

Title of Rule: Revision to the Medical Assistance Rule concerning Adult Day Services Dementia Training, Section 8.491

Rule Number: MSB 23-03-14-B

Division / Contact / Phone: OCL / Kyra Acuna / 5666

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

Senate Bill 22-079 was signed into Colorado law in May 2022, and codified, in part, at Section 25.5-6-314. This bill requires that by July 1, 2024, the State Board of Health shall adopt rules requiring all direct-care staff members at Adult Day Care Facilities to obtain dementia training pursuant to curriculum prescribed or approved by the State Department in collaboration with stakeholders that is consistent with the rules adopted pursuant to Colorado Revised Statutes 25.5-6-314(2). The proposed rules are necessary comply with Senate Bill 22-079 prior to the July 1, 2024 deadline. The new regulations ensure that all direct-care staff members of Adult Day Services providers are required to receive dementia training as outlined in Senate Bill 22-079.

2. An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
 for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

N/A

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, 25.5-6-314, C.R.S. (2022);

Initial Review

05/12/23

Final Adoption

06/09/23

Proposed Effective Date

07/30/23

Emergency Adoption

DOCUMENT #09

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule will impact all Adult Day Services providers and those Home and Community-Based Services (HCBS) waiver members who receive Adult Day Services, which may include members on the Elderly, Blind, and Disabled (EBD), Brain Injury (BI), Complementary and Integrative Health (CIH), and Community Mental Health Supports (CMHS) waivers. The rule will benefit members served as it is estimated that about 31% of members receiving Adult Day Services have dementia diseases or related disabilities. There may be a budgetary or additional financial burden on Adult Day Services providers because of the new requirements, however this depends on the training entity selected by each provider agency. It is up to each provider agency to select the training entity that best meets the needs of the members they serve.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons. Approximately 2,500 members utilize Adult Day services across 50 service providers. This rule will impact all providers offering Adult Day services and all members served.

The proposed rule will have a significant, positive impact on the quality of services for HCBS members by ensuring that all Adult Day Services direct-care staff members are specifically trained in working with individuals with dementia.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There should be no additional cost to the Department or the Department of Public Health and Environment because of these rules. This training required by this rule will simply be added to the list of items surveyors review when at an Adult Day Services setting to monitor compliance.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Implementing these rules ensures that the Department is compliant with state law. No budgetary impact is anticipated as a result of the passage of the rule. The cost of inaction is a failure to comply with state law, which puts the Department at risk of

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losing funding for these invaluable HCBS services. No benefits to inaction are identified.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no other methods to achieve the purpose of this proposed rule. These regulations must be implemented to comply with Section 25.5-6-314, C.R.S.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No alternative methods were considered.

1 8.491 ADULT DAY SERVICES

2 8.491.1 Definitions

3 Adult Day Services (ADS) Center is a certified center that provides Basic Adult Day Services and
4 Specialized Adult Day Services to participants.

5 Adult Day Services (ADS) are provided in an Adult Day Services Center or through Non-Center-Based
6 means including Telehealth, on a regularly scheduled basis, as specified in the Person Centered Care
7 Plan, promoting social, recreational, physical, and emotional well-being that encompasses the supportive
8 services needed to ensure the optimal wellness of the participant.

- 9 A. Basic Adult Day Services (ADS) Center means a community-based entity that provides
10 basic Adult Day Services in conformance with all state established requirements as
11 described in 10 CCR 2505-10 section 8.130 and 10 CCR 2505-10 section 8.491.
- 12 B. Center-Based Adult Day Services are services provided in a certified ADS Center.
- 13 C. Non-Center-Based Adult Day Services are services that may be provided outside of the
14 certified ADS Center, where participants can engage in activities and community life,
15 either in-person or through virtual means.
- 16 D. Specialized Adult Day Services (SADS) Center means a community-based entity
17 providing Adult Day Services for participants with a primary diagnosis of dementia related
18 diseases, Multiple Sclerosis, Brain Injury, chronic mental illness, Intellectual and
19 Developmental Disabilities, Huntington's Disease, Parkinson's, or post-stroke
20 participants, who require extensive rehabilitative therapies. To be designated as
21 specialized, two-thirds of an ADS Center's population must have a diagnosis which is one
22 of any of the above diagnoses. Each diagnosis must be verified by a Licensed Medical
23 Professional, either directly or through Case Management Agency documentation, in
24 accordance with Section 8.491.14.A.
- 25 E. Telehealth Adult Day Services are provided through virtual means in a group or on an
26 individual basis. Telehealth ADS are ways for participants to engage in activities, with
27 their community, and connect to staff and other ADS participants virtually or over the
28 phone, only if a participant does not have access or the ability to use video chat
29 technology. Services provided through Telehealth are not required to provide nutrition
30 services.

