

## TO BE RESCINDED

173-39-02.1

**ODA provider certification: 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 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 center. Table 1 to this rule defines the levels and activities of ADS.

Table 1: ADS Activities by Level of ADS

	ENHANCED ADS	INTENSIVE ADS
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

"Adult day service" also includes ADS activities provided to the individual in the individual's home in person, by telephone, by video conference, or by a combination of in person, telephone, or video conference. Table 2 to this rule defines which individuals 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 Individual's Home

	ADS ACTIVITIES PROVIDED IN PERSON IN THE INDIVIDUAL'S HOME	ADS ACTIVITIES PROVIDED BY TELEPHONE OR VIDEO CONFERENCE TO THE INDIVIDUAL'S HOME
Allowable ADS activities in the individual's home	ADS activities addressing the individual's ADS and IADL needs. No authorization for any ADS activities in the individual's home on the same day that the individual receives personal care. No authorization for meals through ADS if the individual receives home-delivered meals.	Regular monitoring of health status with intervention and documentation/referrals in the intensive ADS level. No authorization for any ADS activities in the individual's home on the same day that the individual receives personal care.
Duration/frequency of allowable ADS activities in the individual's home	Authorization is possible for a half or full day of ADS activities if authorized in the individual's person-centered services plan.	Authorization is possible for a minimum of two episodes of allowable ADS activities per week, but no more than one episode of allowable ADS activities per day.

(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) Transportation: The provider shall transport each individual to and from the center by performing transportation complying with rule 173-39-02.13 of the Administrative Code, unless the provider subcontracts with another provider complying 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 center provider, to transport the individual to and from the center.
- (b) Case manager's assessment:
- (i) The case manager shall assess each individual's needs and preferences then specify which service level will be approved for each individual.
  - (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 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 the provider's staff members.
    - (b) A 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 individual's initial attendance at the center or before the individual receives the first ten units of service at the 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.

- (e) Activity plan: No later than thirty days after the individual's initial attendance at the center or before the individual 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 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 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.
  - (v) Ability to provide a unique identifier as an attestation that the provider, or the provider's staff, completed an activity or unit of service.
- (f) 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 5160-44-11 of the Administrative Code.
- (g) Interdisciplinary care conference (conference):

- (i) Frequency: The provider shall conduct a 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 at least 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.
- (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) Email sent to individuals (and others) who agree to receive the email.
  - (v) Monthly newsletters distributed to individuals by mail, email, or at the center.
- (i) Lunch and snacks:

- (i) The provider shall provide lunch and snacks to each individual who is present during lunchtime or snack time.
  - (ii) Each meal the provider provides shall comply with all the requirements for home-delivered meals under rules 173-39-02.14 and 5160-44-11 of the Administrative Code, except for the requirements in those rules pertaining to the delivery of the meal.
- (3) Center requirements: A provider only qualifies to be an ODA-certified ADS provider if the provider's center has the following specifications:
  - (a) If the center is housed in a building with other services or programs other than ADS, the provider uses a separate, identifiable space and staff for ADS during all hours that the provider provides ADS in the center.
  - (b) The center complies with the "ADA Accessibility Guidelines for Buildings and Facilities" in Appendix A to 28 C.F.R. Part 36.
  - (c) The center has 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.
  - (d) The provider stores individuals' medications in a locked area the provider maintains at a temperature complying with the storage requirements of the medications.
  - (e) The provider stores toxic substances in an area which is inaccessible to individuals.
  - (f) The center has at least one working toilet for every ten individuals present that the center serves (not just individuals who are enrolled in an ODA-administered program) and at least one wheelchair-accessible toilet.
  - (g) If the center seeks certification to provide intensive ADS, the center has bathing facilities suitable to the needs of individuals who require intensive ADS.
- (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 staff member who provides hands-on activities 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 individuals at all times.
  - (c) The provider shall have an RN, or LPN under the direction of an RN, available to provide nursing services that require the skills of an RN, or LPN under the direction of an RN, and that are based on the needs of the individuals 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 an RN, social worker, physical therapist, physical therapy assistant, speech therapist, licensed dietitian, occupational therapist, occupational therapy assistant, or other licensed professional planning to practice in the adult day center, shall possess a current, and 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 home.





- (ii) Task-based training: Before each new personal care staff member provides ADS, the provider shall provide task-based training.
  - (iii) Continuing education and in-service training: Each PCA, activity director, and activity assistant shall successfully complete at least eight hours of continuing education or in-service training each calendar year. Any hour of continuing education or in-service training successfully completed during a calendar year to comply with the requirements for certification as an activity director or activity assistant counts towards the eight hours required in this paragraph.
  - (iv) Records: The provider shall comply with paragraph (C)(3)(f)(i) of rule 173-39-02.11 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) 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 if the system does all of the following:
    - (i) Collects the individual's name, date of service, arrival and departure times (if the service is provided in the center), mode of transportation, and a unique identifier of the individual.
    - (ii) Completes form ODA1200, "Adult Day Service: In-Home and Telephonic Service Checklist" (July 2020), for any allowable ADS activities (described in Table 2 to this rule) provided in-person in the individual's home or by telephone or video conference to the individual's home.
    - (iii) Retains the information it collects.

(iv) 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 (if the service is provided in the center) if the provider's system meets all the requirements under paragraph (B)(6)(a) of this rule.

(C) Units and rates:

(1) Attendance:

(a) Units of ADS attendance are calculated as follows:

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

(ii) One unit is four to eight hours of 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.

(c) A unit of ADS provided in person in the individual's home is limited to one-half unit or one unit.

(d) A unit of ADS provided by telephone or video conference to the individual's home is allowable for a minimum of two episodes of allowable ADS activities per week, but no more than one episode of allowable ADS activities per day.

(2) Transportation: If the service is provided to an individual enrolled in the PASSPORT program, 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 home and the 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) If the service is provided to an individual enrolled in the PASSPORT program, the appendix to rule 5160-1-06.1 of the Administrative Code establishes the maximum rates allowable for units of ADS attendance and ADS transportation.

- (4) If the service is provided to an individual enrolled in the PASSPORT program, the rates are subject to the rate-setting methodology in rule 5160-31-07 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 8/18/2023

---

Certification

---

Date

Promulgated Under: 119.03  
Statutory Authority: 121.07, 173.01, 173.02, 173.391, 173.52, 173.522  
Rule Amplifies: 173.39, 173.391, 173.52, 173.522; 42 CFR 441.352  
Prior Effective Dates: 03/31/2006, 03/20/2011, 09/29/2011, 11/01/2013,  
09/01/2016, 03/01/2017, 06/11/2020 (Emer.),  
01/10/2021, 04/04/2022