

130 CMR 419.000: DAY HABILITATION CENTER SERVICES

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419.401: Introduction

130 CMR 419.000 establishes requirements for the provision of services by day habilitation programs under MassHealth. All day habilitation providers must comply with the regulations governing MassHealth, including but not limited to, the regulations at 130 CMR 419.000 and 450.000.

419.402: Definitions

The following terms used in 130 CMR 419.000 shall have the meanings given in 130 CMR 419.402 unless the context clearly requires a different meaning.

Day Habilitation Provider -- the entity with responsibility for the day-to-day operation of facilities and programs subject to 130 CMR 419.000.

Day Habilitation Services — a program of services, for individuals with mental retardation (MR) or other developmental disability (DD), that is based on a day habilitation service plan, sets forth measurable goals and objectives, and prescribes an integrated program of activities and therapies necessary to reach the stated goals and objectives.

Day Habilitation Service Manager — a professional from the day habilitation program who has primary responsibility for a member's case and for the implementation of that member's day habilitation service plan.

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Day Habilitation Service Plan (DHSP) — a written plan of care for each member that sets forth realistic and measurable behaviorally based goals that prescribe an integrated program of individually designed activities and/or therapies necessary to achieve these goals. The objective of the plan is to help the member reach their optimal level of physical, cognitive, psychosocial, and occupational capabilities.

Development Disability Agent (DD Agent) — the entity designated by Department of Mental Retardation to provide case management services to members with developmental disabilities residing in nursing facilities.

Department of Mental Retardation (DMR) — an agency of the Commonwealth of Massachusetts established under M.G.L. c. 19B.

Developmental Disability — a severe, chronic disability that:

- (a) is attributable to cerebral palsy, epilepsy or other condition found to be closely related to mental retardation, apart from mental illness, which results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and which requires treatment or services similar to those required for such persons;
- (b) is manifested before a person reaches the age of 22;
- (c) is likely to continue indefinitely; and
- (d) results in substantial functional limitations in three or more of the following major areas:
 - 1. self-care;
 - 2. understanding and use of language;
 - 3. learning;
 - 4. mobility;
 - 5. self-direction; or
 - 6. capacity for independent living

Developmental Skills Training -- a series of planned, coordinated, goal-oriented services that are designed to improve the functional abilities of a person with mental retardation or developmental disability. Such services include, but are not limited to, training in self-care, self-preservation, receptive and expressive communication, self-direction, independent living skills, hygiene, grooming, and first aid.

Division of Health Care Finance and Policy (DHCFP) — an agency of the Commonwealth of Massachusetts established under M.G.L. c. 118G.

Full-time Equivalent (FTE) — a standardized measure of a program's personnel resources used by the Massachusetts Rate Setting Commission. One FTE equals coverage by one staff member for all the hours that the program is normally in operation.

Functioning Level — the degree to which a person can perform daily living activities and manage his or her life independently. Functioning level is measured through professional clinical assessments based on a standardized scale, such as the Stanford-Binet Intelligence Test or the Wechsler Adult Intelligence Scale.

Mental Retardation — a condition defined in regulations of the Department of Mental Retardation at 115 CMR 2.01.

Preadmission Screening and Annual Resident Review (PASARR) — a screening performed by the Department of Mental Retardation in accordance with 42 CFR 483.102 and 106 to determine whether a person with mental retardation or other developmental disability is appropriate for nursing facility admission or continued stay, and if so, whether Specialized Services are recommended.

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Rolland Integrated Service Plan (RISP) — a comprehensive service plan developed by an interdisciplinary team consisting of the DMR service coordinator or DD agent, the member (or his or her guardian or family member), nursing facility staff representatives, the specialized services provider, and other relevant professionals (such as physical therapists, speech pathologists, occupational therapists, dietitians, and medical staff). The purpose is to address care in all settings for persons with mental retardation or developmental disabilities who reside in nursing facilities and receive specialized services.

