

Lisa Newcomb, Executive Director
Empire State Association of Assisted Living
Clifton Park, NY

ASSISTED LIVING PROGRAM (ALP)

Description:

New York State's Assisted Living Program (ALP) was instituted in 1987 and is defined in state law (18 NYCRR Part 494) as an entity which is established and operated for the purpose of providing long-term residential care, including room, board, housekeeping, personal care, supervision, and providing or arranging for case management, home health services, physical therapy, occupational therapy, speech therapy, medical supplies and equipment, adult day health care, and intermittent nursing care for five or more eligible adults unrelated to the operator. Other ALP support services include scheduling doctors' appointments, helping people to obtain their financial entitlements, and offering meaningful on-site and community activities. Residents who need continual nursing care or are chronically bed-fast or chair-fast are not eligible for an ALP.

An ALP is licensed and regulated by the New York State Department of Health; its basic licensure is as an Adult Home or Enriched Housing Program, and the additional licensure as an ALP is intended to serve individuals who require services above and beyond what is typically provided in those basic settings and who have been assessed as nursing-home-eligible.

In an ALP, the Adult Home or Enriched Housing Program holds a license as a home care services agency—providing some home care services under that license and additional services through a contract with a Certified Home Health Agency. For low-income ALP residents, the basic services provided as an Adult Home or Enriched Housing Program are subsidized through the Supplemental Security Income (SSI) program at the Level III rate, and the Medicaid Program subsidizes the additional ALP services, including personal care, home care, therapies, and short-term nursing services. A substantial majority of ALP residents are Medicaid recipients, and Medicaid funding is provided in the form of a daily capitated payment, which is based on the combined Resource Utilization Group (RUGs) assessment score for each resident's needs. On average, Medicaid reimbursement for an ALP resident is approximately 50 per cent of what the Medicaid reimbursement would be for that same person if he/she were living in a nursing home.

The State's recently enacted law governing Assisted Living Residences (ALRs) does not provide for public subsidization of services for low-income residents. The ALP program is the State's only formally defined assisted living model that incorporates Medicaid reimbursement for low-income residents. By 2008, there were approximately 60 ALPs serving nearly 3,700 private pay and subsidized individuals, with another 1,584 beds awarded and scheduled to come on line during 2009 and 2010.

ALP capacity (number of occupied units) is authorized in statute through the New York State legislative process, and the program's statewide capacity is strictly limited. When new ALP capacity is made available, applications to develop new units are subject to a highly competitive review process; and thus far, applications have far exceeded the number of units that have been allotted. All applicants must undergo a Certificate of Need process (administered by the State Department of Health) to obtain an Adult Home or Enriched Housing Program license, as well as the ALP license— applicants must successfully demonstrate that there is need for their proposed project in the community and must pass financial feasibility, character and competence, legal, and architectural reviews. In addition, they must obtain letters of support for their project from the local Social Services District and the county Area Agency on Aging. To date, such letters of support have been successfully obtained because, in general, localities recognize growing consumer demand for this socially based "housing-services-and-health care" model, and welcome the job creation and increased tax revenues associated with the ALP's development and operation.

The Assisted Living Program operates under three sets of regulations: (1) the Adult Home or Enriched Housing Program; (2) licensed home care service agencies; and 3) the oversight specific to the ALP level of services and care that serves as a supplement to (1) and (2). The ALP's unique combination of Adult Home/Enriched Housing and home care services allows nursing-home-eligible individuals to age in place beyond what is otherwise allowed in an Adult Home or Enriched Housing Program.

Assisted Living Programs can be successfully implemented in all geographic areas of New York—urban, suburban, and rural—with their sizes, architectural designs, and programming reflecting the characteristics of the residents and the communities in which they are located.

Benefits:

For older people and younger adults with disabilities:

- The greatest benefit of the ALP program is that, through involvement of Medicaid funding as a supplement to SSI reimbursement, an affordable assisted living option is available for low-income New Yorkers.
- As additions to Adult Homes and Enriched Housing, the various levels of housing and care available in an ALP provide a "continuum-of-housing-and-services" for residents, eliminating the need for multiple relocations when increasing frailties require higher levels of care. This is important for younger-aged residents with disabilities, but particularly critical for older residents, for whom the trauma of multiple relocations has a significant negative impact on mental and physical health.
- For people who can no longer successfully live at home or who need more care than is provided in other senior or family housing options, ALPs provide an

advanced level of care in a non-institutional, home-like, flexible living environment, lessening the need to relocate into a nursing home.

- For residents with Alzheimer's Disease or other dementia conditions, ALPS provide a safe, secure living environment, with appropriate care and integrated with other individuals who do not suffer from cognitive impairments.
- The functional abilities of residents in any one home can vary significantly, providing a more normalized living environment for residents than is possible in care facilities that cater to a homogeneous older frail resident group or where all residents have mental health disabilities.
- The goals of service-design and service-provision are person-centered, to:
 - Personalize the level of assistance provided based on each individual's needs;
 - Provide services in a manner that maintains a resident's dignity and promotes his/her independence to the greatest extent possible; and
 - Provide an environment in which the ability for residents to make choices about their own lives is paramount, regardless of a person's level of need.

