

173-3-06.1

Older Americans Act: adult day service.

(A) "Adult day service" ("ADS") means a regularly-scheduled service delivered at an adult day center (center) in a non-institutional, community-based setting. ADS includes recreational and educational programming to support a consumer's health and independence goals; at least one meal, but no more than two meals per day; and, sometimes, health status monitoring, skilled therapy services, and transportation to and from the center. Table 1 to this rule defines the three levels of ADS.

Table 1: Levels and Activities of ADS

	BASIC ADS	ENHANCED ADS	INTENSIVE ADS
Structured activity programming	Yes	Yes	Yes
Health assessments	Yes	Yes	Yes
Supervision of ADLs	One or more ADL	One or more ADL	All ADLs
Hands-on assistance with ADLs	No	Yes, one or more ADL (bathing excluded)	Yes, minimum of two ADLs (bathing included)
Hands-on assistance with medication administration	No	Yes	Yes
Comprehensive therapeutic activities	No	Yes	Yes
Monitoring of health status	No	Intermittent	Regular
Hands-on assistance with personal hygiene activities	No	Yes (bathing excluded)	Yes (bathing included, as needed)
Social work services	No	No	Yes
Skilled nursing services	No	No	Yes
Rehabilitative services	No	No	Yes

"Adult day service" also includes ADS activities provided in a consumer's home (including activities provided by telephone or video conference) to a consumer who is enrolled in a case management service with the AAA as part of care coordination. Table 2 to this rule defines which care-coordinated consumers are eligible to receive ADS activities in their homes, which ADS activities are allowable in their homes, and the allowable duration or frequency of allowable ADS activities in their homes.

Table 2: ADS Activities Provided in the Home of a Care-Coordinated Consumer

	ADS ACTIVITIES PROVIDED IN PERSON IN THE CONSUMER'S HOME	ADS ACTIVITIES PROVIDED BY TELEPHONE OR VIDEO CONFERENCE TO THE INDIVIDUAL'S <u>CONSUMER'S</u> HOME
ALLOWABLE ADS ACTIVITIES IN THE CONSUMER'S HOME	Older Americans Act funds may cover ADS activities addressing the consumer's ADS-ADL and IADL needs. Older Americans Act funds do not cover any ADS activities in the consumer's home on the same day that the consumer receives personal care. Older Americans Act funds do not cover meals through ADS if the consumer receives home-delivered meals.	Older Americans Act funds may cover regular monitoring of health status with intervention and documentation/referrals in the intensive ADS level. Older Americans Act funds do not cover any ADS activities in the consumer's home on the same day that the consumer receives personal care.
DURATION/FREQUENCY OF ALLOWABLE ADS ACTIVITIES IN THE CONSUMER'S HOME	Older Americans Act funds may cover a half or full day of ADS activities if authorized by the consumer's case manager.	Older Americans Act funds may cover a minimum of two episodes of allowable ADS activities per week, but no more than one episode of allowable ADS activities per day.

(B) Requirements for Every ~~every~~ AAA-provider agreement for ADS that is paid, in whole or in part, with Older Americans Act funds, ~~shall comply with the following requirements:~~

- (1) ~~General requirements: In the The AAA-provider agreement, the AAA shall include is subject to the requirements in rule 173-3-06 of the Administrative Code for every AAA-provider agreement paid, in whole or in part, with Older Americans Act funds.~~

(2) Service requirements:

- (a) Transportation: The provider shall transport each consumer to and from the center by performing ~~a transportation service~~ that complies with rule 173-3-06.6 of the Administrative Code, unless the provider enters into a contract with another provider who complies with rule 173-3-06.6 of the Administrative Code, or unless the caregiver provides transports or designates another person or non-provider, other than the center provider, to transport the consumer to and from the center.

- (b) Case manager's assessment: If the consumer receives a case management service as part of care coordination:

- (i) The case manager shall assess each consumer's needs and preferences then specify which service level will be approved for each consumer; and,

- (ii) The provider shall retain records to show that it provides the service at the level that the case manager authorized.

(c) Provider's initial assessment:

- (i) The provider shall assess the consumer before the end of the consumer's second day of attendance at the center. If the consumer is enrolled in care coordination, the provider may substitute a copy of the case manager's assessment of the consumer if the case manager assessed the consumer no more than thirty days before the consumer's first day of attendance at the center.