31 Care Plan means the individualized goal-oriented plan of services, supports, and preferences developed
32 collaboratively with the participant and/or the designated or legal representative and the service provider,
33 as outlined in 10 CCR 2505-10 8.495.6.F.

34 Designated Representative means a representative who is designated by the participant to act on the
35 participant's behalf, as defined in 10 CCR 2505-10 Section 8.500.1.

36 Direct Care Staff means staff who provide hands-on care and services, including personal care, to
37 participants. Direct Care Staff must have the appropriate knowledge, skills and training to meet the
38 individual needs of the participants before providing care and services. Training must be completed prior
39 to the provision of services, as outlined in 10 CCR 2505-10 8.491.4.I.

- 1 Director means any person who owns and operates an ADS Center or SADS Center or is a managing
2 employee with delegated authority by ownership to manage, control, or perform the day-to-day tasks of
3 operating the Center as described in 10 CCR 2505-10 Section 8.491.
- 4 Licensed Medical Professional (LMP) means a medical professional that possesses one or more of the
5 following Colorado licenses, which must be active and in good standing: Physician, Physician Assistant,
6 Registered Nurse (RN) or Licensed Practical Nurse (LPN) governed by the Colorado Medical License Act,
7 and as defined in 10 CCR 2505-10 Section 8.503.
- 8 Participant means any individual found to be eligible for and enrolled in Center-Based or Non-Center-
9 Based Adult Day Services regardless of payment source.
- 10 Provider means a service agency enrolled with the Department to provide Center-Based and/or Non-
11 Center-Based Adult Day Services.
- 12 Qualified Medication Administration Personnel (QMAP) means an individual that has completed training,
13 passed a competency evaluation, and is included in the Colorado Department of Public Health and
14 Environment's (CDPHE) public list of individuals who have passed the requisite competency evaluation,
15 as outlined in 6 CCR 1011-1 Chapter 24.
- 16 Restraint means any physical or chemical device, application of force, or medication, which is designed or
17 used for restricting freedom of movement, and/or modifying, altering, or controlling behavior, excluding
18 medication prescribed by a physician as part of an ongoing treatment plan or pursuant to a diagnosis.
- 19 Staff means a paid or voluntary employee or contracted professional of the ADS Center or SADS Center.
- 20 Universal Precautions refers to a system of infection control that prevents the transmission of
21 communicable diseases. Precautions include, but are not limited to, disinfecting of instruments, isolation
22 and disinfection of environment, use of personal protective equipment, hand washing, and proper
23 disposal of contaminated waste.

24 **8.491.2 PARTICIPANT BENEFITS**

25 **8.491.2.A. Adult Day Services**

- 26 1. Only participants whose needs can be met by the ADS provider within its certification
27 category and populations served may be admitted by the ADS provider.
- 28 2. ADS shall include, but are not limited to, the following:
- 29 a. Monitoring to ensure participants are maintaining activity levels and goals set
30 forth in the Care Plan, pursuant to Section 8.491.4.E; and assistance with
31 activities of daily living (ADL) as needed when ADS is provided in-person. (ADLs
32 include but are not limited to eating, ambulation, positioning, transferring,
33 toileting, and incontinence care).
- 34 b. Services provided to monitor the participant's health status, monitor or administer
35 medications (administration of medication only during the in-person delivery of
36 services), and carry out physicians' orders as set forth in participant's individual
37 Care Plan.
- 38 c. Center-Based ADS must be provided in an integrated, community-based setting,
39 which, supports participation and engagement in community life and gaining

1 access to the greater community; participants may engage in meaningful
2 activities in integrated and community settings.

3 d. Emergency services including written procedures to meet medical crises.

4 e. Activities that assist in the development of self-care capabilities, personal
5 hygiene, and social support services.

6 f. Nutrition services including therapeutic diets and snacks in accordance with the
7 participant's individual Care Plan and hours of attendance. Nutrition services are
8 not required during the delivery of Non-Center-Based ADS.

9 g. Social and recreational supportive services as appropriate for each participant
10 and their needs, as documented in the participant's Care Plan. Activities shall
11 take into consideration individual differences in age, health status, sensory
12 deficits, religious affiliation, interests, abilities, and skills by providing
13 opportunities for a variety of types and levels of involvement.

14 h. Participants have the right to choose not to participate in social and recreational
15 activities.

17 **8.491.2.B. Adult Day Service Requirements**

18 1. The participant's Care Plan must include documentation of their diagnosis(es) and
19 service goals.

20 2. A Specialized Adult Day Services (SADS) provider must verify all Medicaid participant's
21 diagnosis(es) using the Professional Medical Information Page (PMIP) which shall be
22 supplied by the case manager or documentation from the participant's Licensed Medical
23 Professional (LMP). Documentation must be verified at the time of admission and
24 whenever there is a significant change in the participant's condition. Any significant
25 change must be recorded in the participant's record or Care Plan.

