

## TO BE RESCINDED

173-39-02.1 **Adult day service.**

(A) "Adult day service" ("ADS") means a non-residential, community-based service furnished through an activity plan to encourage optimal capacity for self-care or maximized functional abilities by meeting the needs of a consumer who has functional or cognitive impairments. ADS consists of structured, comprehensive, and continually-supervised components that the provider furnishes in a protective setting. Consumers who receive ADS attend the ADS center on a planned basis during specified hours.

(B) Requirements for an adult day service in addition to the conditions of participation under rule 173-39-02 of the Administrative Code:

(1) In general:

(a) Levels of ADS: The required components of the two levels of the service are presented below and in "Table 1" to this rule. The provider shall only furnish the service at a level that ODA certifies the provider to furnish:

(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
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 consumer 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.

(c) Case manager's assessment:

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

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

(d) 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. 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 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, life events, community services, caregiver data, formal and informal support systems, and behavior patterns.
- (e) Health assessment: No later than thirty days after the consumer's initial attendance at the ADS center or before the consumer receives the first ten units of services at the ADS center, whichever comes first, the provider shall either obtain a health assessment of each consumer from a physician, physician assistant, advanced practice nurse, or RN or shall require a staff member who is a physician, physician assistant, advanced practice nurse, or RN 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 a physician, physician assistant, advanced practice nurse, or RN who is not a staff member of the provider performs the health assessment, the provider shall retain a record of the professional's name and phone number.
- (f) Activity plan: No later than thirty days after the consumer's initial attendance at the ADS center or before the consumer receives the first ten units of service at the ADS center, whichever comes first, the provider shall either obtain the services of a physician, physician assistant, advanced practice nurse, or RN to draft an activity plan for each consumer or the provider shall require a staff member who is a physician, physician assistant, advanced practice nurse, or RN 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:

- (i) Interests, preferences, and social rehabilitative needs;
  - (ii) Health needs;
  - (iii) Specific goals, objectives, and planned interventions of ADS services that enable the goals; and,
  - (iv) Level of involvement in the drafting of the activity plan, and, if the consumer has a caregiver, the caregiver's level of involvement in the drafting of the activity plan.
- (g) Physician orders: 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 physician's order. The provider shall obtain a physician's order for the plan of treatment at least every ninety days for each consumer that receives medication, meals with a therapeutic diet, a nursing service, nutrition consultation, physical therapy, or speech therapy. The provider shall comply with the requirements for meals with a therapeutic diet under rule 173-39-02.14 of the Administrative Code.
- (h) Interdisciplinary care conference:
- (i) Frequency: The provider shall conduct an interdisciplinary care conference for each consumer at least 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 physician, physician assistant, advanced practice nurse, or RN who does not work for the provider, but who furnished 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 may also invite the consumer to the conference. The provider shall invite the case manager, physician, physician assistant, advanced practice nurse, RN, caregiver, or consumer by furnishing 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 consumer's health needs, condition, preferences, or responses to the service, the provider shall obtain the services of a physician, physician assistant, advanced practice nurse, or RN to revise the activity plan accordingly or shall require a staff member who is a physician, physician assistant, advanced practice nurse, or RN 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 furnish a lunchtime meal and snacks to each consumer who is present during lunchtime or snacktime.

(ii) Each meal that the provider furnishes 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.

(2) Center requirements:

(a) Specifications: The provider shall only furnish an ADS in a center with the following specifications:

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

(iii) The center shall have at least sixty square feet per consumer excluding hallways, offices, rest rooms, and storage areas.

(iv) The provider shall store consumers' 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 consumers.
- (vi) The center shall have at least one working toilet for every ten consumers and at least one wheelchair-accessible toilet.
- (vii) ODA shall only certify the provider to furnish intensive ADS if the center has bathing facilities suitable to the needs of consumers 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 consumers 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.

(3) 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 direct-care staff member and one who is certified in CPR.

