

173-39-02.1

ODA provider certification: adult day service.

(A) "Adult day service" ("ADS") means a regularly-scheduled service delivered at an ADS center, which is a non-institutional, community-based setting. ADS includes recreational and educational programming to support an individual'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 ADS center.

Beginning on the effective date of this rule, or the date ODA receives CMS approval, whichever occurs later, "adult day service" also includes ADS components provided in the individual's home, including activities provided by telephone or video conference.

(B) Every ODA-certified provider of ADS shall comply with the following requirements:

(1) General requirements: The provider shall comply with the requirements for every ODA-certified provider in rule 173-39-02 of the Administrative Code.

(2) Service requirements:

(a) Service levels: The required components of the two services levels are presented in this paragraph and in "Table 1" to this rule:

(i) Enhanced ADS: Enhanced ADS includes structured activity programming, health assessments, supervision of all ADLs, supervision of medication administration, hands-on assistance with ADL activities (except bathing) and hands-on assistance with medication administration, comprehensive therapeutic activities, intermittent monitoring of health status; and, hands-on assistance with personal hygiene activities (except bathing).

(ii) Intensive ADS: Intensive ADS includes all the components of enhanced ADS plus hands-on assistance with two or more ADLs; hands-on assistance with bathing; regular monitoring of, and intervention with, health status; skilled nursing services (e.g., dressing changes and other treatments) and rehabilitative nursing procedures; rehabilitative and restorative services, including physical therapy, speech therapy, and occupational therapy; and, social work services.

Table 1: Levels and Components of ADS

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

(b) Transportation: The provider shall transport each individual to and from the ADS center by performing a transportation service that complies with rule 173-39-02.13 of the Administrative Code, unless the provider enters into a contract with another provider who complies with rule 173-39-02.13 of the Administrative Code, or unless the caregiver provides or designates another person or non-provider, other than the ADS center provider, to transport the individual to and from the ADS center.

(c) Case manager's assessment:

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

- (ii) The provider shall retain records to show that it provides the service at the level that the case manager authorized.
- (d) Provider's initial assessment:
 - (i) The provider shall assess the individual before the end of the individual's second day of attendance at the center. The provider may substitute a copy of the case manager's assessment of the individual if the case manager assessed the individual no more than thirty days before the individual'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 the attention or assistance of ADS center staff; and,
 - (b) A social profile including social activity patterns, major life events, community services, caregiver data, formal and informal support systems, and behavior patterns.
- (e) Health assessment: No later than thirty days after the individual's initial attendance at the ADS center or before the individual receives the first ten units of service at the ADS center, whichever comes first, the provider shall either obtain a health assessment of each individual from a licensed healthcare professional whose scope of practice includes health assessments or shall require a staff member who is such a licensed healthcare professional to perform a health assessment of each individual. The health assessment shall include the individual's psychosocial profile and shall identify the individual'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.
- (f) Activity plan: No later than thirty days after the individual's initial attendance at the ADS center or before the individual receives the first ten units of service at the ADS 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 individual or the provider shall require a staff member who is such a licensed healthcare professional to draft an activity plan for each individual. The plan shall identify the individual's strengths, needs,

problems or difficulties, goals, and objectives. The plan shall describe the individual's:

- (i) Interests, preferences, and social rehabilitative needs;
 - (ii) Health needs;
 - (iii) Specific goals, objectives, and planned interventions of ADS services that meet the goals;
 - (iv) Level of involvement in the drafting of the plan, and, if the individual has a caregiver, the caregiver's level of involvement in the drafting of the plan; and,
 - (v) Ability to sign his or her signature versus alternate means for the individual's signature.
- (g) Plan of treatment: Before administering medication or meals with a therapeutic diet, and before providing a nursing service, nutrition consultation, 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 individual that receives medication, a nursing service, nutrition consultation, 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 the diet-order requirements for therapeutic diets under rule ~~173-39-02.14~~ 5160-44-11 of the Administrative Code.
- (h) Interdisciplinary care conference:
- (i) Frequency: The provider shall conduct an interdisciplinary care conference for each individual 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. The provider shall invite the case manager to participate in 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 individual or an activity plan for the individual, to participate in the conference. If the individual has a caregiver, the provider shall invite the caregiver to the conference. The provider shall also invite the individual to

the conference. The provider shall invite the case manager, licensed healthcare professional, caregiver, or individual by providing the date and time to the case manager seven days before the conference begins.

(iii) **Revise activity plan:** If the conference participants identify changes in the individual'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.

(i) **Activities:** The provider shall post daily and monthly planned activities in prominent locations throughout the center.

(j) **Lunch and snacks:**

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

(ii) Each meal that the provider provides shall comply with all the requirements for the home-delivered meal service under rule 173-39-02.14 of the Administrative Code, except for the requirements in that rule that pertain to the delivery of the meal.

(3) **Center requirements:**

(a) **Specifications:** The provider shall only provide ADS in a center with the following specifications.

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

(ii) The center shall comply with the "ADA Accessibility Guidelines for Buildings and Facilities" in appendix A to 28 C.F.R., Part 36 (July 1, 2015).