Service Needs Assessment (SNA)— a compilation of evaluations by qualified professionals that determine a member's level of functioning, needs, and strengths, and makes specific recommendations for day habilitation services to address identified needs.

Severity Profile — a form measuring functional level that is used to determine the applicable MassHealth payment rate category for a Member who receives day-habilitation services.

Site — a single physical location of a day habilitation program reviewed and approved by and any other appropriate authorities for the operation of day habilitation services for a specified number of daily participants. If a provider operates a day habilitation program in more than one location, each location is considered a site. Each site must meet the regulatory requirements of 130 CMR 419.000.

Specialized Services — the services specified by the Executive Office of Health and Human Services for a nursing facility resident with mental retardation or developmental disabilities which, combined with services provided by the nursing facility or other service providers, result in treatment that meets the requirements of 42 CFR S.483.440(a)(1).

419.403: Eligible Members

(A) (1) MassHealth Members. The MassHealth agency covers day habilitation services only when provided to eligible MassHealth members, subject to the restrictions and limitations described in the MassHealth agency's regulations. 130 CMR 450.105 specifically states, for each MassHealth coverage type, which services are covered and which members are eligible to receive those services.

(2) Recipients of the Emergency Aid to the Elderly, Disabled and Children Program. For information on covered services for recipients of the Emergency Aid to the Elderly, Disabled and Children Program, *see* 130 CMR 450.106.

(B) For information on verifying member eligibility and coverage type, *see* 130 CMR 450.107.

419.404: Provider Eligibility

In order to qualify for participation in MassHealth, a day habilitation program must be located in Massachusetts and must:

(A) offer a structured, goal-oriented, day habilitation program of medically oriented, therapeutic, and habilitation services to raise members' levels of functioning and facilitate independent living and self-management in their communities;

(B) serve members who have mental retardation or developmental disabilities and who need day habilitation services, other than are typically available through outpatient visits (for example, hospital visit, visits to mental health centers, or visits to independent therapists) but who do not require hospitalization or institutionalization;

(C) be in operation at least five days a week and provide services to members at least six hours per day, but fewer than 24 hours, on each of those days;

(D) contract with the Massachusetts Department of Mental Retardation (DMR) in accordance with the Executive Office of Health and Human Services guidelines, to ensure coordination of services to DMR clients;

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(E) be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Accreditation Council for Developmental Disabilities (ACDD); and

(F) meet all provider participation requirements described in 130 CMR 419.400 and 450.000.

419.405: Administration

The day habilitation program must be staffed and organized to assume full legal authority and responsibility for administration, program policy, and clinical issues.

(A) Organization. The day habilitation program must have an organizational chart showing:

- (1) its governing body;
- (2) the administrator of each program; and
- (3) the lines of authority for the delegation of responsibility down to the patient-care level.

(B) Fiscal Management. The day habilitation program must have in place a business management system that clearly specifies the use of funds within budgetary constraints and fiscal restrictions. In addition, the program's fiscal reporting must reflect, by month, all:

- (1) sources of income; and
- (2) program expenses.

419.406: Reporting Requirements

(A) A day habilitation program will be subject to a survey by the MassHealth agency at least annually to ensure compliance with 130 CMR 419.000 and 450.000.

(B) The day habilitation provider must file the following reports with the Massachusetts Division of Health Care Finance and Policy (DHCFP) by March 1st of each year:

- (1) a copy of the program's uniform financial report (UFR); and
- (2) audited financial statements from the previous year.

(C) A day habilitation provider must comply with all applicable reporting requirements of other state agencies such as the Massachusetts Department of Mental Retardation and DHCFP.

(D) The day habilitation provider must submit copies of any and all accreditation correspondence with CARF or ACDD to the MassHealth agency.

419.407: Payment for Day Habilitation Services

(A) DHCFP establishes rates of payment for day-habilitation programs in the community, including supplemental staffing, and for day habilitation services provided by day habilitation providers in nursing facilities.

