

CHAPTER 92

ADULT DAY SERVICES PROGRAM FOR PERSONS
WITH ALZHEIMER'S DISEASE OR RELATED
DISORDERS

Authority

N.J.S.A. 26:2M-9 and 26:2M-15; and
P.L. 2012, c. 17 (N.J.S.A. 26:1A-107 et al.).

Source and Effective Date

Effective: August 29, 2013.
See: 45 N.J.R. 2257(c).

Chapter Expiration Date

Chapter 92, Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, expires on August 29, 2020.

Chapter Historical Note

Chapter 92, Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, was adopted as R.2001 d.130, effective April 16, 2001. See: 32 N.J.R. 3371(a), 33 N.J.R. 1197(a).

Chapter 92, Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, was readopted as R.2006 d.380, effective September 29, 2006. See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 92, Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, was scheduled to expire on September 29, 2013. See: 43 N.J.R. 1203(a).

Chapter 92, Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, was readopted, effective August 29, 2013. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:92-1.1 Purpose

Pursuant to N.J.S.A. 26:2M-9 et seq., the Department of Health and Senior Services intends the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders to provide relief and support to family caregivers of a person with Alzheimer's disease or a related disorder through the provision of subsidized adult day services.

8:92-1.2 Scope

The rules in this chapter are applicable to social adult day agencies and adult day health services facilities licensed by the Department that are operating under a Letter of Agreement with this Department. Adult day health services facilities must also abide by standards outlined in N.J.A.C. 8:43F.

Amended by R.2006 d.380, effective November 6, 2006.
See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

Substituted "adult day health services facilities" for "medical adult day health service agencies" and "Adult day health services facilities" for "Medical adult day health service agencies".

8:92-1.3 Target population; prioritizing target
individuals

(a) The target population is limited to those individuals who have a diagnosis of Alzheimer's disease or a related dementia.

(b) Priority shall be given to those individuals in moderate to severe ranges of disability.

8:92-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Administrative costs" means expenses an agency incurs in support of the day-to-day functioning of the agency's participating adult day services sites such as salaries and benefits for administrative positions; office rent and utilities; and fees for legal, accounting, bookkeeping, and auditing services, and excludes expenses the agency incurs for the provision of direct services to clients and advertising.

"Adult day services" means a community-based group program designed to meet the needs of functionally or cognitively impaired adults through an individual plan of care structured to provide a variety of health, social and related supportive services in a protective setting during any part of a day, but less than 24 hours.

“Advertising costs” means the costs an agency incurs for advertising media such as magazines, newspapers, radio, television, direct mail, exhibits, electronic or computer transmittals, which are dedicated to either:

1. The recruitment of clients; or
2. The recruitment of personnel for the agency’s participating adult day services sites, as required by the agency in order to comply with the rules set forth in this chapter.

“Agency” means an adult day services program, either public or private, nonprofit or proprietary, which contracts with the Department of Health and Senior Services for the provision of services under this program.

“Applicant” means a person for whom an application for services under this program is made.

“Authorized agent” means a person who is initiating an application for services under this program on behalf of a potential client as described in N.J.A.C. 8:92-5.2.

“Caregiver” means a spouse, parent, child, relative, or other person who is 18 years of age or older and who has the primary responsibility of providing daily care for the client and who does not receive financial remuneration for the care.

“Care plan” means an interdisciplinary written plan of services designed to provide the client with appropriate services and treatment in accordance with his or her assessed needs.

“Client” means an individual receiving services under this program.

“Co-payment” means financial participation in service costs by the client according to a sliding fee scale approved by the Department (see N.J.A.C. 8:92-3.2(a)).

“Department” means the New Jersey Department of Health and Senior Services.

“Liquid resources” means assets that can be converted to cash within 20 working days, including savings accounts, stocks, bonds, certificate of deposits (CD) and life insurance policies which have a cash surrender value and annuities which can be liquidated without incurring heavy penalties and tax payments.

“Total program operating budget” means:

1. An itemized listing of an agency’s participating adult day services sites’ funding sources and monetary amounts that the agency received during its most recent complete fiscal year; and
2. An itemized listing of an agency’s participating adult day services sites’ costs and expenses that the agency incurred during its most recent complete fiscal year that were ordinary and necessary for the provision of direct services to clients, excluding administrative and advertising costs.

Amended by R.2006 d.380, effective November 6, 2006.

See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

Added definitions “Administrative costs”, “Advertising costs” and “Total program operating budget”.

