined in 130 CMR 404.402. In addition to the semi-annual care plan review, the ADH provider must ensure that the following progress notes are completed in a timely manner:

- (i) licensed nursing progress notes completed on a monthly basis;
- (ii) therapist notes completed on a monthly basis;
- (iii) activity notes completed on a quarterly basis;
- (iv) social service notes completed on a quarterly basis; and
- (v) ADL flow sheets reviewed on a quarterly basis.

(d) Ongoing Care Plan Reviews and Progress Notes for Members Receiving Complex Level of Care Services. The ADH provider professional staff must review and update each member's care plan on a quarterly basis, or significant change in the member's status as defined in 130 CMR 404.402. In addition to the quarterly care plan review the ADH provider must ensure that the following progress notes are completed in a timely manner:

- (i) nursing progress notes completed on a monthly basis;
- (ii) therapist notes completed on a monthly basis;
- (iii) activity notes completed on a quarterly basis;
- (iv) social service notes completed on a quarterly basis; and
- (v) ADL flow sheets reviewed on a quarterly basis.

(e) Physician Review.

- (i) For members receiving Basic or Complex Level of Care Services, the ADH provider must forward a copy of the member's care plan to the member's physician, physician assistant, or nurse practitioner every six months.
- (ii) For members receiving Health Promotion and Prevention Level of Care Services, the ADH provider must forward a copy of the member's adult day health care plan to the member's physician, physician assistant, or nurse practitioner annually within 15 days of the anniversary of the member's first attendance day.
- (iii) The ADH provider must inform the physician, physician assistant, or nurse practitioner of any subsequent change in the member's adult day health care plan. The ADH provider must ensure that the physician, physician assistant, or nurse practitioner reviews, signs, and returns the adult day health care plan.

(G) Member Discharge and Referral.

(1) Discharge from an ADH program may be initiated by either the ADH provider or the member.

(a) A provider may initiate discharge of a member when the ADH provider determines that

- (i) the member's health has improved sufficiently and no longer needs the services provided by the ADH provider; or
- (ii) the intensity of the medical and/or behavioral needs of the member can no longer be met by the ADH provider; or

(b) When the discharge is initiated by the ADH provider, the ADH provider must arrange for the member to be discharged to other appropriate services. The ADH provider may not discharge the member until appropriate services are available.

(c) A member may choose to discontinue services at any time. In this circumstance, the ADH provider is not responsible for discharge service planning, as outlined in 130 CMR 404.406(G)(2) through (5).

(2) The ADH provider must develop a written discharge plan that includes

- (a) a discharge summary;
- (b) recommendations for sources of continuing care (for example, Aging Service Access Points, home health agencies, and facility-based care); and
- (c) referrals to community service agencies for appropriate services, for individuals who do not meet minimum ADH coverage criteria.

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(3) The ADH provider must notify a member, the member's family, or authorized representative and the member's physician at least two weeks before discharging the member from the ADH program. This notification must be mailed to the member and the member's family or authorized representative. The ADH provider must also notify the local Aging Service Access Point, if applicable, two weeks prior to discharge, in cases where a member will be referred for alternative community services. The ADH provider may discharge a member in less than two weeks if a sudden change in the member's condition makes continued participation harmful to the member or other members. The ADH provider must document the need for immediate discharge.

(4) The ADH provider must discuss the discharge with the member's family and coordinate transition to appropriate and available services.

(5) The ADH provider must make at least one follow-up telephone call between 20 and 25 business days following discharge, and document its findings of the member's post-discharge status and condition in the member's medical record.

(H) Marketing Plan. The ADH provider must establish a marketing plan that describes strategies for informing communities in its service area of the program's services.

(I) Quality Assurance/Quality Improvement Plan. Each ADH provider must develop an annual quality improvement plan that

- (1) identifies specific measurable objectives to assess the clinical outcomes of the care and services;
- (2) identifies a method or methods of evaluation;
- (3) identifies a staff member who is responsible for developing the plan;
- (4) explains how the quality improvement information will be used;
- (5) identifies interventions;
- (6) describes the implementation of interventions;
- (7) evaluates the interventions; and
- (8) addresses additional quality improvement projects as determined by the MassHealth agency.