26 a. For participants from other payment sources, diagnosis(es) must be documented
27 in a care plan, or other admission form, and verified by the participant's physician
28 or LMP. This documentation must be verified at the time of admission, and
29 whenever there is a significant change in the participant's condition.

30 **8.491.3 PROVIDER REQUIREMENTS**

31 **A. General**

32 1. ADS providers shall conform to all provider participation requirements, as defined in 10
33 CCR 2505-10 Section 8.130. ADS Centers shall have in effect all required licenses,
34 certifications, and insurance, as applicable. ADS Center providers shall comply with ADS
35 Center regulations and Life Safety Code (LCS) regulations, as determined by the
36 Colorado Division of Fire Protection and Control.

37 2. ADS providers shall be Medicaid certified by the Department as an ADS provider, in
38 accordance with 10 CCR, 2505-10 Section 8.487.20. Proof of Medicaid certification
39 consists of a completed Provider Agreement approved by the Department and the
40 Department's fiscal agent, and recommendation for certification by CDPHE.

- 1 a. Certification shall be denied, revoked, suspended, or terminated when a Provider
2 is unable to meet, or adequately correct deficiencies relating to, certification
3 standards as defined at 10 CCR 2505-10 section 8.491.
- 4 3. The Department or its designee will review an ADS Center's designation as a Specialized
5 Adult Day Services (SADS) Center at the time of initial approval and during the
6 recertification survey.
- 7 4. Denial, termination, or non-renewal of the Provider Agreement shall be for "Good Cause"
8 as defined in 10 CCR 2505-10 section 8.076.
- 9 5. All providers of ADS shall operate in full compliance with all applicable federal, State and
10 local laws, ordinances and regulations related to fire, health, safety, zoning, sanitation
11 and other standards prescribed in law or regulations. This includes certification of building
12 use occupancy.

13 **8.491.4 PROVIDER ROLES AND RESPONSIBILITIES**

14 A. Environment

- 15 1. All ADS providers must comply with the Centers for Medicare and Medicaid Services
16 (CMS) Home and Community Based Settings Final Rule requirements, 42 C.F.R. §
17 441.301(c)(4). This includes:
- 18 a. ADS Center must be integrated in and supports full access of individuals to the
19 greater community;
- 20 b. ADS provider is selected by the individual from among setting options including
21 non-disability specific settings;
- 22 c. ADS provider ensures an individual's rights of privacy, dignity and respect, and
23 freedom from coercion and restraint;
- 24 d. ADS provider optimizes individual initiative, autonomy, and independence in
25 making life choices, including, but not limited to, daily activities, physical
26 environment, and with whom to interact; and
- 27 e. ADS provider facilitates individual choice regarding services and supports, and
28 who provides them.
- 29 2. ADS Centers presumed to have institutional qualities will be subject to heightened
30 scrutiny and reviewed by the Department and CMS, per 42 C.F.R. § 441.301(a)(2)(v).
31 Settings in which this may apply include but are not limited to those where:
- 32 a. The provision of inpatient institutional treatment within a publicly or privately-
33 operated facility happens within the same building.
- 34 b. Located on the grounds of, or adjacent to, a public institution.
- 35 c. The effect of isolating participants receiving Medicaid Home and Community
36 Based Services (HCBS) from the broader community.

- 1 2. If an ADS Center is subject to heightened scrutiny, Medicaid reimbursement by the
2 Department may not be issued if the center fails CMS's heightened scrutiny review or
3 until CMS approves the center.
- 4 3. ADS Centers shall provide a clean and sanitary environment that is free of obstacles that
5 could pose a hazard to participant health and safety, allowing individuals the freedom to
6 safely move about inside and outside the ADS Center.
- 7 4. ADS Centers shall provide lockers or a safe and secure place for participants' personal
8 items.
- 9 5. ADS Centers shall provide recreational areas and recreational activities appropriate to
10 the number and needs of the participants, at the times desired by the participants.
- 11 6. ADS Centers shall ensure the following are physically accessible to the participants at all
12 times during hours of operation:
 - 13 a. Access to drinking water and other beverages;
 - 14 b. Bathrooms, sinks, and paper towel dispensers or hand dryers;
 - 15 c. Appliances and equipment used by or in the delivery of activities offered by the
16 ADS Center, such as, tables/desks and chairs at a convenient height and
17 location; and
 - 18 d. Free from obstructions such as steps, lips in doorways, narrow hallways, limiting
19 individuals' mobility in the ADS Center. If obstructions are present, environmental
20 adaptations are to be made to allow for participant access.
- 21 7. ADS Centers must provide for a private shower and/or bathing area located on site to
22 address the emergency hygiene needs of participants as needed.
- 23 8. To accommodate the activities and program needs of the ADS Center, the center must
24 provide eating and activity areas that are consistent with the number and needs of the
25 participants being served, which is at a minimum of 40 square feet per participant.
- 26 9. ADS Centers shall maintain a comfortable temperature throughout the center. At no time
27 shall the temperature fall outside the range of 68 degrees to 76 degrees Fahrenheit.
- 28 10. ADS Centers must provide an environment free from restraints.
- 29 11. ADS Centers, in accordance with 10 CCR 2505-10 section 8.491.4.A above, must
30 provide a safe environment for all participants, including participants exhibiting behavioral
31 problems, wandering behavior, or limitations in mental/cognitive functioning.
- 32 B. Food Safety Requirements
 - 33 1. ADS providers shall comply with all applicable local food safety regulations. In addition,
34 all ADS Centers must ensure:
 - 35 a. Access to a handwashing sink, soap and disposable paper towels;
 - 36 b. Food handlers, cooks and servers, including participants engaged in food
37 preparation, properly wash their hands using proper hand-washing guidelines;