- (ii) The initial assessment shall include both of the following components:

- (a) Functional and cognitive profiles that identify the ADLs and IADLs that require attention or assistance of the provider's staff members.

- (b) Social profile including social activity patterns, major life events, community services, caregiver data, formal and informal support systems, and behavior patterns.

- (d) Health assessment: No later than thirty days after the consumer's initial attendance at the center or before the consumer receives the first ten units of service at the center, whichever comes first, the provider shall either obtain a health assessment of each consumer from a licensed healthcare professional whose scope of practice includes health assessments or require a staff member who is such a licensed healthcare professional to perform a health assessment of each consumer. The health assessment shall include the consumer's psychosocial profile and ~~shall~~ identify the consumer's risk factors, diet, and medications. If the licensed healthcare professional who performs the health assessment is not a staff member of the provider, the provider shall retain a record of the professional's name and phone number.
- (e) Activity plan: No later than thirty days after the consumer's initial attendance at the center or before the consumer receives the first ten units of service at the center, whichever comes first, the provider shall either obtain the services of a licensed healthcare professional whose scope of practice includes developing activity plans to draft an activity plan for each consumer or ~~the provider shall~~ require a staff member who is such a licensed healthcare professional to draft an activity plan for each consumer. The plan shall ~~identify the consumer's strengths, needs, problems or difficulties, goals, and objectives. The plan shall describe the consumer's~~ do all of the following:
- (i) Identify the consumer's strengths, needs, problems or difficulties, and objectives.
 - ~~(i)~~(ii) Describe the consumer's ~~Interests, interests,~~ preferences, and social rehabilitative needs.
 - ~~(ii)~~(iii) Describe the consumer's ~~Health~~ health needs.
 - ~~(iii)~~(iv) Describe the consumer's ~~Specific~~ specific goals, objectives, and planned interventions of ADS that meet the goals.
 - ~~(iv)~~(v) Describe the consumer's ~~Level~~ level of involvement in the drafting of the plan, and; if the consumer has a caregiver, the caregiver's level of involvement in the drafting of the plan.
 - ~~(v)~~(vi) Describe the consumer's ~~Ability~~ ability to provide a unique identifier to verify receipt of service delivery.

(f) Plan of treatment: Before administering medication or meals with a therapeutic diet, and before providing a nursing service, nutrition counseling, physical therapy, or speech therapy, the provider shall obtain a plan of treatment from a licensed healthcare professional whose scope of practice includes making plans of treatment. The provider shall obtain the plan of treatment at least every ninety days for each consumer that receives medication, a nursing service, nutrition counseling, physical therapy, or speech therapy. For diet orders that may be part of a plan of treatment, a new diet order is not required every ninety days. Instead, the provider ~~shall comply with~~ is subject to the diet-order requirements ~~for therapeutic diets~~ under rule 173-4-06 of the Administrative Code.

(g) Interdisciplinary care conference (conference):

(i) Frequency: The provider shall conduct a conference for each consumer at least once every six months.

(ii) Participants: The provider shall conduct the conference between the provider's staff members and invitees who choose to participate. ~~If the consumer receives case management as part of care coordination~~ At least seven days before the conference begins, the provider shall invite the ~~case manager~~ following persons to participate in the conference and provide those persons with the date and time of the conference. ~~The provider shall invite any licensed healthcare professional who does not work for the provider, but who provided the provider with a health assessment of the consumer or an activity plan for the consumer, to participate in the conference. If the consumer has a caregiver, the provider shall invite the caregiver to the conference. The provider shall also invite the consumer to the conference. The provider shall invite the case manager, licensed healthcare professional, caregiver, or consumer by providing the date and time to the case manager seven days before the conference begins.;~~

(a) The consumer.

(b) The consumer's case manager, if the consumer receives case management as part of care coordination.

(c) Any licensed healthcare profession who does not work for the provider, but who provided the provider with a health assessment of the consumer or an activity plan for the consumer.

(d) The consumer's caregiver, if the consumer has a caregiver.

(iii) Revise activity plan: If the conference participants identify changes in the consumer's health needs, condition, preferences, or responses to the service, the provider shall obtain the services of a licensed healthcare professional whose scope of practice includes developing activity plans to revise the activity plan accordingly or ~~shall~~ require a staff member who is such a licensed healthcare professional to revise the activity plan accordingly.