(B) The rates of payment for day habilitation services in the community are divided into three categories reflecting a high, moderate, or low level of member function. The MassHealth agency pays for day-habilitation services in the community at the applicable rate as determined in accordance with 130 CMR 419.407. In addition, when appropriate, the MassHealth agency pays for supplemental staffing that is properly billed in accordance with the MassHealth agency's supplemental staffing instructions.

(C) Payment for services is subject to the conditions, exclusions, and limitations set forth in 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

(D) Day habilitation providers must meet all of the following conditions for payment:

- (1) The day habilitation services are medically necessary as determined by the MassHealth agency;
- (2) The day habilitation services are prescribed in the day habilitation service plan;
- (3) The day habilitation services have been authorized by the member's physician or primary-care clinician; and

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(4) If a member resides in a nursing facility, specialized services must be recommended as a result of a PASARR.

(E) A Severity Profile must be submitted to the MassHealth agency as a condition for payment of day habilitation services to a member. The Severity Profile must be completed and submitted to the MassHealth agency upon each admission to the day habilitation program following completion of a service needs assessment. A Severity Profile must also be completed at least annually for each member receiving day habilitation services by February 1st of each year and must be submitted to the MassHealth agency by March 1st of each year. A Severity Profile must also be completed and submitted whenever there is any significant change in a member's functional level. The MassHealth agency will review each Severity Profile to identify the appropriate payment category for a member and will notify the day habilitation provider accordingly. Unless a Severity Profile is properly submitted to the MassHealth agency, the day habilitation provider is not eligible for payment.

(F) The MassHealth agency pays for day habilitation services provided by a participating day habilitation provider in a nursing facility where a member resides if the conditions of 130 CMR 419.407 and 419.449 are met.

419.408: Scope of Services

(A) A day habilitation program must have the services described in 130 CMR 419.408 available onsite and sufficient to meet the needs of MassHealth members.

(B) A day habilitation program must provide the following services:

(1) Nursing Services and Health-care Supervision. The day habilitation program must provide nursing coverage on site. The amount of nursing coverage must be in compliance with the requirement set forth in 130 CMR 419.425(A)(2). This coverage must be provided by a registered nurse. Nursing services must be provided to meet the needs of each member and must include:

- (a) administration of medications and treatments prescribed by the member's physician during the time the member is at the program;
- (b) education in hygiene and health concerns;
- (c) coordination of each member's day habilitation service plan with other healthcare professionals including the nursing facility where the member resides, if applicable;
- (d) monitoring each member's health status and documenting those findings in the member's medical record at least monthly, quarterly as part of the interdisciplinary team review and more often if the member's condition requires more frequent monitoring;
- (e) reporting changes in the member's condition to the member's physician;
- (f) oversight of maintenance-therapy treatment as recommended by a therapist; and
- (g) coordinated implementation of physician's orders with the member, family, and program staff.

(2) Developmental Skills Training. The day habilitation provider must provide skills training in the following areas: Self-help Development, Sensorimotor Development, Communication Development, Social Development, Independent Living Development, Affective Development, and Behavior Development.

(3) Therapy Services. The day habilitation program must have available or arrange for restorative therapy based on a physician's order and a therapy assessment. The appropriate licensed personnel must review therapy assessments and services every six months. Providers must document this review. The program provides occupational, physical, and speech/language services when required in the day habilitation service plan including but not limited to:

- (a) speech/language therapy;
- (b) occupational therapy;
- (c) physical therapy; and
- (d) behavior management.

(4) Assistance with Activities of Daily Living (ADL). The day habilitation program must have sufficient staff at its site to provide assistance with ADLs.

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(5) Day Habilitation Service Management. The day habilitation provider must undertake activities that ensure implementation of the member's day habilitation service plan including required reviews described in 130 CMR 419.446.