404.407: Adult Day Health Service Requirement for Clinical Eligibility

(A) To be clinically eligible for MassHealth payment of adult day health services, a MassHealth member must meet all of the following criteria:

- (1) have a medical or mental dysfunction that involves one or more physiological systems and requires nursing care (The dysfunction does not have to be one that can be stabilized.);
- (2) require services in a structured adult day health setting;
- (3) have a personal physician;
- (4) require a health assessment, oversight, monitoring, or services provided by a licensed nurse; and
- (5) require one or both of the following:
 - (a) assistance daily with one or more activities of daily living (*see* 130 CMR 404.407(C)); or
 - (b) at least one skilled service (*see* 130 CMR 404.407(B)).

(B) Skilled services are those services ordered by a physician that fall within the professional disciplines of nursing, physical, occupational, and speech therapy. Skilled services include

- (1) intravenous, intramuscular, or subcutaneous injection, or intravenous feeding;
- (2) nasogastric-tube, gastrostomy, or jejunostomy feeding;
- (3) nasopharyngeal aspiration and tracheostomy care. However, long-term care of a tracheotomy tube does not, in itself, indicate the need for skilled services;
- (4) treatment and/or application of dressings when the physician has prescribed irrigation, the application of medication, or sterile dressings of deep decubitus ulcers, other widespread skin disorders, or care of wounds, when the skills of a registered nurse are needed to provide safe and effective services (including, but not limited to, ulcers, burns, open surgical sites, fistulas, tube sites, and tumor erosions);
- (5) administration of oxygen on a regular and continuing basis when the member's medical condition warrants skilled observation (for example, when the member has chronic obstructive pulmonary disease or pulmonary edema);

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- (6) skilled-nursing observation and evaluation of an unstable medical condition (observation must, however, be needed at frequent intervals throughout the day);
- (7) skilled nursing for management and evaluation of the member's care plan when underlying conditions or complications require that only a registered nurse can ensure that essential unskilled care is achieving its purpose. The complexity of the unskilled services that are a necessary part of the medical treatment must require the involvement of skilled nursing personnel to promote the member's recovery and safety;
- (8) insertion, sterile irrigation, and replacement of catheters, care of a suprapubic catheter, or, in selected residents, a urethral catheter. A urethral catheter, particularly one placed for convenience or for control of incontinence, does not justify a need for skilled-nursing care. However, the insertion and maintenance of a urethral catheter as an adjunct to the active treatment of disease of the urinary tract may justify a need for skilled-nursing care. In such instances, the need for a urethral catheter must be documented and justified in the member's medical record (for example, cancer of the bladder or a resistant bladder infection);
- (9) gait evaluation and training administered or supervised by a registered physical therapist while at the ADH provider for members whose ability to walk has recently been impaired by a neurological, muscular, or skeletal abnormality following an acute condition (for example, fracture or stroke). The plan must be designed to achieve specific goals within a specific time frame;
- (10) certain range-of-motion exercises may constitute skilled physical therapy only if they are part of an active treatment plan for a specific state of a disease that has resulted in restriction of mobility (physical-therapy notes showing the degree of motion lost and the degree to be restored must be documented in the member's medical record);
- (11) hot pack, hydrocollator, paraffin bath, or whirlpool treatment will be considered skilled services only when the member's condition is complicated by a circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications; and
- (12) physical, speech/language, occupational, or other therapy that is provided as part of a planned program that is designed, established, and directed by a qualified therapist. The findings of an initial evaluation and periodic reassessments must be documented in the member's medical record. Skilled therapeutic services must be ordered by a physician and be designed to achieve specific goals within a given time frame.

(C) Assistance in activities of daily living include:

- (1) bathing when the member requires either direct care or constant supervision and cueing during the entire activity;
- (2) dressing when the member requires either direct care or constant supervision and cueing during the entire activity;
- (3) toileting, bladder or bowel, when the member is incontinent of bladder or bowel or requires scheduled assistance or routine catheter or colostomy care;
- (4) transfers when the member must be assisted or lifted to another position;
- (5) ambulation when the member must be physically steadied, assisted, or guided in ambulation, or is unable to self-propel a wheelchair appropriately without the assistance of another person; and
- (6) eating when the member requires constant supervision and cueing during the entire meal, physical assistance by the staff with a portion of, or the entire meal.