- (iii) The center shall have at least sixty square feet per individual that it serves (not just individuals who are enrolled in an ODA-administered program), excluding hallways, offices, rest rooms, and storage areas.
 - (iv) The provider shall store individuals' medications in a locked area that the provider maintains at a temperature that meets the storage requirements of the medications.
 - (v) The provider shall store toxic substances in an area that is inaccessible to individuals.
 - (vi) The center shall have at least one working toilet for every ten individuals present that it serves (not just individuals who are enrolled in an ODA-administered program) and at least one wheelchair-accessible toilet.
 - (vii) ODA shall only certify the provider to provide intensive ADS if the center has bathing facilities suitable to the needs of individuals who require intensive ADS.
- (b) Emergency safety plan:
- (i) The provider shall develop and annually review a fire inspection and emergency safety plan.
 - (ii) The provider shall post evacuation procedures in prominent areas throughout the center.
- (c) Evacuation drills:
- (i) At least quarterly, the provider shall conduct an evacuation drill from the center while individuals are present.
 - (ii) The provider shall retain records on the date and time it completes each evacuation drill.
- (d) Fire extinguishers and smoke alarms:
- (i) The provider shall have fire extinguishers and smoke alarms in the center and shall routinely maintain them.

- (ii) At least annually, the provider shall inspect the fire extinguishers and smoke alarms. The provider shall retain records on the date and time it completes each inspection.

(4) Staffing levels:

- (a) The provider shall have at least two staff members present whenever more than one individual is present, including one who is a paid personal care staff member and one who is certified in CPR.
- (b) The provider shall maintain a staff-to-individual ratio of at least one staff member to ~~six~~ ten individuals ~~at all times~~ while providing on-site services.
- (c) The provider shall have a RN, or LPN under the direction of a RN, ~~on-site at the ADS center~~ available to provide nursing services that require the skills of a RN, or LPN under the direction of a RN, and that are based on the needs of the individual and within the nurse's scope of practice.
- (d) The provider shall employ an activity director to direct activities.

(5) Provider qualifications:

(a) Type of provider:

- (i) A provider shall only provide the service if ODA certifies the provider as an agency provider.
- (ii) For each provider that ODA certifies, ODA shall certify the provider as an enhanced or intensive provider. If ODA certifies a provider to provide an intensive service level, the provider may also directly provide, or arrange for, the enhanced service level.

(b) Staff qualifications:

- (i) Every RN, LPN under the direction of a RN, social worker, physical therapist, physical therapy assistant, speech therapist, licensed dietitian, occupational therapist, occupational therapy assistant, or other licensed professional acting as a personal care care staff member, shall possess a current, valid license to practice in their profession.
- (ii) Each activity director shall possess 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 coordinator, 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 facility.
 - (d) A certification from the national certification council for activity professionals (NCCAP).
- (iii) Each activity assistant shall possess 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; or,
 - (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 personal care aide shall possess 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; or,
 - (d) The successful completion of a vocational program in a health or human services field.
- (v) Each staff member who provides transportation to individuals shall comply with all requirements under rule 173-39-02.13 of the Administrative Code.

- (vi) The provider shall retain records to show that each staff member who has in-person interaction with individuals complies with paragraph (B)(4)(b) of this rule.

(c) Staff training:

- (i) Orientation: Before each new personal care staff member provides ADS, the provider shall train the staff member on all of the following:
 - (a) The expectation of employees;
 - (b) The provider's ethical standards, as required under rule 173-39-02 of the Administrative Code;
 - (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; and,
 - (f) Universal precautions for infection control.
- (ii) Task-based training: Before each new personal care staff member provides ADS, the provider shall provide task-based training.
- (iii) Continuing education: Each staff member shall participate in at least eight hours of in-service or continuing education on appropriate topics each calendar year, unless the staff person holds a professional certification that requires at least eight hours in order to maintain the certification.
- (iv) Records: The provider shall retain records showing that it complies with the training requirements under paragraph (B)(5)(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.

(d) Performance reviews:

- (i) 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)(4)(d)(i) of this rule.
 - (6) Service verification: By one of the following two methods, the provider shall verify that each ADS session for which it bills was provided:
 - (a) The provider may use an electronic system to verify each ADS session if the system does all of the following:
 - (i) Collects the individual's name, date of service, arrival and departure times, mode of transportation (if provided in an ADS center), and an identifier (e.g., electronic signature, fingerprint, password, swipe card, bar code) unique to the individual.
 - (ii) Retains the information it collects.
 - (iii) Produces reports, upon request, that ODA or its designee can monitor for compliance.
 - (b) The provider may use a manual system, including a daily-attendance roster, to verify ADS session if the provider documents the individual's name, date of service, arrival and departure times, and mode of transportation (if provided in an ADS center); and collects the handwritten signatures of an ADS staff person and the individual. If the individual is unable to produce a handwritten signature, the individual's handwritten initials, stamp, or mark are acceptable if the case manager recorded the alternative in the individual's service plan.
- (C) Units and rates:
- (1) Attendance:
 - (a) Units of ADS attendance are calculated as follows:
 - (i) One-half unit is less than four hours ADS per day.
 - (ii) One unit is four through eight hours ADS per day.
 - (iii) 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.
 - (b) A unit of ADS attendance does not include transportation time.

- (2) Transportation: A unit of ADS transportation is a round trip, a one-way trip, or one mile with the trip cost based on a case manager's pre-determined calculation of distance between the individual's residence and the ADS center multiplied by an established ADS mileage rate. If the provider provides the transportation simultaneously to more than one PASSPORT-enrolled individual who resides in the same household in the same vehicle to the same destination, the provider's payment rate for that trip is seventy-five per cent of the per-unit rate, in accordance with rule 5160-31-07 of the Administrative Code.
- (3) The maximum rates allowable for units of ADS attendance and ADS transportation are established in appendix A to 5160-1-06.1 of the Administrative Code.
- (4) The rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.

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CERTIFIED ELECTRONICALLY

Certification

06/11/2020

Date

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