- 1 c. The ADS Centers do not allow any staff or participants who are not in good
2 health and free of communicable disease to handle, prepare or serve food or
3 handle utensils;
- 4 d. Refrigerated foods opened or prepared and not used within 24 hours are marked
5 with a "use by" or "discard by" date. The "use by" or "discard by" date may not
6 exceed 7 days following opening or preparation, or exceed or surpass the
7 manufacturer's expiration date for the product or its ingredients;
- 8 e. For food service, foods are maintained at the proper temperatures at all times.
9 Foods that are stored cold must be held at or below 41 degrees Fahrenheit and
10 foods that are stored hot must be held at or above 135 degrees Fahrenheit in
11 order to control the growth of harmful bacteria;
- 12 f. Kitchen and food preparation equipment are maintained in working order and
13 cleanable; and
- 14 g. Any equipment or surfaces used in the preparation and service of food are
15 washed, rinsed and sanitized before use or at least every 4 hours of continual
16 use. Dish detergent must be labeled for its intended purpose. Sanitizer must be
17 approved for use as a no-rinse food contact sanitizer. Sanitizers must be
18 registered with the Environmental Protection Agency (EPA) and used in
19 accordance with labeled instructions.

20

21 C. Medication Administration and Monitoring

- 22 1. All medications shall be administered by Qualified Medication Administration Personnel
23 (QMAP) staff, LMP staff or self-administered, regardless of the location where services
24 are rendered.
- 25 2. Center-Based and Non-Center-Based ADS providers shall require each staff person who
26 administers medication, that is not a LMP, to have completed training, passed a
27 competency evaluation and be included in the Colorado Department of Public Health and
28 Environment's (CDPHE) public list of individuals who have passed the QMAP
29 competency evaluation, as outlined in 6 CCR 1011-1 Chapter 24.
- 30 3. All medication, when stored and administered by the ADS provider, shall be stored in a
31 locked cabinet when unattended by QMAP or LMP staff.
- 32 4. Non-prescription medications, when stored by the ADS provider, shall be labeled with the
33 recipient's name, and shall not be taken by any other participants.
- 34 5. A QMAP shall not conduct feeding or administer medication through a gastrostomy tube
35 or administer intravenous, intramuscular or subcutaneous injections.

36 D. Records and Information

- 37 1. All ADS providers shall keep records and information necessary to document the
38 services provided to participants receiving Adult Day Services. Records shall include but
39 not be limited to:
 - 40 a. Name, address, gender, and date of birth of each participant;

- 1 b. Name, address and telephone number of designated representative and/or
2 emergency contact;
- 3 c. Name, address and telephone number of primary physician;
- 4 d. Documentation of the supervision and monitoring of services provided;
- 5 e. Documentation that all participants and their designated representatives (if any)
6 were oriented to the ADS Center, their policies and procedures, to the services
7 provided by the ADS provider, and delivery methods offered.;
- 8 f. A service agreement signed by the participant and/or the designated
9 representative and appropriate staff; and
- 10 g. For SADS providers only, a copy of the PMIP, or diagnosis documentation from
11 the participant's LMP;
- 12 h. Documentation specifically stating the types of services and monitoring that are
13 provided when rendered via Telehealth, ensuring the integrity of the service
14 provided and the benefit the service provides the participant.
- 15 E. Care Plan
- 16 1. The following information must be documented in the Care Plan and used to direct the
17 participant's care and must be reviewed annually.
- 18 a. Medical Information:
- 19 i. All medications the participant is taking, including those while receiving
20 Center-Based or Non-Center-Based ADS, and whether they are being
21 self-administered;
- 22 ii. Special dietary considerations, instructions, or restrictions;
- 23 iii. Services that are administered to the participant while receiving Center-
24 Based and/or Non-Center-Based ADS (may include nursing or medical
25 interventions, speech therapy, physical therapy, or occupational
26 therapy);
- 27 iv. Any restrictions on social and/or recreational activities identified by
28 participant's LMP; and
- 29 v. Any other special health or behavioral management services or supports
30 recommended to assist the participant by the participant's LMP.
- 31 b. Care Planning Documentation:
- 32 i. Documentation that the provider was selected by the individual and/or
33 designated representative or legal representative;
- 34 ii. Individual choices, including location and delivery method for ADS,
35 preferences, and needs shall be incorporated into the goals and services
36 outlined in the Care Plan;