404.408: Adult Day Health Personnel Requirements(A) Staffing Requirements. Adult day health programs must have available sufficient direct-care staff to meet the needs of their members.

- (1) For HPP level of care services, the ADH provider must maintain a minimum-staffing ratio of one direct care staff person to eight members.
- (2) For basic level of care services, the ADH provider must maintain a minimum-staffing ratio of one direct care staff person to six members.
- (3) For complex level of care services, the ADH provider must maintain a minimum-staffing ratio of one staff person to four members.

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(4) Programs must maintain proportionate direct-care staff ratios to meet the needs of members based on the ratio of members requiring each level-of-care service.

(B) Pre-employment Requirements.

(1) Before hiring staff and approving volunteers, the ADH provider must check the candidate's references and job history and ensure that the candidate has had a Criminal Offender Records Information (CORI) check.

(2) Each staff person must have a satisfactory pre-employment physical examination within 12 months before employment and a tuberculosis screening. The provider must obtain a copy of these reports within 30 days of employment and keep this report in the employee's personnel record. The personnel policies must specify the intervals at which future physical examinations are required. All staff must have a tuberculosis screening completed every two years.

(C) Administrative and Training Requirements.

(1) ADH providers must provide staff training appropriate to the mix of services provided. Staff must have adequate skills, education, and experience to serve the population in a manner consistent with the philosophy of the ADH provider. All paid and volunteer staff must participate. ADH providers must keep training attendance records on file.

(2) ADH providers must provide a minimum of eight hours of in-service training sessions per year.

(3) For each staff position, the ADH provider must have a separate job description that includes title, reporting authority, qualifications, and responsibilities.

(4) The ADH provider must evaluate staff annually, using a standardized evaluation tool and a face-to-face meeting. A record of each staff person's performance evaluation must be maintained in his or her personnel file.

404.409: Adult Day Health Staff Qualifications and Responsibilities

(A) Program Director. The ADH provider must employ a full-time ADH program director.

(1) Qualifications. The ADH program director must have two years of managerial experience and two years experience working with adults in a health-care setting in a professional or volunteer position.

(2) Responsibilities. The ADH program director's responsibilities include:

- (a) directing and supervising all aspects of the ADH program;
- (b) personnel management;
- (c) supervision and evaluation of all staff;
- (d) coordination of all service commencements;
- (e) overseeing ADH program safety and emergency evacuation plans;
- (f) development and implementation of the ADH provider's marketing plan;
- (g) fiscal administration of the ADH program;
- (h) coordination of transportation services; and
- (i) establishing collaborative relationships to ensure that necessary support services are available to members and their families.

(B) Assistant Program Director. One professional staff person must be designated as an assistant program director. The assistant program director must have the same qualifications as the program director and will assume the responsibilities of program director as needed.

(C) Registered Nurse. There must be a registered nurse on site each ADH program day. For minimum nursing staffing requirements, *see* 130 CMR 404.406(D)(1). A registered nurse must be available while members are on site.

(1) Qualifications. The registered nurse must be licensed by the Massachusetts Board of Registration in Nursing to practice in the Commonwealth of Massachusetts. The nurse must have at least two years' recent experience in the direct care of adults or chronically disabled persons.

(2) Responsibilities. The responsibilities of the registered nurse include:

- (a) providing or supervising nursing services for each member, including all skilled nursing services listed in 130 CMR 404.407(B) and (C);

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- (b) supervising other health-care staff;
- (c) coordinating the development and ongoing review of each member's ADH care plan;
- (d) assuring that nurse's notes are written as outlined in 130 CMR 404.406(F)(3), or more often if necessary to address significant changes and health-care teaching in each member's record;
- (e) assisting as necessary in the delivery of other ADH program services;
- (f) training adult day health staff; and
- (g) reviewing and implementing physician orders.

(D) Activity Director. The ADH provider must employ an activity director who will be on site for a minimum of four scheduled hours each day.

