

3. The RN shall perform the clinical eligibility assessment prior to initial provision of ADHS to the individual, at least annually thereafter, and when an adult beneficiary presents a change in status that facility staff document in the plan of care pursuant to N.J.A.C. 8:43F-5.4 that may alter the beneficiary's eligibility to receive ADHS.

4. The RN shall include documentation from the assessment and evaluation required by this section in the individual's medical record.

5. An initial assessment performed by ADHS facility staff shall include a visit to the individual's home.

6. The RN performing the clinical eligibility assessment may delegate the home visit component of the assessment, provided an RN who elects to delegate the home visit component of the assessment shall make the delegation in accordance with N.J.S.A. 45:11-26, which provides the licensure requirements of the New Jersey State Board of Nursing, and N.J.A.C. 13:37-6.2, and only to a person holding New Jersey licensure or certification, as applicable, in good standing, as an advanced practice nurse, a licensed practical nurse, a licensed social worker, a licensed clinical social worker, or a certified social worker.

7. The home visit shall include assessment of at least the following:

- i. Living arrangements;
- ii. The individual's relationship with his or her family;
- iii. The individual's home environment;
- iv. The existence of environmental barriers, such as stairs, not negotiable by the individual;
- v. Access to transportation, shopping, religious, social, or other resources to meet the needs of the individual; and
- vi. Other home care services received, including documentation of the frequency and amount of each service received;

8. The RN who performs the clinical eligibility assessment and the ADHS facility administrator shall sign the assessment instrument prescribed by the Department used for an individual or beneficiary's clinical eligibility assessment and shall submit the assessment to the following address:

Adult Day Health Services Program  
Office of Community Choice Options  
NJ Department of Health and Senior Services  
PO Box 807  
Trenton, NJ 08625-0807.

9. The facility administrator shall certify whether or not the individual has been determined eligible to receive ADHS.

i. The Department shall presume the determination of the facility to be accurate, with the understanding that the Department retains ultimate authority with respect to determinations of eligibility and shall conduct audits of facility determinations of eligibility through on-site visits, which may include review of facility records and interviews with beneficiaries; and

ii. Any facility found to be in default of this section, including, but not limited to, certifications that are intentionally misleading or false, shall be subject to remedies that may be imposed pursuant to N.J.A.C. 8:43F-2.8, N.J.A.C. 10:49 or any other applicable provision of law.

10. Departmental authorization for facility staff to perform eligibility assessments shall not preclude the Department from withdrawing such authorization if the facility is found in default as provided in (d)9 above or at such time as the Department, with due notice to the affected facility, decides that the Department will resume performing prior authorization by Department staff.

11. When an ADHS facility determines after its performance of a clinical assessment that an individual is ineligible to receive ADHS, the individual may advise the facility that he or she believes that the facility's performance of the eligibility assessment prescribed by the Department has resulted in an inequity or erroneous determination.

i. Upon the facility's receipt of this advice, the facility shall submit to the completed assessment, any documents that the individual wants the Department to consider, and documentation identifying the individual's issues, signed by the individual, to the Department for review;

ii. The facility shall request Department review of the clinical eligibility assessment the facility performed on behalf of the individual within five business days of notification of ineligibility by the facility to the Regional Office of Community Choice Options, Department of Health and Senior Services, Division of Aging and Community Services, serving the beneficiary's county of residence;

iii. Appropriate professional staff of the Department shall conduct a review of the assessment and the supporting documentation;

iv. Both the individual and the facility should be prepared to provide such substantiating information as may be required for an informal discussion of the issues; and

v. Department staff shall make a determination to uphold or overturn the facility's assessment and shall notify both the individual and the facility within 15 business days of receipt of the requested documentation.

(e) An individual shall have an opportunity for a fair hearing if he or she is not satisfied with the determination made by professional staff designated by the Department, in accor-

dance with (b) and (d)11 above; or if the services provided to the individual in an adult day health services facility have been terminated, reduced or suspended.