SUBCHAPTER 2. ADMINISTRATIVE ORGANIZATION

8:92-2.1 Department of Health and Senior Services

The Department of Health and Senior Services is the administrative unit of State government which has control over the administration of the Adult Day Services Program for Persons with Alzheimer’s Disease or Related Disorders. Under the terms of N.J.S.A. 26:2M-9 et seq., the Department is responsible for the general policies governing administration of the Adult Day Services Program for Persons with Alzheimer’s Disease or Related Disorders, for effecting the issuance of rules and procedures in accordance with the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) for implementing the statutory provisions and for Statewide coordination of the program.

SUBCHAPTER 3. APPLICATION PROCESS AND RESPONSIBILITIES OF AGENCIES

8:92-3.1 General provisions

An agency interested in participating in the program shall provide supportive documentation describing its existing program and services to persons with a form of dementia and their families. The application must include the agency’s cost proposal, statement of need, goals and objectives, staffing, programming, revenue projection, census data and operating budget.

8:92-3.2 Funding requirements

(a) The agency shall submit a cost proposal, which shall itemize all costs incurred in the operation of the agency, with supportive documentation. No more than 15 percent of the total program operating budget shall be allowed for administrative costs and no more than one percent of the total program operating budget shall be allowed for advertising costs. The Department shall analyze the cost proposal and contrast costs with comparable facilities within their region to determine the agency’s allowable cost per unit of service. The Department shall reimburse from 20 percent to 75 percent of the agency’s allowable costs.

(b) For clients whose income falls below 300 percent of SSI, the Department shall pay 75 percent of the agency’s allowable costs. The agency shall obtain up to the remaining 25 percent of the agency’s allowable costs (not reimbursed by the Department) from other sources such as donations, foundation funds, or from the client’s families or funds in accordance with the sliding fee scale developed in accordance with the table in (c) below. The amount of the center’s per

diem cost reimbursed by clients and/or families shall not exceed 25 percent of the per diem rate established by the Department for these clients.

(c) For clients whose income falls between 300 percent of SSI and 80 percent of the maximum moderate income limit for the highest income region published by the Council on Affordable Housing (COAH), effective July 1 of each year, incorporated herein by reference, the Department will subsidize between 20 and 60 percent of the agency's allowable costs in accordance with the sliding fee scale developed in accordance with the table below. The percentage of the agreed upon rate not paid by DHSS will be the responsibility of the client. The following table reflects the formulas used to calculate income levels for each rate of reimbursement.

Income Guidelines				
Percent of COAH for Highest Single Person's Income	Formula for Highest Couple's Income	Percent Paid by DHSS	Percent Paid by Client	Agency Responsibility
80%	80% COAH* + F**	20%	80%	0%
70%	2x300% SSI for Single	30%	70%	0%
60%	60% COAH + F	45%	55%	0%
50%	50% COAH + F	60%	40%	0%
% of SSI for Highest Single Person's Income				
300%	300% SSI + F	75%	25%	0%
269%	269% SSI + F	75%	20%	5%
238%	238% SSI + F	75%	15%	10%
207%	207% SSI + F	75%	10%	15%
175%	175% + F	75%	5%	20%
Below 175%	174 + F	75%	0%	25%

Where:

*COAH is the single person income limit.

**F is the factor used to calculate Highest Couple's Income limit. F = (2x300% SSI)—70% COAH.

(d) If the agency accepts the proposed per diem rate, a Letter of Agreement will be prepared for signature by authorized representatives of the Department and the agency. The Department shall then pay the agreed upon per diem costs per client per day of authorized service.

(e) Upon execution of a Letter of Agreement, the agency may begin to identify eligible clients and submit a Waiting List Application form to the Department requesting approval for funding for each eligible client. Priority shall be given to clients below 300 percent of SSI.

(f) Depending on the availability of funding, the Department shall authorize enrollment of the client for up to three days per week.

Amended by R.2006 d.380, effective November 6, 2006. See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a). In (a), inserted "program" two times.

8:92-3.3 Responsibilities of participating agencies

(a) The agency shall determine the eligibility of all applicants for service under the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders as defined by N.J.A.C. 8:92-6.

(b) Once eligibility is determined, the agency shall submit completed Waiting List Application, Financial Profile, Client Funding Utilization and Demographic Data forms to the Department for authorization.

(c) The agency shall verify the income of each applicant applying for services under the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders and determine the applicant's ability to contribute to the cost of the adult day services. This income verification shall be reviewed on an annual basis, or more frequently if circumstances change to ensure continued eligibility for services.