- (1) Qualifications. The activity director must have one or more years' experience working in an adult social or recreational program.
- (2) Responsibilities. The responsibilities of the activity director include:
 - (a) developing, in conjunction with the occupational therapy consultant, activity programs that meet the individual needs of each member;
 - (b) supervising the activity program assistants;
 - (c) planning and scheduling activities and social events;
 - (d) writing notes in each member's record on the member's participation in activities as outlined in 130 CMR 404.406(F)(3);
 - (e) participating in the review of each member's care plan;
 - (f) helping as necessary with other adult day health services; and
 - (g) developing a monthly calendar of activities and events.

(E) Social Worker. If the ADH program's average daily census is 24 or more members, the ADH provider must employ a social worker who will be on site for a minimum of 20 scheduled hours each week.

- (1) Qualifications. The social worker must have at a minimum a bachelor's degree in human services from an accredited college or university and at least one year's recent experience working with adults in a professional capacity.
- (2) Responsibilities. The responsibilities of the social worker include:
 - (a) individual, group, and family counseling;
 - (b) informing members of and referring them to available community services;
 - (c) the writing of social worker notes in the member's record upon service commencement, as outlined in 130 CMR 404.406(F)(3), and when significant changes occur;
 - (d) assistance, as appropriate, with other adult day health services; and
 - (e) participation in the review of each member's care plan.

(F) Licensed Practical Nurse.

- (1) Qualifications. The licensed practical nurse must be licensed by the Massachusetts Board of Registration in Nursing to practice in the Commonwealth of Massachusetts.
- (2) Responsibilities. The responsibilities of the licensed practical nurse include
 - (a) providing nursing services and treatments to each member under the supervision of the ADH program's registered nurse; and
 - (b) if so delegated by the registered nurse, ensuring that nurses' notes are written monthly or as often as necessary to address significant changes and health-care teaching in each member's record.

(G) Aide.

- (1) Qualifications. Each aide must
 - (a) have one or more years' experience working with adults in a health-care or social-service setting; and
 - (b) be qualified in cardiopulmonary resuscitation (CPR) and basic first aid.
- (2) Responsibilities. The responsibilities of the aide are to assist professional program staff as required and to meet the needs of individual members.

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(H) Consulting Therapists.

(1) Qualifications. Consulting therapists must meet the requirements set forth in 130 CMR 432.000.

(2) Responsibilities. All consulting therapists must document time and services in the member's record.

(I) Volunteers. The ADH provider must maintain a record of volunteer hours. The duties and responsibilities of volunteers will be determined by the program director. If a volunteer is to provide direct care, the volunteer must meet the qualifications of that direct-care staff as specified in 130 CMR 404.409.

404.410: Adult Day Health Reporting Requirements

(A) The ADH program director or designee is responsible for notifying the MassHealth agency immediately in writing in the following situations:

(1) fire, accident, injury, incidence of abuse, or evidence of serious communicable disease contracted by program staff or MassHealth members;

(2) death of a MassHealth member when the death occurs at or en route to the ADH program; and

(3) change in telephone or fax number or e-mail address of the adult day health program.

(B) The ADH program must obtain written approval from the MassHealth agency before relocating a program site, expanding the certified capacity at an existing site, or opening a satellite at a different program site.

(C) Annually, the ADH provider must submit to the MassHealth agency

(1) a current local occupancy permit;

(2) a current local fire department inspection certification; and

(3) a current local board of health inspection certification.

(D) The ADH provider must document transportation utilization as follows.

(1) The ADH provider must keep accurate records of the transportation rate established for each member.

(2) When a private carrier is used, the ADH provider must submit to the MassHealth agency a copy of the contract or agreement with the carrier.

(3) The ADH provider must submit, per the MassHealth agency's requirements, a transportation report.

(E) At the request of the MassHealth agency, the ADH provider must submit clinical and statistical reports to demonstrate the medical necessity of services, the amount, duration, and level of services, and the member's acuity level.

404.411: Withdrawal by an Adult Day Health Provider from MassHealth

(A) Provider Obligations.