- 1 iii. All participant information and the Care Plan are considered protected
2 health information and shall be kept confidential; and
- 3 iv. Participant and/or designated representative or legal representative must
4 review and sign the Care Plan.
- 5 c. Modifications to the Care Plan must be supported by a specific and assessed
6 need. Informed consent and proper documentation in the Care Plan are required
7 for any changes including but not limited to:
- 8 i. Identification of the specific and individualized assessed need; and
- 9 ii. Documentation of any intervention and/or additional supports offered to
10 support the participant appropriately.
- 11 d. Documentation that the participant and/or designated representative was
12 provided with written information about the participant's right to establish an
13 advance directive.
- 14 e. Documentation as to whether the participant has executed an advance directive
15 or other declaration regarding medical decisions. Such documentation shall be
16 maintained in the participant's record.
- 17 f. All entries into the record shall be legible, written in ink, dated, and signed with
18 name and title designation, or records shall be maintained electronically with
19 electronic signatures in accordance with standards for electronic medical record
20 keeping practices.
- 21 F. Critical Incident Reporting
- 22 1. A Critical Incident means an actual or alleged event that creates the risk of serious harm
23 to the health or welfare of a participant. A Critical Incident may endanger or negatively
24 impact the mental and/or physical well-being of a participant. Critical Incidents include,
25 but are not limited to:
- 26 a. Death;
- 27 b. Abuse/neglect/exploitation;
- 28 c. Serious injury to participant or illness of participant;
- 29 c. Damage or theft of participant's property;
- 30 d. Medication mismanagement;
- 31 e. Lost or missing person; and
- 32 f. Criminal activity.
- 33 2. A provider must submit a verbal or written report of a Critical Incident to the HCBS
34 participant's Case Management Agency (CMA) case manager within 24 hours of
35 discovery of the actual or alleged incident. The report must include:
- 36 a. Participant name;

- 1 b. Participant Medicaid identification number;
 - 2 c. Waiver;
 - 3 d. Incident type;
 - 4 e. Date and time of incident;
 - 5 f. Location of incident;
 - 6 g. Persons involved;
 - 7 h. Description of incident; and
 - 8 i. Resolution, if applicable.
- 9 3. If any of the above information is not available within 24 hours of incident and not
10 reported to the CMA case manager, a follow-up to the initial report must be completed.
- 11 G. Staff Requirements
- 12 1. In determining appropriate staffing levels, the ADS provider shall adjust staffing ratios
13 based on the individual acuity and needs of the participants being served. At a minimum,
14 staffing must be sufficient in number to provide the services outlined in the Care Plans,
15 considering the individual needs, level of assistance, and risks of accidents. A staff
16 person can have multiple functions, as long as they meet the definition of Direct Care
17 Staff defined at 10 CCR 2505-10, Sections 8.491.1. Staff counted in the staff-participant
18 ratio are those who are trained and able to provide direct services to participants.
 - 19 a. Staffing for Center-Based and in person Non-Center-Based ADS shall be no less
20 than the following standard:
 - 21 i. A minimum of 1 staff to 8 participants with continuous supervision of
22 participants during program operation.
 - 23 b. Staffing for Telehealth ADS shall be no less than the following standard:
 - 24 i. A minimum of 1 staff to 15 virtual participants with continuous virtual
25 supervision of participants during Telehealth program operation.
 - 26 c. Staff shall provide the following:
 - 27 i. Immediate response to emergency situations to assure the safety, health
28 and welfare of participants;
 - 29 ii. Activities that are planned to support the plans of care for the
30 participants; and
 - 31 iii. Administrative, recreational, social, and supportive functions and duties.
 - 32 d. Nursing services for regular monitoring of the on-going medical needs of
33 participants and the supervision of medications. These services must be
34 available a minimum of two hours daily during Center-Based ADS, and as
35 needed for Non-Center-Based ADS, and must be provided by a Registered