419.409: Nonreimbursable Services

The MassHealth agency will not pay a day habilitation provider for the following services:

- (A) vocational and prevocational training services, which include vocational-skills assessment, career counseling, job training, and job placement;
- (B) sheltered workshops and other work-related services, which provide participants with work skills and supervised employment for the production of saleable goods;
- (C) educational services, which involve traditional classroom instruction of academic subjects, tutoring, and academic counseling;
- (D) functional maintenance services, which are a planned combination of social, vocational, and recreational services designed for chronically disabled people who need continuing services to maintain skills necessary to allow them to live in the community, but who have generally received maximum benefit from inpatient or day programs;
- (E) day-habilitation services provided to members residing in intermediate-care facilities for persons with mental retardation (ICFs/MR); and
- (F) research and experimental services.

419.410: Nonreimbursable Circumstances

- (A) The MassHealth agency will not pay a day habilitation provider for any canceled sessions or any sessions missed by a recipient, for any reason.
- (B) The MassHealth agency will not pay a day habilitation provider for any portion of a day during which the recipient is absent from the site, unless the provider documents that the recipient was receiving services from the program staff in a community setting.
- (C) The MassHealth agency will not pay for services provided to a member who has been determined by his or her physician, by the professional interdisciplinary team (*see* 130 CMR 419.423), or by a qualified representative of the MassHealth agency, the Massachusetts Department of Mental Retardation, or the Massachusetts Department of Public Health to be unable to benefit from day habilitation services.

419.420: Referrals and Written Agreements

To ensure that members receive all the services required in their day habilitation service plans, the day habilitation provider must make prompt and appropriate referrals for those services not provided by the day habilitation program itself. The day habilitation provider must document all referrals in the member's clinical record and coordinate such referrals with the Massachusetts Department of Mental Retardation in accordance with the requirements of the contract (*see* 130 CMR 419.404(D)).

419.421: Staffing: General

A day habilitation provider must have specific personnel policies, including procedures for monitoring current licensure or certification of professional staff, staff training, supervision, and evaluation.

- (A) A day habilitation program with 28 or fewer participants must include on its staff a professional interdisciplinary team of no fewer than four health-care professionals as described in 130 CMR 419.422.

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(B) A day habilitation program with more than 28 participants must have one additional full-time equivalent (FTE) health-care professional for every seven additional participants. The minimum professional FTE staff-to-recipient ratio is one-to-seven. The maximum professional FTE staff-to-recipient ratio is one-to-four. For every additional 28 participants, the additional staff members must form a team as described in 130 CMR 419.422.

(C) A day habilitation program may employ paraprofessionals to help meet the needs of its member's. The maximum FTE paraprofessional-to-member ratio is one-to-four.

(D) Staffing ratios shall be based on the average daily census of members enrolled in the program during the rate year.

419.422: Staffing: Professional Interdisciplinary Team

(A) The professional interdisciplinary team consists of a group of health care professionals who are responsible for designing, implementing, and supervising the provision of reimbursable services to all recipients in accordance with their day habilitation service plans. The professional interdisciplinary team is also responsible for completing and submitting the Severity Profile to the MassHealth agency.

(B) The professional interdisciplinary team must include a nurse. Other team members may include a speech therapist, an occupational therapist, a physical therapist, a developmental specialist, a behavioral specialist, a psychologist, or a rehabilitation counselor. Definitions and minimum qualifications relating to these disciplines are in 130 CMR 419.426. The composition of the team must be appropriate to the needs of the participants.

419.423: Staffing: Administrator

The day habilitation program must designate one person as administrator. The same person, if qualified, may serve as both the administrator and the program director.

(A) Qualifications. The administrator must have either a bachelor's degree in business management or a related field or at least two years of experience in health-care management. One year of that experience must have been in a supervisory capacity.

(B) Responsibilities. The administrator is responsible for managing the day-to-day activities of the program, reporting to the MassHealth agency and other involved agencies, monitoring compliance with all applicable laws and regulations governing the program, and implementing the program's policies and procedures.

419.424: Staffing: Program Director

A day habilitation program must have a full-time program director who is a health-care professional. In programs with 28 or fewer participants, the program director may be included as one member of the professional interdisciplinary team. In programs with more than 28 participants, there must be a program director in addition to the team.