For the community:

- There are ALPS of all shapes and sizes throughout the State, providing a housing alternative that meets the unique profile of each community's population and level/type of need.

Impediments or barriers to development or implementation:

- **Capacity** - Development of ALPs is limited by the State, and growing demand for this option continues to outstrip the supply.
- **Community-level problems** – such as antiquated or unclear zoning laws, lack of municipality provided utilities, or poor community planning efforts can make it difficult for developers to construct new ALPs.
- **Zoning** – zoning requirements differ from one community to another—each municipality may consider an ALP in a different way. When considering a potential location, it is important to find out early if a potential site location is zoned appropriately, needs to be re-zoned, or if you can apply for a special use permit from the municipality to allow for a specific use.
- **“Not In My Back Yard” (NIMBY)** – Assisted Living Programs can experience the same neighborhood resistance as other congregate or multiunit residential options for special-needs populations. Typically, neighborhood opposition stems from a fear of how such a development will change the character of the neighborhood, change traffic flow or density, lower land or housing values, increase noise, and alter community aesthetics.

These issues can be mitigated, public sentiment influenced, and potential opposition disarmed by (1) having good communication with the municipality

and the residents of the town/village/city, and providing community residents with ample opportunity to express concerns and ask questions via town or city meetings, and (2) educating residents about housing needs and about assisted living residents, and showing evidence from studies of existing ALPs about the impact on neighborhoods. Such efforts can convince local residents that a good-quality ALP can be a community asset and is an important part of any comprehensive community planning effort.

- **Funding for operations –**

- Unlike nursing homes, there is no construction capital “add-on” or reimbursement for ALPs. Some operators who have newly constructed buildings have difficulty covering development and operational costs at the SSI/Medicaid reimbursement rate for ALPs.
- SSI Level III reimbursement is inadequate to cover the costs of the base Adult Home/Enriched Housing program services in an ALP.
- The Medicaid reimbursement rate for ALPs is significantly less than the reimbursement rate for nursing homes. While ALPs are the only Medicaid-subsidized assisted living model available for low-income individuals, an operator must carefully assure a workable mix of low-income residents and residents who can afford to pay all charges with private resources. If there is not an adequate pool of consumers who have private financial means to pay market-rate monthly rent and service charges, the development may not remain financially feasible.

Resource—examples:

- New York State Department of Health—for a list, by county, of ALPs operating in New York State:
http://www.health.ny.gov/facilities/assisted_living/licensed_programs.htm.
- New York State Department of Health—for a list of all Adult Care Facilities, by county, in New York State (including Adult Homes, Enriched Housing Programs, Assisted Living Programs, and three levels of Assisted Living Residences):
http://www.health.ny.gov/facilities/adult_care/.

Resource—written and web:

- New York State Department of Health:
http://www.health.ny.gov/regulations/nycrr/title_18/; click on "Search Title 18"; then use the search tool to view the various parts listed below, as well as other parts of Title 18.
 - For information on Title 18 NYCRR Social Services regulations:
 - Licensure: Part 485;
 - Regulatory Oversight: Part 486;
 - Operations for Adult Homes: Part 487;
 - Operations for Enriched Housing Programs: Part 488.
 - Operations for Assisted Living Programs, Part 494.

- New York State Department of Health:
http://www.health.ny.gov/regulations/nycrr/title_10/; click on "Search Title 10" and use the search tool to view the various parts listed below, as well as other parts of Title 10:
 - For information on Title 10 NYCRR Social Services regulations:
 - Licensure for Licensed Home Care Service Agencies: Part 765;
 - Operations for Licensed Home Care Service Agencies: Part 766.
- Empire State Association of Assisted Living—information about adult care facilities, assisted living programs (ALP), and assisted living residences:
<http://www.esaal.org/pdf/NYConnectsGuide.pdf>.
- New York State Department of Health (June, 2006), "New York State Medicaid Program—Assisted Living Program (ALP) Manual: Policy Guidelines," *emedNY* :
http://www.emedny.org/ProviderManuals/AssistedLiving/PDFS/ALP_Policy_Section.pdf.
- Long Term Care Community Coalition (2008), *Recommendations for Making Affordable Assisted Living a Reality*. New York City: Long Term Care Community Coalition, Assisted Living Committee:
http://www.assisted-living411.org/documents/WHITEPAPER_001.pdf
- Dormitory Authority of the State of New York—for information on capital financing and construction services: <http://www.dasny.org/>.

Resource—technical assistance contact name:

- Lisa Newcomb, Executive Director
Empire State Association of Assisted Living
646 Plank Road, Suite 207
Clifton Park, New York 12065
(518) 371-2573
Lnewcomb@esaal.org
<http://www.esaal.org>