- 1 Nurse (RN) or Licensed Practical Nurse (LPN). Certified Nursing Assistant's
2 (CNA) may provide nursing services under the direction of a RN or an LPN, in
3 conformance with nurse delegation provisions outlined in CRS 12-38-132.
4 Supervision of CNAs must include documented consultation and oversight on a
5 weekly basis or more according to the participant's needs. If the supervising RN
6 or LPN is an ADS provider staff member, with consultation and oversight of
7 CNAs included in the member's job description, the supervising nurse's
8 documented attendance shall be sufficient to document consultation and
9 oversight.
- 10 2. In addition to the above services, Specialized Adult Day Services (SADS) Centers shall
11 have sufficient staff to provide nursing services during all hours of operation.
- 12 a. Nursing services must be provided by a licensed RN or LPN or by a CNA under
13 the supervision of an RN or LPN, as per 10 CCR 2505-10 section 8.491.4.G.1.e
14 above and employed or contracted by the SADS Center.
- 15 3. The ADS provider shall require any individual seeking employment with that agency to
16 submit to a criminal history record check to ascertain whether the individual seeking
17 employment has been convicted of a felony or misdemeanor that involves conduct that
18 the provider determines could pose a risk to the health, safety or welfare of participants.
- 19 4. The criminal history record check shall, at a minimum, include a search of criminal history
20 in the State of Colorado and be conducted not more than 90 days prior to employment of
21 the individual.
- 22 5. In assessing whether to employ an applicant with a felony or misdemeanor conviction,
23 the ADS provider shall consider the following factors:
- 24 a. The history of convictions, pleas of guilty or no contest,
25 b. The nature and seriousness of the crimes;
26 c. The time that has elapsed since the conviction(s);
27 d. Whether there are any mitigating circumstances; and
28 e. The nature of the position for which the applicant would be employed.
- 29 6. The ADS provider shall develop and implement policies and procedures regarding the
30 employment of any individual who is convicted of a felony or misdemeanor to ensure that
31 the individual does not pose a risk to the health, safety and welfare of the consumer.
- 32 H. Director Qualifications
- 33 1. All Directors hired or designated after January 1, 2019, shall meet one of the following
34 qualifications:
- 35 a. At least a bachelor's degree from an accredited college or university and a
36 minimum of two years of social services or health services experience and shall
37 have demonstrated ability to perform all aspects of the position; or
- 38 b. A licensure by the state of Colorado as a Licensed Practical Nurse or Registered
39 Nurse and completion of two years of paid or volunteer experience in planning or

- 1 delivering health or social services including experience in supervision and
2 administration; or
- 3 c. A high school diploma or GED equivalent, a minimum of four years of experience
4 in a social services or health services setting, skills to work with aging adults or
5 adults with functional impairment, and skills to supervise ADS Center staff
6 persons.

7 I. Training Requirements

- 8 1. All ADS staff and volunteers must be trained in the ADS provider's programmatic policies
9 and procedures.
- 10 2. ADS providers providing medication administration as a service must have QMAP staff
11 qualified in accordance with C.R.S. 6 CCR 1011-1 Chapter 24, unless medications are
12 administered only by LMPs.
- 13 3. All staff and volunteers must be trained in the use of universal precautions and infection
14 control, as defined at 10 CCR 2505-10 section 8.491.1.
- 15 4. The ADS Director and staff must receive training specific to the needs and diagnoses of
16 the participants served. Training may include, but is not limited to: behavioral expression
17 and management techniques, effective communication techniques, redirection,
18 cardiopulmonary resuscitation, validation theory and communication, seizure response,
19 and brain injuries.
- 20 a. Documentation of staff member and Director trainings must include, but is not
21 limited to: training provided, who completed trainings, who conducted trainings,
22 and completion date.
- 23 5. All ADS staff must be trained in the handling of emergency services including written
24 procedures to meet medical crises, and natural and manmade disasters.
- 25 6. All required training must be documented, and documentation must be maintained in
26 individual staff's personnel files. Each staff person's training must be up-to-date.

27 J. Dementia Training Requirements

- 28 1. As of October 1, 2023, each Adult Day Services provider shall ensure that its Direct-Care
29 Staff Members meet the following complete dementia training as required by Section
30 25.5-6-314, C.R.S. Requirements.
- 31 2. Definitions: for the purposes of dementia training applicable to Dementia Training
32 Requirements: as required by Section 25.5-6-314, C.R.S.
- 33 a. "Covered Facility" means a nursing care facility or an assisted living residence
34 licensed by the Department of Public Health and Environment pursuant to
35 Section 25-1.5-103(1)(a) Assisted Living Residences, Nursing Care Facilities,
36 and Adult Day Care Facilities as defined in Section 25.5-6-303(1), C.R.S.
- 37 b. "Dementia diseases and related disabilities" is a condition where mental ability
38 declines and is severe enough to interfere with an individual's ability to perform
39 everyday tasks. Dementia diseases and related disabilities include Alzheimer's

1 disease, mixed dementia, Lewy Body Dementia, vascular dementia,
2 frontotemporal dementia, and other types of dementia.

3 c. “Direct-Care Staff Member” means a staff member caring for the physical,
4 emotional, or mental health needs of participants of an Adult Day Services
5 provider and whose work involves regular contact with participants who are living
6 with Dementia Diseases and related disabilities.