(A) Qualifications. The program director must have a minimum of five years of professional health-care experience subsequent to attaining a bachelor's degree. This must include clinical experience and at least two years in a mental retardation program. At least one of those two years must have been spent in an administrative role.

(B) Responsibilities. The responsibilities of the program director include hiring, firing, and training staff members; supervising staff activities; coordinating staff activities to meet the program objectives; and overseeing member services.

419.425: Staffing: Health-care Supervisor

- (A) Qualifications. The health-care supervisor must be:
- (1) a registered nurse with at least one year of experience in a community health setting; and
 - (2) employed at least three-quarters time (0.75 FTE).
- (B) Responsibilities. The health-care supervisor must:
- (1) provide direct care and training in relevant areas;
 - (2) coordinate medical services with each member's primary physician or medical clinic;
 - (3) oversee all health-care services provided to the members at the program;
 - (4) participate in the continuing interdisciplinary evaluation and review of each member's needs and status;
 - (5) obtain reports and approval of treatment plans from primary physicians;
 - (6) document in each member's record any recommendation resulting from the periodic reviews; and
 - (7) advise the program director and the day habilitation staff of any medical problems that may hinder a member's progress or that may be aggravated by activities at the program.

419.426: Staffing: Minimum Professional Qualifications

Each professional staff member employed directly by the provider or working as a consultant must meet the minimum qualifications for his or her discipline as follows.

- (A) Behavioral Specialist. Behavioral specialists must have a master's degree in psychology from an accredited program, and must have one year of work experience in a training program for either the mentally retarded or the developmentally disabled.
- (B) Day Habilitation Service Manager. Each member must be assigned a day habilitation service manager. The day habilitation service manager is a member of the day habilitation program staff who is qualified to assume primary responsibility for that member. The day habilitation service manager supervises the implementation of the day habilitation service plan and maintains the member's record.
- (C) Developmental Specialist. Each developmental specialist must have a bachelor's degree in a human services-related field and must have at least one year of experience in a training program for the mentally retarded or the developmentally disabled. As an alternative to a degree, a developmental specialist must have at least two years of work experience in a training program for persons with either mental retardation or developmental disabilities.
- (D) Occupational Therapist.
- (1) The primary occupational therapist must be a registered member of the American Occupational Therapy Association (AOTA), must be currently licensed by the Massachusetts Board of Registration in Allied Health Professions, and must have one year of work experience in a training program for persons with either mental retardation or developmental disabilities.
 - (2) Any additional occupational therapy personnel must be registered members of AOTA or certified occupational therapist assistants (COTAs) registered with AOTA. A COTA must work under the direct supervision of the primary occupational therapist.
- (E) Physical Therapist.
- (1) The primary physical therapist must be currently licensed by the Massachusetts Board of Registration in Allied Health Professions and must have one year of work experience in a training program for persons with either mental retardation or developmental disabilities.
 - (2) Any additional physical therapy personnel must be currently licensed by the Massachusetts Board of Registration in Allied Health Professions or must be graduates of an approved physical therapy assistant program. A physical therapy assistant must work under the direct supervision of the primary physical therapist.

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(F) Psychologist. The psychologist must be currently licensed by the Massachusetts Board of Registration of Psychologists, or must have at least a master's degree in clinical psychology and at least three years of full-time supervised postgraduate experience. If psychological testing is included in the day habilitation program, the testing must be performed by a licensed psychologist.

(G) Registered and Licensed Practical Nurses.

(1) The primary nurse must be currently registered with the Massachusetts Board of Registration in Nursing and must have one year of work experience in a training program for persons with either mental retardation or developmental disabilities.

(2) Any additional nurses on the staff must be either registered nurses (RNs) or licensed practical nurses (LPNs) with at least one year of work experience in a training program for persons with either mental retardation or developmental disabilities. LPNs must have direct supervision by a registered nurse for a minimum of six hours per week for 28 participants, with an additional two hours per week for every additional 14 participants.