(1) An ADH provider must not commence service for any new MassHealth members after the date on which a withdrawal notice was sent to the MassHealth agency. Members of the ADH program who become eligible for MassHealth after a notice of withdrawal and MassHealth members who are hospitalized or otherwise absent when a notice was sent are not considered new service commencements.

(2) An ADH provider that withdraws from MassHealth must continue to provide services to members until such time as other services have been arranged.

(3) The ADH provider must work promptly and diligently to arrange for appropriate alternative services for members affected by the withdrawal of the ADH provider.

(B) Notification to Member and Family.

(1) The ADH provider must notify all members, guardians, family, and other funding sources in writing of the intended closing date no less than 45 days from the intended closing date and specify the assistance to be provided each member in identifying alternative services.

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(2) On the same date on which the ADH provider sends a withdrawal notice to the MassHealth agency, the ADH provider must give notice, to all its members and their authorized representatives, including those members who have been transferred to hospitals, or who are on non-medical leave of absence. The notice must advise that any member who is eligible for MassHealth on the effective date of the withdrawal must relocate to an ADH participating in MassHealth to ensure continuation of MassHealth payment of services and must be determined eligible to continue to receive the services.

(3) The notice must also state that the ADH provider will work promptly and diligently to arrange for appropriate alternative services for members affected by the withdrawal of the ADH provider.

(4) When appropriate alternative services are identified, the ADH provider must give the member written notice including the name of the new program where the alternative services can be arranged.

(C) Notification to the MassHealth Agency.

(1) An ADH provider electing to withdraw from MassHealth must give written notice of its intention to withdraw to the MassHealth agency, unless such withdrawal results from a situation beyond the control of the provider such as fire or natural disaster. In the instance of alleged emergency withdrawal, the burden of proof will be on the provider. The provider must send the withdrawal notice by certified or registered mail (return receipt requested) to the MassHealth agency's Adult Day Health Unit and the notice must be received by the MassHealth agency no less than 90 days before the effective date of withdrawal.

(2) Upon notification from the MassHealth agency, the ADH provider must forward a list of all members currently receiving services at the ADH program. The ADH provider must notify the MassHealth agency in writing as members are placed in other programs, including the name of the new program and the members' start date in the new program.

404.412: Adult Day Health Program Physical Plant Requirements

(A) ADH providers must meet physical plant requirements as outlined in 130 CMR 404.412.

(1) Those providers who were providers prior to November 1, 2002, and who continue to meet the physical plant requirements at the time of approval are not required to meet the requirements in 130 CMR 404.412(B) and (C).

(2) Those providers who were providers prior to November 1, 2002, and who change the physical plant location by:

- (a) moving to a new location or address;
- (b) move location within the same address, and;
- (c) add additional ADH space at the existing location and address must meet all requirements listed in 130 CMR 404.412(B) through (H).

(B) An ADH program must be located in a site that is

- (1) on ground level with at least two means of egress;
- (2) free of architectural barriers;
- (3) designed to meet the needs of disabled persons; and
- (4) in compliance with local health, fire, and safety codes.

(C) Adult day health space must be utilized only for the provision of adult day health services. The MassHealth agency may waive this requirement at its discretion. The ADH program site must be designed with adequate space for the provision of all adult day health services. Each site must include

- (1) a dining area;
- (2) a clean and sanitary food-preparation area equipped with a refrigerator, a sink, and adequate counter and storage space;
- (3) a project area equipped with adequate table and seating space;
- (4) a group-activity area;
- (5) a private, enclosed space with four walls connected to the ceiling and the floor, free from disruption, for individual nursing services or counseling;
- (6) a rest area with four walls connected to the ceiling and floor with at least one bed, cot, or recliner for every 20 members based on capacity;