(d) The agency shall determine sources of payment for adult day services for each applicant and assess and collect all co-payments through retrospective billing.

(e) The agency shall submit monthly statistical and financial reports on adult day services provided and other information as requested by the Department.

(f) The agency shall maintain a minimum staff-client ratio of 1:5 for programming for clients with a form of dementia.

(g) New staff shall receive an orientation within 30 days of employment which, in addition to job responsibilities, includes:

1. Methods of dealing with the specific problems encountered in the care of people with Alzheimer's disease, such as communicating with clients, necessary safety measures and common behavior concerns; and
2. An overview of the progression of dementia and the different types of dementia.

(h) Staff shall regularly attend specialized training through, for instance, associations or universities, in order to have the most current information about people affected with Alzheimer's disease or related disorders. Documentation of training shall be maintained and made available for review by the Department.

(i) A registered professional nurse shall monitor the health status of clients, participate in the development and quarterly review of the care plan, and dispense medications in accordance with established procedures. Nursing hours shall be scheduled in accordance with medication needs of clients.

(j) A home visit shall be conducted as part of the application process. Interviewing an applicant and caregiver in

their home environment provides important information about the applicant's living conditions, his or her functional status and relationship with other family members. Further, this home visit helps to identify home safety issues, home medication use and the use of, or need for, adaptive equipment.

(k) The agency shall develop written procedures for clients/caregivers to express concerns or dissatisfaction about service(s) being provided.

(l) The agency shall agree to comply with the program rules contained in this chapter.

(m) Any breach of contract provisions by the agency may constitute grounds for contract cancellation upon 30 days notice by the Department of Health and Senior Services.

Amended by R.2006 d.380, effective November 6, 2006.

See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

In (h), substituted "Department" for "Division of Senior Affairs".

SUBCHAPTER 4. SERVICES FOR CLIENTS AND FAMILIES

8:92-4.1 Scope of services or required services

(a) A structured, supervised program shall be provided for clients based on a care plan developed through an assessment of individual strengths and deficits related to physical, social, emotional and cognitive functioning. The care plan shall be reviewed on a quarterly basis, modified as necessary, and shall include identified short term and long term goals of implementation. Discharge planning, initiated at the time of admission, shall address the potential for progressive deterioration which would alter the appropriateness of day care and necessitate helping the caregiver to access alternative resources. The discharge plan may be incorporated into the client's care plan.

(b) A minimum of five hours of structured programming per day shall be provided to clients funded through this program.

(c) The agency shall provide an area for individual client attention and supervision, as appropriate.

(d) Clients shall receive a hot meal and nutritious snacks. Each meal shall contain at least one-third of the Food Nutrition Board Recommended Dietary Allowances, 10th edition, Washington, DC: National Academy Press, 1989, incorporated herein by reference, as amended and supplemented, and shall contain three or more menu items, one of which is or includes a high quality protein food such as meat, fish, eggs, or cheese. Provisions shall be made for clients on special diets.

(e) Transportation shall be provided or arranged for clients within the agency's catchment area except when a family member has chosen to fulfill that responsibility. No client shall be transported more than one hour each way by the

agency. Agencies shall not charge transportation costs to families if transportation is factored into their cost proposal.

(f) Counseling and referral services shall be routinely available to family members and caregivers of clients served under this program. Counseling may be on a one-to-one basis or in the form of support groups sponsored by the agency. In the event that the agency does not sponsor a support group, it may refer caregivers to other support groups for caregivers of individuals with dementia within the catchment area. Referral activities shall include identifying and assisting caregivers and assessing other services which will aid them in sustaining their roles.

(g) The agency shall provide information about other programs and services for which the client may be eligible. The agency shall coordinate referral efforts with its county New Jersey Easy Access, Single Entry (NJ EASE) care manager.

(h) The agency shall conduct outreach efforts, via media and other avenues, to inform caregivers of the benefits to be derived from adult day services. The Department shall not accept advertising costs that exceed more than one percent of the agency's total program operating budget for adult day service programs funded under this chapter.

(i) Educational programs for family members related to the management of dementia shall be provided by the agency. The center may provide educational programs using existing staff or may enter into written agreement(s) with other local agencies for the provision of this service.

Amended by R.2006 d.380, effective November 6, 2006.

See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

In (h), inserted "program".

SUBCHAPTER 5. APPLICATION PROCESS FOR CLIENTS

8:92-5.1 General provisions

(a) The application process includes all activity related to a request for eligibility determination under the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders. The process begins with the receipt of an application by an agency and continues in effect until there is an official disposition of the eligibility request from that agency.