- (b) The provider shall have a RN, or LPN under the direction of a RN, on site at the ADS center to provide nursing services that require the skills of a RN, or LPN under the direction of a RN, and that are within the nurse's scope of practice.
- (c) The provider shall maintain a staff-to-consumer ratio of at least one staff to six participants at all times.
- (d) The provider shall employ an activity director to direct consumer activities.

(4) Provider qualifications:

(a) Type of provider:

- (i) A provider shall only furnish 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 furnish an intensive level of the service, the provider may also directly furnish, or arrange for, the enhanced level of service.

(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 direct-care staff member, shall possess a current, valid license to practice in their profession.
- (ii) Each activity director shall:
  - (a) Possess a baccalaureate or associate degree in recreational therapy or a related degree;

- (b) Have at least two years experience as an activity director, activity coordinator, or a related position; or,
                - (c) Demonstrate proof of successful completion of the national certification council of activities professionals.
  - (iii) Each activity staff person shall:
    - (a) Possess a high school diploma or GED; or,
    - (b) Have at least two years of experience providing personal care activities or recreational services under the direction of a licensed or certified health care professional.
  - (iv) Each staff member who furnishes transportation to consumers shall comply with all requirements under rule 173-39-02.13 the Administrative Code.
  - (v) Each staff member who furnishes personal care assistance to a consumer shall:
    - (a) Possess a high school diploma;
    - (b) Have successfully completed a GED or vocational program in a health or human service field; or,
    - (c) Have a minimum of two years employment experience in providing and/or assisting with personal care or social activities.
  - (vi) The provider shall retain records to show that each staff member who furnishes direct care to a consumer complies with paragraph (B)(4)(b) of this rule.
- (c) Staff training:
- (i) Orientation: Before each new direct-care staff member furnishes an ADS, the provider shall train the staff member on:
    - (a) The expectation of employees;



- (b) The provider's ethical standards, as required under paragraph (B)(1)(e) of 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) Emergency procedures; and,
  - (f) Universal precautions for infection control procedures.
- (ii) Task-based training: Before each new direct-care staff member furnishes an ADS, the provider shall furnish 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.
  - (iv) 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 direct-care staff completing the training.
- (5) Performance reviews:
- (a) The provider shall complete a performance review of each staff member in relation to the staff member's job description.
  - (b) The provider shall retain records to show that it complies with paragraph (B)(5)(a) of this rule.
- (6) Service verification:
- (a) For each service furnished, the provider shall retain a record of the:
    - (i) Consumer's name;

- (ii) Date of service;
  - (iii) Consumer's arrival and departure times;
  - (iv) Consumer's mode of transportation;
  - (v) Name of each staff member having contact with the consumer;
  - (vi) The consumer's signature (The activity plan shall note if the consumer is unable to sign. The signature of choice may include a handwritten signature; initials; stamp or mark; or electronic signature.); and,
  - (vii) ADS staff person's signature.
- (b) The provider may use a daily attendance roster to retain the records required under paragraph (B)(6)(a) of this rule.
  - (c) The provider may use a technology-based system to collect or retain the records required under this rule.
  - (d) The provider shall retain records required under this rule and furnish access to those records for monitoring according to paragraph (B)(5) of rule 173-39-02 of the Administrative Code.

(C) Units and rates:

(1) Attendance:

- (a) A unit of ADS attendance is measured in time according to the following:
  - (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 consumer's residence and the ADS center multiplied by an established ADS mileage rate. If the provider furnishes the transportation simultaneously to more than one PASSPORT or choices consumer who resides in the same household in the same vehicle to the same destination, the provider's reimbursement rate for that trip is seventy-five per cent of the per-unit rate, in accordance with rules 5101:3-31-07 and 5101:3-32-07 of the Administrative Code.
- (3) The maximum rates allowable for units of the service are established in appendix A to rule 5101:3-1-06.1 of the Administrative Code for the PASSPORT program and rule 5101:3-1-06.4 of the Administrative Code for the choices program.

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Certification

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