~~(iv) Records: The provider shall retain records on each conference's determinations.~~

(h) Activities: The provider shall announce daily and monthly planned activities through two or more of the following media:

(i) Posters in prominent locations throughout the center.

(ii) An electronic display (e.g., a television) in a prominent location in the center.

(iii) The center's website.

(iv) A direct communication sent to consumers (and others), such as email, text, mail, or another medium.

(i) Lunch and snacks:

(i) The provider shall provide lunch and snacks to each consumer who is present during lunchtime or snacktime.

(ii) The provision of lunch shall comply with paragraphs (A)(7) to (A)(12) of rule 173-4-05 of the Administrative Code and paragraph (E) of rule 173-4-05.1 of the Administrative Code.

(3) Center requirements: A provider ~~only qualifies~~ may qualify for an AAA-provider agreement to provide ADS if the provider's center ~~has~~ meets the following specifications:

(a) If the center is housed in a building with services or programs other than ADS, ~~the provider shall assure that~~ a separate, identifiable space and staff are available for ADS activities during all hours in which the provider provides ADS in the center.

- (b) The center ~~shall comply~~ complies with the "ADA Accessibility Guidelines for Buildings and Facilities" in appendix A to 28 C.F.R. Part 36.
- (c) The center ~~shall have~~ has at least sixty square feet per individual that it serves, excluding hallways, offices, rest rooms, and storage areas.
- (d) The provider ~~shall store~~ stores consumers' medications in a locked area that the provider maintains at a temperature that meets the storage requirements of the medications.
- (e) The provider ~~shall store~~ stores toxic substances in an area that is inaccessible to consumers.
- (f) The center ~~shall have~~ has at least one toilet for every ten individuals present that it serves and at least one wheelchair-accessible toilet.
- (g) If the center provides intensive ADS, the center ~~shall have~~ has bathing facilities suitable to the needs of consumers who require intensive ADS.

(4) Staffing levels:

- (a) The provider shall have at least two staff members present whenever more than one consumer is present, including one who is a paid PCA and one who is certified in CPR.
- (b) The provider shall maintain a staff-to-consumer ratio of at least one staff member to every six consumers at all times.
- (c) The provider shall have one RN, or LPN under the direction of an RN, available whenever a consumer who receives enhanced ADS or intensive ADS requires components of enhanced ADS or intensive ADS that fall within a nurse's scope of practice.
- (d) The provider shall employ an activity director to direct consumer activities.

(5) Provider qualification:

- (a) Type of provider: ~~A provider shall only~~ Only agency providers qualify to provide ADS if the provider is an agency provider.
- (b) Staff qualifications:
 - (i) Every person who is an RN, LPN under the direction of an RN, social worker, physical therapist, physical therapy assistant, speech

therapist, dietitian, occupational therapist, occupational therapy assistant, or other licensed professional ~~planning~~ qualifies to practice in the adult day center ~~shall only if the person possess~~ has a current and valid license to practice in their profession.

(ii) ~~The~~ A person qualifies to be an activity director ~~shall only if the person possess~~ has at least one of the following:

- (a) A baccalaureate or associate degree in recreational therapy or a related degree.
- (b) At least two years of experience as an activity director, activity assistant or a related position.
- (c) Compliance with the qualifications under rule 3701-17-07 of the Administrative Code for directing resident activities in a nursing home.
- (d) A certification from the national certification council for activity professionals (NCCAP).

(iii) ~~Each~~ A person qualifies to be an activity assistant ~~shall only if the person possess~~ has at least one of the following:

- (a) A high school diploma.
- (b) A high school equivalence diploma as defined in section 5107.40 of the Revised Code.
- (c) At least two years of employment in a supervised position to provide personal care, to provide activities, or to assist with activities.

(iv) ~~Each~~ A person qualifies to be a PCA ~~shall only if the person possess~~ has at least one of the following:

- (a) A high school diploma.
- (b) A high school equivalence diploma as defined in section 5107.40 of the Revised Code.
- (c) At least two years of employment in a supervised position to provide personal care, to provide activities, or to assist with activities.