1. Subject to (e)2 below, an individual must submit a request for an administrative hearing pursuant to N.J.A.C. 10:49-10 and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

2. Individuals enrolled in HCEP or JACC must submit a request for an administrative hearing pursuant to the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

3. A request for an administrative hearing shall be considered timely filed if it is submitted within 20 days:

i. From the date of notification of the Departmental determination based on a review of the facility's assessment;

ii. From the date of notification of the direct determination of ineligibility by professional staff designated by the Department; or

iii. From the date that the individual receives notice that his or her services in an adult day health services facility have been terminated, reduced or suspended.

4. At the administrative hearing, the burden is upon the individual to demonstrate eligibility for ADHS under the eligibility criteria at (f) below.

5. The individual may request that the matter be settled in lieu of conducting an administrative hearing concerning the contested action. If the Department and the individual agree on the terms of a settlement, a written agreement specifying the terms thereof shall be executed.

(f) An adult shall be eligible for ADHS and the Department shall approve the request for prior authorization referenced in N.J.A.C. 8:86-1.3(a)3 if the adult shall have been determined eligible for or enrolled in one of the programs specified at N.J.A.C. 8:86-1.1(b), shall not have been determined ineligible to receive ADHS pursuant to N.J.A.C. 8:86-1.5(g), and shall have been determined clinically eligible for ADHS by professional staff designated by the Department, on the basis of having been assessed as requiring at least one of the following:

1. At least limited assistance in a minimum of two ADLs and the facility will provide all of the assistance for the claimed ADLs on-site in the facility;

2. At least one skilled service provided daily on-site in the facility;

3. Rehabilitation services to attain a particular treatment goal(s) for a specified time-limited period as ordered by the individual's attending physician, physician assistant, or advanced practice nurse; or

4. Supervision/cueing in at least three ADLs and the facility will provide all of the supervision/cueing for the

claimed ADLs on-site in the facility; and, as identified by the assessment instrument prescribed by the Department, the individual:

i. Exhibits problems with short-term memory following multitask sequences, and in daily decision-making in new situations.

(g) An individual shall be ineligible for ADHS if (g)1, 2, or 3 below applies to the individual:

1. Admission of the individual to an ADHS facility would result in the individual receiving a service(s) that is duplicative or redundant of any other Medicaid-funded service(s) that the individual has chosen;

i. Examples of services, programs and ambulatory care settings that may constitute duplicative or redundant services include, but are not limited to, services provided in an individual's home, by a personal care attendant, in the office of a physician, in a hospital outpatient department, at a partial care/partial hospitalization program, and/or in an adult day training program;

2. The individual resides at a residential health care facility; or

3. The individual requires and is receiving care 24 hours per day on an inpatient basis in a hospital or nursing home.

(h) In order to be eligible for services in an HIV adult day health services facility, an individual shall be at least 18 years of age with HIV infection, eligible for adult day health services in accordance with N.J.A.C. 8:86-1.1(b), and require outpatient drug abuse treatment.

Amended by R.1994 d.427, effective August 15, 1994.

See: 26 N.J.R. 1427(a), 26 N.J.R. 3474(a).

Amended by R.2001 d.5, effective January 2, 2001.

See: 32 N.J.R. 3053(a), 33 N.J.R. 55(a).

New Rule by R.2005 d.390, effective December 19, 2005 (operative February 1, 2006).

See: 36 N.J.R. 5262(a), 37 N.J.R. 385(b), 4968(a).

Former N.J.A.C. 8:86-1.5, Staff, repealed.

Amended by R.2008 d.1, effective January 7, 2008.

See: 39 N.J.R. 2424(a), 40 N.J.R. 177(a).

Rewrote (b) through (g).

Public Notice: Moratorium Affecting Licensure of Adult Day Health Care Facilities and Services.

See: 40 N.J.R. 6487(d).

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See: 41 N.J.R. 4328(b).

Amended by R.2009 d.346, effective November 16, 2009 (operative April 1, 2010).

See: 40 N.J.R. 6328(a), 41 N.J.R. 4257(a).

Section was "Clinical eligibility and prior authorization for adult or pediatric day health services". In the introductory paragraph of (e) and in (e)3iii, deleted "or pediatric" preceding "day health services"; and deleted (i) and (j).

### 8:86-1.6 Basis of payment

(a) The facility providing adult day health services shall agree to accept the reimbursement rates established by the