(H) Rehabilitation Counselor. Rehabilitation counselors must be certified by the National Commission on Rehabilitation Counselor Certification and must have at least one year of work experience in a training program for persons with either mental retardation or developmental disabilities.

(I) Speech/Language Therapist.

(1) The primary speech/language therapist must be currently licensed by the Massachusetts Board of Registration in Allied Health Professions and must have either a Certificate of Clinical Competence (CCC) from the American Speech, Language, and Hearing Association (ASLHA) or a statement from ASLHA of certification equivalency.

(2) Any additional speech/language therapy personnel must work under the direct supervision of the primary speech/language therapist as a speech therapy assistant (STA). STAs must be enrolled in a professional training program or have obtained at least a bachelor's degree in speech pathology and audiology.

(J) Paraprofessional Staff. Paraprofessional staff members must have a minimum of at least one year of work experience in a mental health or mental retardation setting. Paraprofessionals must not serve on the professional interdisciplinary team.

419.430 Emergency Services and Plans

The provider must establish plans and procedures for medical and other emergencies. These plans and procedures must include, at a minimum, the following:

(A) a written letter of agreement with a nearby hospital or emergency facility, stating that the member will be cared for in the event of a medical or other emergency;

(B) a written letter of agreement with an ambulance company for emergency transportation (emergency 911 may be substituted);

(C) an easily accessible file on each member listing his or her name, the telephone number of his or her physician, special medical needs, including treatments and medications, and emergency phone numbers for notification of family or legal guardian;

(D) a first-aid kit in the member training area;

(E) a conspicuously posted notice indicating emergency evacuation procedures, and a written evacuation plan for meeting the special needs of members, under circumstances requiring emergency evacuation;

(F) a written plan for notifying the fire department and police in emergencies;

(G) written policy to ensure instruction of staff and members in emergency procedures and evacuation;

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- (H) monthly fire drills and a record of each such drill; and
- (I) a requirement that, at all times there is on duty at least one staff member who is certified in first aid and cardio-pulmonary resuscitation (CPR). The provider must maintain a current record of training and recertification of staff and post in a conspicuous location the names of certified individuals.

419.431: Administration of Medications

- (A) The day habilitation program must maintain security for all medications and drugs must be maintained in accordance with all applicable federal and state laws.
- (B) All prescribed medications must be properly labeled, and maintained in a locked storage location in the recipient training area except when being dispensed.
- (C) Nonprescription medications must be clearly labeled and kept on shelves separate from the prescription medications in the locked storage location.
- (D) A locked storage compartment for medications must be available in a refrigerator in the member training area.
- (E) All discontinued and outdated drugs and containers with worn and illegible or missing labels must be discarded.
- (F) Prescriptions must:
 - (1) be for one member only with his or her name clearly indicated; and
 - (2) contain information pertaining to administering the medication.

419.432: Food Storage and Preparation

- (A) The day habilitation program must store all food in the proper conditions of temperature, light, sanitation, and security.
- (B) The day habilitation program must store all non-food substances in accurately labeled containers separately from food. The day habilitation program must clearly label all potentially dangerous substances as such.
- (C) The program must have written procedures for food preparation and storage consistent with all applicable health and sanitation codes. These procedures must include the designation of a staff person to supervise food preparation by members.

419.433: Written Policies and Procedures

A day habilitation provider must establish and implement written policies and procedures that are consistent with 130 CMR 419.000 and include the following:

- (A) a statement of program objectives;
- (B) criteria for admission, including procedures for interdisciplinary review of each referral and the coordination of the day habilitation service plan with the primary-care physician and others involved in the habilitation of the member;
- (C) treatment procedures and methods, including case assignment, case review, drug and medication dispensing, discharge planning, and follow-up;
- (D) a policy based on recommendations from primary-care physicians that defines, in accordance with applicable state and federal laws, the uses of physical restraints, the staff members who must authorize their use, and a mechanism for monitoring and controlling their use;

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- (E) a policy to provide for registration and disposition of employees' and members' grievances without threat of reprisal or discharge; and
- (F) criteria for discharge, including procedures for discharge, referral to other programs, and follow-up.