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- (7) at least one comfortable resting chair for every six members per day based on capacity;
- (8) storage space for program and operating supplies and equipment;
- (9) adequate outdoor space for members to safely arrive at and depart from the program site;
- (10) a locked storage area not accessible to members for the storage of toxic substances used either in activities or cleaning;
- (11) a secure environment for members who wander;
- (12) a conspicuously posted evacuation plan in each room;
- (13) equipment and furniture that is safe, clean, and appropriate;
- (14) when space for outdoor activities is available, it must be safe, accessible to the ADH program indoors, and accessible to individuals with disabilities;
- (15) if smoking is permitted, a designated smoking area away from the main activity area that is adequately ventilated and properly supervised;
- (16) its own separate space for all services and programming when located in a facility housing other services;
- (17) a private area for ADL needs including bathing, grooming, dressing, and incontinence care;
- (18) adequate toilet facilities that
 - (a) are located as near to the activity area as possible; and
 - (b) are equipped with grab bars or side rails;
- (19) if the daily certified capacity of the ADH program is 25 members or fewer, there must be at least two toilets, including at least one toilet facility designed or adapted to provide access and maneuverability for individuals with disabilities or individuals in wheelchairs; and
- (20) for sites whose certified capacity exceeds 25, additional toilet facilities in proportion to the requirements of 130 CMR 404.412(C)(19).

(D) Before opening a site, relocating to a new site, or renovating a current site, the ADH provider must submit to the MassHealth agency

- (1) a current local occupancy permit;
- (2) a current local fire department inspection certification; and
- (3) a current local board of health inspection certification. If the town or city where the ADH provider is requesting to provide services does not require a board of health inspection, the provider must submit supporting documentation.

(E) The ADH provider must submit to the MassHealth agency, within seven days of receipt, any waiver, variance, or other changes received by the ADH provider from local, state, federal, or other sources.

(F) The ADH program must have on site a minimum of the following health-care equipment:

- (1) an emergency first-aid kit that is visible and accessible to staff;
- (2) a stethoscope;
- (3) a scale;
- (4) a blood-pressure apparatus;
- (5) foot basins;
- (6) thermometers;
- (7) a locked storage space for drugs separate from member activity areas;
- (8) refrigeration for drugs that is separate from food; and
- (9) at least three blankets designated for first aid and medical crisis use only.

(G) The ADH program must have easily accessible fire extinguishers. One must be located in the kitchen and one located in each program area.

(H) The MassHealth agency must approve the certified capacity for each participating ADH provider site.

- (1) The maximum capacity limit may be increased only with the written approval of the MassHealth agency.

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(2) A minimum of 50 square feet of space must be available for each adult day health member. This minimum does not include offices (except for the nurse's office), toilets, hallways, storage areas, reception areas, and other areas not used for the provision of adult day health services.

(3) The capacity of an ADH provider is determined by the number of individuals receiving services in the space designated for adult day health regardless of the type of service or funding source.

404.413: Transportation Services

(A) Transportation Service. Transportation service is defined as

(1) transporting members to and from the ADH provider site;

(2) assisting members while entering and exiting the vehicle; and

(3) picking members up outside their home and dropping them off outside the ADH program.

(B) Provision of Transportation. ADH providers must provide transportation directly or through a subcontractor.

(C) Rates of Payment. The MassHealth agency pays ADH providers for transportation service at a weighted-average, one-way rate established by the ADH providers and approved by the MassHealth agency. ADH providers must submit their proposed one-way rates to the MassHealth agency for approval. The MassHealth agency assesses the proposed weighted-average rate and sets the ADH providers' transportation service rates. The MassHealth agency pays the ADH providers' approved transportation service rate for each member transported by the ADH program. When approving a transportation rate, the MassHealth agency considers:

(1) the approved rates of other ADH providers in that geographic area;

(2) whether the ADH provider is using the least expensive form of transportation; and

(3) additional cost report information as requested by the MassHealth agency.

(D) Other Requirements. The ADH provider must ensure that

(1) all vehicles used for transporting members are licensed by the Massachusetts Registry of Motor Vehicles;

(2) the operation of these vehicles is in accordance with all local, state, and federal statutes and ordinances; and

(3) the drivers of these vehicles are fully instructed in the Massachusetts motor-vehicle laws, possess valid Massachusetts driver's licenses, have undergone a Criminal Offender Records Information (CORI) check and drug and alcohol testing, are certified in CPR and first aid, have experience transporting passengers, have received training in meeting the needs of aged and disabled persons, have received training in wheelchair securement and tie down procedures, and have knowledge of the rules and procedures for the mandated reporting of abuse or neglect of members prior to contact with MassHealth consumers.

