

Attachment A

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 9. EXECUTIVE DEPARTMENT
SUBTITLE Y. NEW YORK STATE OFFICE FOR THE AGING
CHAPTER II. OLDER AMERICANS, COMMUNITY SERVICES, AND EXPANDED IN-HOME SERVICES
FOR THE ELDERLY PROGRAMS
PART 6654. SERVICES

Current through August 31, 2012

* Section 6654.20.* Social adult day care programs.

(a) Purpose. The purpose of this section is to establish minimum requirements for the administration and operation of social adult day care programs as described in this section and for the oversight and other responsibilities of area agencies on aging.

(b) Definitions. For the purposes of this section:

(1) Social adult day care program or program means a structured, comprehensive program which provides functionally impaired individuals with socialization; supervision and monitoring; personal care; and nutrition in a protective setting during any part of the day, but for less than a 24-hour period. Additional services may include and are not limited to maintenance and enhancement of daily living skills, transportation, caregiver assistance, and case coordination and assistance.

(2) Participant means an adult individual who is eligible for and is receiving social adult day services in accordance with this section.

(3) Functionally impaired means needing the assistance of another person in at least one of the following activities of daily living: toileting, mobility, transferring, or eating; or needing supervision due to cognitive and/or psycho-social impairment.

(c) Area agency on aging responsibilities.

(1) In carrying out oversight and other responsibilities related to social adult day care programs, including the purchase of services, the area agency on aging will comply with Chapter II of this Subtitle, except as otherwise provided in this Part.

(2) Consistent with this section, an area agency on aging may establish additional requirements for social adult day care programs operating under this section.

(3) The area agency on aging shall ensure that providers carry out this section in accordance with the applicable provisions of the Federal Americans with Disabilities Act.

(4) An area agency on aging shall apply these requirements to social adult day care programs, as described in this section, that are provided under contracts entered into or renewed on or after six months from the effective date of these amendments establishing minimum standards for social adult day care programs.

(d) Program standards. All social adult day care program providers which receive funding from an area agency on aging and all area agencies on aging which directly operate a social adult day care program shall meet the following services and administration standards.

(1) Services standards.

(i) Participant eligibility. A social adult day care program shall serve only individuals who are functionally impaired and will benefit from participation in the program.

(ii) Admission and discharge.

(a) The program shall serve only individuals whose social adult day care needs can be met and managed by the program.

(b) The program shall admit an individual only after an assessment of the individual's functional capacities and impairments has been completed.

(c) The program shall discharge and, if appropriate, assist in making other arrangements for a participant who can no longer be safely or adequately served by the program.

(iii) Service plan.

(a) Each participant shall receive services only in accordance with an individualized written service plan which has been developed by the program staff in conjunction with the participant and, if applicable, the participant's authorized representative. To the extent possible, if applicable, the plan shall be developed in consultation with the participant's informal caregiver(s).

(b) A service plan shall be developed no later than 30 days after a participant's admission to the program and reviewed as necessary or at least once annually.

(c) The service plan shall be based on the assessment and shall be consistent with the needs of the participant.

- (d) To the maximum extent possible, each service plan:
 - (1) shall seek to attain and maintain the highest practicable physical, mental, and psychosocial well being of the participant, including an optimal capacity for independence and self care; and
 - (2) shall encourage the participant to use his/her existing capacities, develop new capacities and interests and compensate for existing or developing impairments in capacity.
- (e) The service plan shall specify the individual participant outcomes expected from the provision of social adult day care services.
 - (iv) Services.
 - (a) Required services. Consistent with the needs of the participant, all programs shall provide the following services:
 - (1) Socialization which:
 - (i) means planned and structured activities which utilize the participant's skills to the extent possible; respond to the participant's interests, capabilities, and needs; and minimize any impairments in capacity to engage in those activities;
 - (ii) includes social, intellectual, cultural, educational, and physical group activities; and
 - (iii) encourages and stimulates the participant to interact with others and seeks to establish, maintain, or improve the participant's sense of usefulness to self and others, the desire to use his or her physical and mental capabilities to the fullest extent, and his or her sense of self-respect.
 - (2) Supervision and monitoring which:
 - (i) means observation and awareness of the participant's whereabouts, activities, and current needs during attendance at the program; and
 - (ii) protects the safety and welfare of the participant and provides ongoing encouragement and assistance to the participant.
 - (3) Personal care which:
 - (i) shall include some assistance for the participant with toileting, mobility, transfer, and eating;
 - (ii) may include total assistance to the participant with toileting, mobility, transfer, and eating; and
 - (iii) may include some assistance or total assistance to the participant with:
 - (A) dressing;
 - (B) bathing;
 - (C) grooming;
 - (D) self administration of medication, including prompting the participant as to time, identifying the medication, bringing the medication and any necessary supplies or equipment to the participant, opening the container, positioning the participant for medication and administration, and disposing of used supplies and materials;
 - (E) routine skin care;
 - (F) changing simple dressings; or
 - (G) using supplies and adaptive and assistive equipment.
 - (4) Nutrition.
 - (i) Nutrition means providing nutritious meals for participants who are attending the program at normal meal times and includes offering snacks and liquids for all participants at appropriate times.
 - (ii) Meals shall be consistent with standards set forth in this Part for a nutrition program for the elderly site and as established by the office, unless:
 - (A) participant meals are brought by the participant; or
 - (B) the program participates in the USDA Child and Adult Care Food Program.
 - (iii) If meals are prepared by participants and/or staff as part of a planned activity of the program, such meals to the extent possible shall be consistent with standards set forth in this Part for a nutrition program for the elderly site and as established by the office.
 - (b) Optional services. Consistent with the needs of the participant, programs may provide the following services:
 - (1) Maintenance and enhancement of daily living skills which shall include, where appropriate, activities which supplement, maintain, and/or enhance the participant's own daily living skills; and/or training which assists the participant to learn or relearn self-care skills, if possible. Participant skills which may be addressed include:
 - (i) instrumental activities of daily living including use of transportation, doing laundry, shopping, cooking, using a telephone, and handling personal business and finance;
 - (ii) self-care skills such as grooming, washing, and dental hygiene;
 - (iii) use of supplies and adaptive and assistive equipment; or
 - (iv) other appropriate related skills.
 - (2) Transportation between the home and the program.