419.434: Admission Criteria

In order to be considered for admission into a day habilitation program, a member must meet the following requirements.

- (A) The member must have mental retardation or a developmental disability as defined in 130 CMR 419.402.
- (B) The member must need and be expected to benefit from, day habilitation services designed to improve his or her level of independent functioning.
- (C) The member must have a personal physician or medical clinic that may be contacted for consultations, examinations, and emergencies.
- (D) Within 12 months before admission, the member must have had a comprehensive evaluation by a referring provider that includes the following:
 - (1) a written assessment of his or her social skills;
 - (2) a written assessment of his or her medical, mental, functional, and developmental status; and
 - (3) a home assessment that includes a family history and the person's developmental history and a description of adaptation to the home environment.
- (E) The member must have a record of all past and present immunizations and diagnostic tests.
- (F) Members residing in nursing facilities must have been recommended for specialized services as a result of a preadmission screening. The day habilitation provider must keep a copy of the recommendation in the member's record.

419.435: Admission Procedures

In order to admit a recipient to a day habilitation program, the program must follow the procedures outlined below.

- (A) The professional interdisciplinary team must review the comprehensive evaluation (*see* 130 CMR 419.435(D)) in order to determine whether the member is likely to benefit from the treatment that is provided by the day habilitation program.
- (B) A member must have had a physical examination by a licensed physician within 12 months prior to his or her admission to the day habilitation program. The professional interdisciplinary team must review the comprehensive evaluation to determine any medical contraindications or limitations to the member's participation in the program.
- (C) The provider must have obtained the written approval of the member, a physician or medical clinic, and, if applicable, the member's parents or legal guardian.
- (D) The provider must file a Severity Profile with the MassHealth agency.

419.442: Service Needs Assessment

- (A) A service needs assessment (SNA) determines a member's level of functioning, needs, and strengths, and makes specific recommendations for day habilitation services to address identified need areas and must be completed for all members receiving day habilitation services. The service needs assessment must:

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- (1) Assess each of the following need areas: habilitative, medical, social, occupational, psychological and behavioral;
- (2) Identify which need areas will be addressed in the Day Habilitation Service Plan; and
- (3) Be completed within 90 days of admission to a day habilitation program and every five years thereafter unless a significant change in the member's status occurs (*e.g.* a change medically or otherwise that would necessitate a re-evaluation of needs, goals, objectives or amount and duration of service required).

419.443: Day Habilitation Service Plan (DHSP)

- (A) Interim Day Habilitation Service Plan. Within five working days after the member's admission to a day habilitation program, the day habilitation provider's professional interdisciplinary team must design an interim DHSP. The plan must outline a temporary schedule of treatment and activities that will be used until the final DHSP is completed.
- (B) Final Day Habilitation Service Plan. The final day habilitation service plan must:
- (1) together with the service needs assessment, be completed within 90 days of the date of admission to the day habilitation program;
 - (2) have goals that cover the member's habilitative, medical, social, occupational, and psychological needs. If medication is indicated, the plan must specify how often a physician will review the member's condition. If the member already has a day habilitation service plan developed in another program, that plan may be used if it is updated and modified to include day habilitation services;
 - (3) be based on the service needs assessment and must define specific goals based on the service needs assessment recommendations;
 - (4) define behaviorally stated and measurable objectives that outline the steps to be taken to reach the goals;
 - (5) define the frequency and duration for which the day habilitation service will be provided;
 - (6) be designed so as to integrate various activities, tasks, and, if appropriate, therapies into a set of realistic and measurable goals within established time limits;
 - (7) include an invitation to the member and/or guardian to participate in its development.