7 d. “Staff member” means an individual, other than a volunteer, who is employed by
8 an Adult Day Services provider.

9 e. “Equivalent training” ~~within this subsection of 8.491.4.J. shall~~ means any initial
10 training provided by a Covered Facility ~~meeting that meets the requirements in~~
11 Section 8.491.4.J.3. ~~If the Equivalent Training was provided more than 24~~
12 months prior to the date of hire as allowed in the exception found in Section
13 8.491.4.J.4., the individual must document participation in both the Equivalent
14 Training and all required continuing education subsequent to the initial training.

15 3. Initial training: Each Adult Day Services provider is responsible for ensuring that all
16 Direct-Care Staff Members are trained in dementia diseases and related disabilities.

17 a. Initial training shall be available to ~~Direct-Care~~ ~~Staff Members~~ at no cost to
18 them.

19 b. The training shall be competency-based and ~~culturally competent~~ culturally
20 competent and shall include a minimum of four hours of training in dementia
21 topics including the following content:

22 1) Dementia diseases and related disabilities;

23 2) Person-centered care;

24 3) Care planning;

25 4) Activities of daily living; and

26 5) Dementia-related behaviors and communication.

27 c. For Direct-Care Staff Members already employed prior to October 1, 2023, the
28 initial training must be completed as soon as practical, but no later than 120 days
29 after October 1, 2023, unless an exception, as described in Section
30 8.491.4.J.4.a., applies.

31 d. For Direct-Care Staff Members hired or providing care on or after October 1,
32 2023, the initial training must be completed as soon as practical, but no later than
33 120 days after the start of employment or the provision of direct-care services,
34 unless an exception, as described in Section 8.491.4.J.4.b., applies.

35 4. Exception to initial dementia training requirement

36 a. Any Direct-Care Staff Member who is employed by or providing direct-care
37 services prior to the October 1, 2023, may be exempted from the provider’s initial
38 training requirement if all of the following conditions are met:

- 1) The Direct-Care Staff Member has completed an Equivalent initial dementia training program, as defined in these rules, within the 24 months immediately preceding October 1, 2023; and
- 2) The Direct-Care Staff Member can provide documentation of the satisfactory completion of the Equivalent initial training program.
- 3) If the Equivalent Training was provided more than 24 months prior to the date of hire, the individual must document participation in both the Equivalent Training and all required continuing education subsequent to the initial training.

b. Any Direct-Care Staff Member who is hired by or begins providing direct-care services on or after October 1, 2023, may be exempted from the provider's initial training requirement if all of the following conditions are met. The Direct-Care Staff Member:

- 1) Has completed an equivalent initial dementia training program, as defined in these rules, either:
 - a) Within the 24 months immediately preceding October 1, 2023; or
 - b) Within the 24 months immediately preceding the date of hire or the first date the Direct-Care Staff Member of providing provides direct care services; and
- 2) Can provide Provides documentation of the satisfactory completion of the initial training program; and
- 3) Can provide Provides documentation of all required continuing education subsequent to the initial training.

c. Such exceptions shall not negate exempt a Direct-Care Staff Member from the requirement for dementia training continuing education as described in Section 8.491.4.J.5.

5. Dementia Training: Continuing Education

- a. After completing the required initial training, all Direct-Care Staff Members shall have completed and documented a minimum of two hours of continuing education on dementia topics every two years.
- b. Continuing education on this topic must be available to Direct-Care Staff Members at no cost to them.
- c. This continuing education shall be culturally competent, include current information provided by recognized experts, agencies, or academic institutions, and include best practices in the treatment and care of persons living with dementia diseases and related disabilities.

6. Minimum requirement for individuals conducting dementia training must meet the following minimum requirements:

- a. Specialized training from recognized experts, agencies, or academic institutions in dementia disease-, or
- b. Successful completion of the training being offered or other similar initial training which meets the minimum standards described herein; and
- c. Two or more years of experience in working with persons living with dementia diseases and related disabilities.

7. Documentation of initial dementia training and continuing education for Direct-Care Staff Members:

- a. The provider shall maintain documentation that each Direct-Care Staff Member has of the completion completed of initial dementia training and continuing education. Such records shall be made available upon request.
- b. Completion shall be demonstrated by a certificate, attendance roster, or other documentation.
- c. Documentation shall include the number of hours of training, the date of n which it was received, and the name of the instructor and/or training entity.
- d. Documentation of the satisfactory completion of an equivalent initial training program as defined in Section 8.491.4.J.2.e. and as required in the criteria for an exception discussed in Section 8.491.4.J.4., shall include the information required in this Section 8.491.4.J.7.b. & c.
- e. After the completion of training and upon request, such documentation shall be provided to the staff member for the purpose of employment at another Covered Facility. For the purposes of dementia training documentation, Covered Facilities shall include Assisted Living Residences, Nursing Care Facilities, and Adult Day Care Facilities as defined in Section 25.5-6-303(1), C.S.R.