(b) All applicants shall be notified within 30 days after receipt of their application of their eligibility in the program.

8:92-5.2 Authorized agent

(a) Since most clients served shall be in moderate to severe stages of dementia and the applicant is most likely incompetent or incapable of filing an application on his or her own behalf, the agency shall recognize any of the following per-

sons, listed in order of priority, as an authorized agent for the purpose of initiating such applications:

1. A legal guardian;
2. A close relative of the applicant by blood or marriage, such as parent, spouse, son, daughter, brother or sister; and
3. A friend of the applicant who is his or her caregiver but does not receive remuneration for the caregiving.

8:92-5.3 Responsibilities in the application process

(a) The agency has the responsibility in the application process to:

1. Explain the purposes and eligibility requirements of the program and indicate the applicant's rights and responsibilities under its provisions;
2. Accept and process applications; and
3. Maintain files, including applications and supporting documents, for all applicants.

(b) The caregiver has the responsibility to:

1. Complete the eligibility application forms truthfully, legibly, and accurately; and
2. Provide the agency with documentation that supports statements made on the eligibility application, when required.

(c) The caregiver has the responsibility to notify the agency whenever one of the following occurs:

1. The client's address changes;
2. The client's annual income changes to an amount that will change their eligibility for services or their co-payment requirement;
3. The client's marital status changes; or
4. The single client's liquid resources change to exceed \$40,000, or a couple's combined liquid resources exceed \$60,000.

(d) The agency shall provide the caregiver with the written statement of eligibility determination within 30 days of the application.

SUBCHAPTER 6. ELIGIBILITY

8:92-6.1 Eligibility standards

(a) To be eligible for adult day services under the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders, an applicant shall meet the following criteria at the time of application:

1. Have a diagnosis by a physician of Alzheimer's disease, or a related disorder such as multi-infarct dementia, Huntington's disease, Parkinson's disease with dementia, Creutzfeldt Jacob disease, or Pick's disease;
2. Be a resident of New Jersey;
3. Be routinely cared for by a family member or informal caregiver who does not receive financial remuneration for the care;
4. Reside in the community with a relative or informal caregiver;
5. Have liquid resources (as declared by that individual) that do not exceed \$40,000. A couple's combined liquid resources shall not exceed \$60,000; and
6. Have income that falls within the income limits established in N.J.A.C. 8:92-3.2(c).

(b) Clients determined eligible prior to April 16, 2001 shall not lose their eligibility upon redetermination for reasons of (a)4, 5 or 6 above.

8:92-6.2 Confidentiality and disclosure of information

(a) All personally identifiable information regarding applicants, clients or caregivers obtained or maintained under the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders shall be confidential and shall not be released without the written consent of the authorized agent or caregiver.

(b) The prohibition against unauthorized disclosure in (a) above shall not be construed to prevent:

1. The release of statistical or summary data or information in which applicants or clients cannot be identified;
2. The release to the Attorney General, or other legal representative of the State, of information or files relating to the claim of any applicant, clients, or their authorized agent challenging the program's statutes, rules, or a determination made pursuant thereto, or against whom an action or proceeding for the recovery of incorrectly paid benefits has been instituted;
3. The release of information or files to the State Treasurer, the Commissioner of the Department of Health and Senior Services or other governmental agency, or to their duly authorized representatives, for an audit, review of expenditures or similar activity authorized by law; or
4. The release of information or files to any law enforcement authority charged with the investigation or prosecution of violations of the criminal laws of this State.

8:92-6.3 Primary and secondary payment

If a client's adult day service costs are covered in whole or in part by another State or Federal government program or insurance contract, the government program or insurance

carrier shall be the primary payer and the Adult Day Services Program for Persons with Alzheimer's Disease or Related Disorders shall be the secondary payer.

Procedure Rules, N.J.A.C. 1:1, within 30 days of receipt of notice of an adverse action notice. Appeals shall be in writing and directed to:

Director of the Office of Community Programs
New Jersey Department of Health and Senior
Services
Division of Aging and Community Services
PO Box 807
Trenton, NJ 08625-0807

SUBCHAPTER 7. APPEALS

8:92-7.1 Appeals process

An applicant who is denied participation in the program because he or she does not qualify, or a client whose participation in the program is terminated, has the right to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative

Amended by R.2006 d.380, effective November 6, 2006.
See: 38 N.J.R. 2365(a), 38 N.J.R. 4694(a).

In the introductory paragraph, updated N.J.A.C. reference; and updated the contact information and address.