- (3) Caregiver assistance which shall include:
 - (i) facilitating informal caregiver support of the participant;
 - (ii) fostering understanding of the condition of the participant, the contents of the service plan, and how to maximize at home the use of skills learned or relearned in the program;
 - (iii) identifying sources of assistance to the informal caregiver and facilitating access to that assistance, including participation in support groups;
 - (iv) facilitating respite; and
 - (v) other related assistance.
- (4) Case coordination and assistance, which:
 - (i) shall include establishing and maintaining effective linkages, coordinating with, and, as appropriate, making referrals to and accepting participants from other services providers; and
 - (ii) may include advising and assisting participants and their caregivers, if any, in relation to benefits, entitlements, and other information and assistance.
- (2) Administration standards.
 - (i) Policies and procedures. Each social adult day care program shall establish, follow, and have on file for review by the area agency on aging or the office written policies and procedures consistent with this section regarding the operation of the program including but not limited to:
 - (a) participant eligibility;
 - (b) admission and discharge;
 - (c) service plan;
 - (d) staffing plan, including paid and volunteer staff;
 - (e) participants' rights;
 - (f) services delivery;
 - (g) program self evaluation;
 - (h) records; and
 - (i) emergency preparedness.
 - (ii) Program self evaluation. The program shall:
 - (a) conduct a self evaluation of its administrative, fiscal, and program operations, including feedback from participants and caregivers, at least annually; and
 - (b) maintain a copy of the self evaluation on file for review by the area agency on aging or the office.
 - (iii) Records. The program shall:
 - (a) maintain the following information on file:
 - (1) administrative and financial records;
 - (2) participant personal records, including identifying, emergency, and medical information including physician name, diagnosis, and medications; and
 - (3) services records, including the individual assessment, the service plan, and documentation of the delivery of services; and
 - (b) treat all information as confidential and shall not disclose or release information except as authorized by Federal or State laws and regulations, or pursuant to court order.
 - (iv) Staffing.
 - (a) General requirements.
 - (1) The program shall have an adequate number of qualified staff, which may include volunteers, to perform all of the functions prescribed in this Part and to ensure the health, safety, and welfare of participants.
 - (2) The program shall have at least two staff, one of whom shall be a paid staff person, with the participants during the program day.
 - (3) Health status. The program shall ensure that:
 - (i) the health status of each staff person who may or will have contact with participants, including the program director, is assessed and documented annually and that the health status of each new staff person is assessed and documented prior to the beginning of contact with the participant to ensure that he or she is free from any health impairment that is of potential risk to others or that may interfere with the performance of his or her duties; and
 - (ii) each staff person who may or will have contact with participants has a ppd (Mantoux) skin test for tuberculosis prior to employment and no less than every two years thereafter for negative findings or more frequently as determined by the Director of the State Office for the Aging.
 - (b) Personnel.
 - (1) Director. Each social adult day care program shall have a paid director.

(i) Qualifications. The director shall be a qualified individual with appropriate educational qualifications and work experience to ensure that activities and services are provided appropriately and in accordance with participants' needs.

(ii) Duties. The director shall:

(A) have the authority and responsibility necessary to manage and implement the program;

(B) ensure compliance and conformity with all applicable local, State, and Federal laws and regulations;

(C) submit program reports, as necessary; and

(D) be responsible for policies and procedures as required by this Part.