KJ. Written Policies

- 1. The ADS provider shall have written policies and procedures relevant to its operation. Such policies shall include, but not be limited to, statements describing:
 - a. Admission criteria for participants who can be appropriately served by the ADS provider;
 - b. Intake procedures conducted for participants and/or designated representatives prior to admission with the ADS provider;
 - c. The meals and nourishments including special diets that are provided;
 - d. The hours and days that Center-Based ADS are open and available, and the days and times that Non-Center-Based ADS are available to participants, including the availability of nursing services;
 - e. Medication administration and storage;
 - f. The personal items that the participants may bring with them to the ADS Center;

- 1 g. Emergency services including written procedures to meet medical crises, and
2 natural and manmade disasters; and
- 3 h. The administration of Telehealth Adult Day Services, if provided. This includes
4 telehealth options, provision of services, and examples of virtually offered
5 services.
- 6 2. There shall be a written, signed agreement between the participant and/or designated
7 representative and the ADS provider outlining the rules and responsibilities of the ADS
8 provider and the participant. Each party in the agreement shall be provided a copy.

9 KL. Exclusions

- 10 1. The delivery of a meal, workbook, activity packet, etc. does not constitute rendered ADS
11 and therefore are not reimbursable, unless in-person ADS service was provided in
12 addition to the delivery of food or item.

13 **8.491.5 REIMBURSEMENT METHOD FOR ADULT DAY SERVICES**

- 14 A. Reimbursement for ADS for participants in the HCBS Elderly, Blind and Disabled (EBD) waiver,
15 Community Mental Health Supports waiver (CMHS), and the Spinal Cord Injury (SCI) waiver is to
16 be billed in accordance with the current rate schedule:

- 17 1. Providers may bill in 15-minute units or for 1-2 units of 3-5-hours depending on the
18 participant's needs and how the service is delivered. When billing 15-minute units, which
19 can be delivered either in-person or via Telehealth, the total number of units may not
20 exceed 12 units or three (3) hours per day of Basic Adult Day Services. A provider may
21 bill the maximum of 15-minute units for ADS in combination with no more than 1 unit of 3-
22 5 hour ADS on the same day, as long as services were rendered at separate times.

- 23 B. For persons in the HCBS waiver for Persons with a Brain Injury (BI), reimbursement for BI-ADS is
24 to be billed in accordance with the current rate schedule.

- 25 1. A unit is defined as the following:

- 26 a. Providers may bill in units of 15 minutes or a unit of 2 or more hours depending
27 on the participant's needs and how the service is delivered. When billing 15-
28 minute units, which can be delivered either in-person or via Telehealth, the total
29 number of units may not exceed 8 units or two (2) hours per day of services.
30 Units of 2 hours or more can only be delivered in-person. A provider cannot bill
31 for 15-minute units of ADS if a unit of 2-hour BI ADS was provided on the same
32 day.

- 33 C. ADS Centers are permitted to utilize funding from other Federal sources, such as the Child and
34 Adult Care Food Program (CACFP), in addition to the Medicaid per diem. If such funding is
35 utilized, a Center must acknowledge the use of multiple funding sources and demonstrate that
36 Federal funds are not used in a duplicative manner to Medicaid-funded services.

- 37 D. Only providers certified as a Specialized Adult Day Services Center are permitted to receive the
38 SADS reimbursement rate, for participants needing SADS. The SADS reimbursement rate
39 applies to every participant at a SADS Center, even if the participant does not have a specialized
40 diagnosis.

- 1 E. Certified SADS providers may provide Non-Center-Based Adult Day Services, including
2 Telehealth ADS, billing only for Basic Adult Day Services using the 15-minute unit, up to 3 hours
3 per day. The SADS provider may bill the maximum of 15-minute units for Basic ADS in
4 combination with no more than 1 unit of 3-5 hour SADS on the same day, as long as services
5 were rendered at separate times.
- 6 F. Providers shall not bill for services on the same day of service for a participant in an HCBS
7 residential program, unless the following criteria have been met:
- 8 1. ADS and residential services have been authorized by the Department and are included
9 on the prior authorization request (PAR);
 - 10 2. Participant's diagnoses must meet the criteria for a SADS Center;
 - 11 3. Documentation from the participant's physician demonstrating the required specialized
12 services in the SADS Center are necessary because of the qualifying diagnosis(es), are
13 essential to the care of the participant, and are not included in the residential per diem;
 - 14 4. Documentation that the extensive rehabilitative therapies and therapeutic needs of the
15 participant are not being met by the residential program and are not included in the
16 residential per diem; and
 - 17 5. Documentation from the participant's physician recommending SADS and how it will
18 meet the previously mentioned needs.

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