(E) Travel Distance and Time. The ADH provider and the transportation provider should attempt to minimize travel distance and travel time. If a member needs to be transported outside the towns bordering the town where the ADH program is located, they must receive prior authorization from the MassHealth agency.

404.414: Conditions of Payment

(A) The MassHealth agency pays ADH providers for ADH in accordance with the applicable payment methodology and rate schedule established by the Division of Health Care Finance and Policy or by the MassHealth agency.

(B) Payment for services is subject to the conditions, exclusions, and limitations set forth in 130 CMR 404.000 and 450.000.

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- (C) The MassHealth agency pays ADH providers for ADH only if
- (1) the ADH services are medically necessary;
 - (2) the member meets the clinical criteria for MassHealth payment; and
 - (3) the ADH provider has obtained clinical authorization for MassHealth payment in accordance with the requirements set forth in 130 CMR 404.405 and 404.407.
- (D) The MassHealth agency pays one of three different payment rates for ADH services depending on the level of care services provided to a member by an ADH provider.
- (1) Health Promotion and Prevention. The MassHealth agency pays the HPP rate when the ADH provider provides health promotion and prevention level of care services as defined in 130 CMR 404.402
 - (2) Basic. The MassHealth agency pays the basic rate where the ADH provider furnishes:
 - (a) basic level of care services as defined in 130 CMR 404.402;
 - (b) management, monitoring, and non-routine assessment of any of the following:
 - (i) anticoagulant therapy with monitoring of laboratory values and dose adjustments;
 - (ii) administration of sliding scale insulin; or
 - (iii) the introduction and/or titration of a psychoactive medication for a member with a diagnosis of a major mental disorder; or
 - (c) appropriate behavioral interventions during at least 50% of the time the member attends the ADH program to control or alleviate the following disruptive behaviors, as described in the adult day health care plan for each member needing such assistance:
 - (i) wandering into unsafe or inappropriate places, seemingly oblivious to needs or safety;
 - (ii) verbally abusive behavioral symptoms: threatening, screaming, or cursing at others;
 - (iii) physically abusive behavioral symptoms: hitting, shoving, or scratching; or
 - (iv) socially inappropriate or disruptive behavioral symptoms: disruptive sounds, noisiness, screaming, self-abusive acts, disrobing in public, smearing or throwing food or feces, rummaging, repetitive behavior, or causing general disruption.
 - (3) Complex. The MassHealth agency pays the complex rate when the ADH provider provides complex level of care services as defined in 130 CMR 404.402.
- (E) Once a member has been determined to meet the clinical eligibility requirements for MassHealth payment of ADH services, the ADH provider may submit claims for MassHealth payment.
- (1) The determination of which MassHealth ADH payment rate is payable must be done on service commencement, annually, and when there is a significant change in the member's clinical status. The ADH provider must use the assessment form designated by the MassHealth agency to document the appropriate ADH payment rate.
 - (2) The ADH provider must assess the member's clinical status annually and when there is a significant change in the member's clinical status as defined in 130 CMR 404.402. The provider need not complete a new acuity tool, if one has been completed within 15 days of the annual assessment.
 - (3) The ADH provider must maintain documentation in the member's medical record that reflects the member's level of care services.
- (F) MassHealth payment to ADH providers begins on the later of
- (1) the effective date of the clinical authorization from the MassHealth agency; or
 - (2) the first date on which ADH is provided to the member.
- (G) The MassHealth agency pays an adult day health provider for only those time periods attended by an eligible MassHealth member. If a member attends for less than six hours a day, the ADH program must bill using the appropriate billing codes for units of service of less than one day.

404.415: Noncovered Services

The MassHealth agency does not pay for adult day health services for

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- (A) individuals who reside in a facility-based setting;
- (B) any canceled program days or any time periods missed by a member for any reason; and
- (C) any portion of a day during which the member is absent from the site, unless the program documents that the member was receiving services from the program staff outside of the adult day health site in a community setting.

REGULATORY AUTHORITY

130 CMR 404.000: M.G.L. c. 118E, §§ 7 and 12.