(2) Services staff. Services staff shall:

(i) be responsible for carrying out the individualized service plan for participants; and

(ii) complete training as required by this section.

(3) Volunteers.

(i) As determined by the program director, the program shall provide training for volunteers which is appropriate for the tasks to which they are assigned. In making this determination, the program director shall consider whether such volunteer may on occasion be asked or required to perform tasks related to the health, safety, or welfare of participants.

(ii) All volunteers who may or will have contact with participants are subject to the requirements of this section, including the assessment of health status required in this paragraph.

(c) Training requirements for all staff.

(1) Except as otherwise provided in this section, the program shall provide all staff with:

(i) an orientation to the program provider, the community, and the program itself;

(ii) training on working with the elderly, participants' rights, safety, and accident prevention;

(iii) at least six hours of in-service training annually to develop, review, or expand skills or knowledge; and

(iv) training at least annually in the use of fire extinguishers, written procedures concerning evacuation and emergency situations, and emergency telephone numbers.

(2) The program shall provide staff with training appropriate to the tasks to which they are assigned.

(3) The program shall maintain appropriate documentation for all training provided to staff.

(d) Training requirements for service staff.

(1) Prior to delivering any social adult day care services, all service staff including volunteer service staff must complete basic training, or have equivalent knowledge and skills as established in this section, as follows:

(i) orientation to personal care skills;

(ii) body mechanics; and

(iii) behavior management.

(2) Within three months of being assigned to provide social adult day care services, all service staff including volunteer service staff must complete additional training, or have equivalent knowledge and skills as established in this section, which:

(i) is directed by a registered professional nurse, social worker, home economist, and/or other appropriate professional with at least a bachelor's degree or four years professional experience in an area related to delivery of human services or education;

(ii) totals at least 20 hours of group, individual, and/or on-the-job training;

(iii) covers the following topics:

(A) socialization skills and activities;

(B) supervision and monitoring;

(C) personal care skills, taught by a registered nurse;

(D) the family and family relationships;

(E) mental illness and mental health; and

(F) cardiopulmonary resuscitation (CPR); and

(iv) includes evaluation of each person's competency in the required content.

(3) Equivalent knowledge and skills.

(i) Persons who have completed personal care training which is approved by the State Department of Social Services or home health aide training or nurse aide training which is approved by the State Department of Health shall be considered by the program to have met the training requirements of this clause.

(ii) Persons who have completed adult day care worker training which is approved by the State Office of Mental Retardation and Developmental Disabilities may be considered by the program to

have met those portions of the training requirements which in the judgment of the program are equivalent to the training requirements of this clause.

(iii) Any person who has been employed for at least three months prior to the effective date of this Part by a social adult day care program which has been funded or directly operated by an area agency on aging and who has been delivering social adult day care services may be considered by the program to have met the training requirements of this clause.

(iv) The program shall maintain appropriate documentation for services staff who have equivalent knowledge and skills.

(4) The program shall provide all service staff with periodic on-the-job training, as considered necessary by the program director or an individual who supervises service staff according to criteria for evaluating job performance and the ability to function competently and safely.

(v) Consultants. Programs may arrange for qualified consultants to assist with education, staff training, and other appropriate tasks.

(vi) Physical environment and safety. The program shall:

(a) Use a facility which has sufficient space to accommodate program activities and services.

(b) Maintain and operate buildings and equipment so as to prevent fire and other hazards to personal safety.

(c) Notify in writing the local fire jurisdiction in which the program exists of its presence and hours of operation.

(vii) Emergency preparedness. The program shall:

(a) have current, written procedures for handling emergencies (such as a flood or fire or when a participant is choking or has fainted);

(b) have an easily located file on each participant, listing identifiable information, including physician's name and telephone number and family member's name and telephone numbers, needed in emergencies; and

(c) conduct fire drills at least twice a year and document those drills.

(viii) Insurance. The social adult day care program shall have in effect sufficient insurance coverage, including but not limited to personal and professional liability.

(e) Participants' rights.

(1) The program shall protect and promote the following rights of participants:

(i) Participants shall be treated with dignity and respect.

(ii) Participants shall not be subject to verbal, sexual, mental, physical, or financial abuse, corporal punishment, or involuntary work or service by the program.

(iii) Participants shall not be subject to chemical or physical restraint by the program.

(iv) Participants shall not be subject to coercion, discrimination, or reprisal by the program.

(v) Participants shall be free to make personal choices about accepting or refusing the services and activities offered.

(vi) Personal information about participants shall be kept confidential.

(2) The program shall give a copy of and shall explain the rights to participants and caregivers at the time of admission.

(3) The program shall post these rights, along with the addresses and telephone numbers of the area agency on aging and the office, in a public place which is clearly visible to participants, their families, and program staff.