- (d) The successful completion of a vocational program in a health or human services field.
 - (v) Each staff member who provides transportation to consumers shall comply with all requirements under rule 173-3-06.6 of the Administrative Code.
 - ~~(vi) The provider shall retain records to show that each staff member who has in-person interaction with consumers meets the staff qualifications under paragraph (B)(5)(b) of this rule for their job position.~~
- (c) Staff training:
 - (i) Orientation: ~~Before each new PCA provides an ADS, the~~ The provider shall train the staff member on all of the following: comply with the requirements for the orientation of PCAs in rule 173-3-06.5 of the Administrative Code.
 - ~~(a) The expectation of employees.~~
 - ~~(b) The provider's ethical standards.~~
 - ~~(c) An overview of the provider's personnel policies.~~
 - ~~(d) A description of the provider's organization and lines of communication.~~
 - ~~(e) Incident reporting procedures.~~
 - ~~(f) Universal precautions for infection control.~~
 - (ii) Task-based training: Before each new PCA provides an ADS, the provider shall provide task-based training.
 - (iii) Continuing education: Each staff member shall successfully complete at least eight hours of in-service or continuing education on appropriate topics every twelve months. A staff member's successful completion of one to eight hours of continuing education or in-service training to maintain a professional license, certification, or registration used to provide ADS counts towards this eight-hour requirement if successfully completed during the same calendar year.

(iv) ~~Records:~~ Verification of compliance: The provider shall ~~retain records showing that it complies with the training requirements under paragraph (B)(4)(c) of this rule. In doing so, the provider shall list the instructor's title, qualifications, and signature; date and time of instruction; content of the instruction; and name and signature of ADS personal care staff completing the training.~~ comply with paragraph (B)(3)(f) of rule 173-3-06.5 of the Administrative Code regarding records of each PCA's successful completion of any training and competency evaluation program, orientation, and in-service training.

~~(d) Performance reviews:~~

~~(i)~~ (d) Performance reviews: The provider shall complete a performance review of each staff member in relation to the staff member's job description.

~~(ii) The provider shall retain records to show that it complies with paragraph (B)(5)(d)(i) of this rule.~~

(6) Service verification:

~~(a) The provider shall verify that each episode of adult day service for which it bills was provided by one of the following two methods:~~

~~(i) The provider may use an electronic system if the system does all of the following:~~

~~(a) Collects the consumer's name, date of service, consumer's arrival and departure times (if the service is provided in the center), consumer's mode of transportation (if the service is provided in the center), and a unique identifier of the consumer.~~

~~(b) Retains the information it collects.~~

~~(c) Produces reports, upon request, that the AAA can monitor for compliance.~~

~~(ii)~~ (a) The provider may use a manual system if the provider documents all following are the reportable mandatory reporting information items for each episode of service, including the consumer's name, date of service, consumer's arrival and departure times (if the service is provided in the center), and consumer's mode of transportation (if the service is provided in the center), and collects a unique identifier of the consumer. that a

provider retains to comply with the requirements under paragraph (B)(9) of rule 173-3-06 of the Administrative Code:

(i) Consumer's name.

(ii) Service date.

(iii) Consumer's arrival and departure times (if the service is provided in the center).

(iv) Consumer's mode of transportation (if the service is provided in the center).

(v) Unique identifier of the consumer or the consumer's caregiver to attest to receiving the service.

~~(b) In the AAA-provider agreement, the AAA shall not prohibit a provider from using an electronic system or daily attendance roster (if the service is provided in the center) to collect and retain the records this rule requires.~~

~~(e)~~(b) During a state of emergency declared by the governor or a federal public health emergency, the provider may verify each episode of service provided without collecting the unique identifier of the consumer or the consumer's caregiver.

(C) Units of service:

(1) Attendance: Units of ADS are calculated as follows:

(a) One-half unit is less than four hours of ADS per day.

(b) One unit is four to eight hours of ADS per day.

(c) A fifteen-minute unit is each fifteen-minute period of time over eight hours up to, and including, a maximum of twelve hours of ADS per day.

(2) Transportation: A unit of ADS does not include transportation, as defined by rule 173-3-06.6 of the Administrative Code, even if the transportation is provided to transport the consumer to or from the center.

Effective:

Five Year Review (FYR) Dates: 10/14/2022

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 121.07, 173.01, 173.02, 173.392; 42 U.S.C. 3025; 45
C.F.R. 1321.11
Rule Amplifies: 173.39, 173.392; 42 U.S.C. 3025, 3030d, 3032c; 45
C.F.R. 1321.11, 1321.65
Prior Effective Dates: 02/15/2009, 02/14/2010, 04/24/2011, 11/01/2013,
09/01/2016, 06/11/2020 (Emer.), 12/31/2020,
01/29/2022