419.444: Reviews

- (A) The Day Habilitation Service Manager must review the member's treatment and habilitation goals monthly and inform the staff, using staff meetings, of any significant changes in the member's status.
- (B) The professional interdisciplinary team must conduct, at least quarterly, a review of the member's overall progress. A copy of this report must be included in the member's record. If indicated by the review, the day habilitation service plan must be reformulated as set forth in 130 CMR 419.445.

419.445: Discharge

A member must be discharged from a day habilitation program when a periodic review shows that the recipient has met the therapeutic goals defined in his or her day habilitation service plan or has ceased to benefit from the program.

- (A) Discharge Procedures. The day habilitation program staff must coordinate the discharge with the member's family or legal guardian with the Massachusetts Department of Mental Retardation, if applicable, and with the staff of the program or agency to which the member is transferred, if applicable.

419.445: continued

(B) Discharge Plan.

- (1) A discharge plan, dated and signed by the program director, must be kept in the member's record for at least four years after the date of discharge and must remain accessible to representatives from the MassHealth agency, the Massachusetts Department of Mental Retardation, the Massachusetts Department of Public Health, and other state and federal agencies that are authorized by law to have such information.
- (2) The MassHealth agency will not pay a day habilitation program for services provided on or after the effective date of a discharge plan.

419.446: Record Keeping and Reporting Requirements

(A) Member Records.

- (1) Day habilitation providers must maintain clinical records for each member for at least four years after the date of service. Such records must meet federal and state record keeping requirements as set forth in the MassHealth agency's administrative and billing regulations at 130 CMR 450.000.
- (2) Providers are holders of personal data pursuant to M.G.L. c. 66A and must ensure the accessibility of member records in accordance with such law and all other applicable federal and state laws and regulations. Without limiting the generality of the foregoing, member information may be released only to the following:
 - (a) people authorized in writing by the member or the member's legal guardian to receive such information;
 - (b) people directly responsible for delivering of health-care services to the member; and
 - (c) government agencies authorized by law to have access to such information.
- (3) Each member's record must include all documentation pertaining to the day habilitation service plan. The record must also contain information necessary to identify the member and to design an appropriate plan of care. This information must include the following:
 - (a) the member's name, member identification number, address, telephone number, sex, age, marital status, next of kin, school or employment status, and the date of initial contact with the program;
 - (b) a member profile that includes a brief history, a list of major disabilities, the reason for referral to day habilitation, the prognosis, the projected length of stay in day habilitation, the projected placement following discharge from day habilitation, and the name of the day habilitation service manager assigned to the member;
 - (c) an educational, social, medical, and vocational history with assessment reports from qualified providers and an updated record of past and present immunizations and tuberculin tests;
 - (d) a report of the comprehensive preadmission evaluation signed by the referring provider;
 - (e) a report of the member's most recent annual physical examination and the physician's recommended plan of care based on his or her review of this report;
 - (f) the name, address, and telephone number of the physician or medical clinic serving the member;
 - (g) the written approval of the day habilitation service plan from the professional interdisciplinary team, the physician, the member or the member's legal guardian;
 - (h) documentation supporting the scores reported on the MassHealth Severity Profile;
 - (i) documentation by the day habilitation service manager of all conferences with the member's family and friends, and with outside professionals;
 - (j) a report of any home visits;
 - (k) daily attendance records;
 - (l) progress notes updated monthly by the day habilitation service manager, the health-care supervisor, and, when appropriate and available, by other people significantly involved in implementing the day habilitation service plan;
 - (m) reports of all quarterly reviews conducted in accordance with 130 CMR 419.446;
 - (n) written authorization from the member or the member's legal guardian for the release of information in accordance with 130 CMR 419.448(A)(2); and
 - (o) the discharge notice, if the member is discharged.

419.446: continued

- (B) Staff Records. The provider must maintain a file of up-to-date staff resumes.
- (C) General Records.
 - (1) The provider must keep all records pertaining to billing, finances, program, personnel, and individual participants for at least four years after the date of service;
 - (2) The provider must maintain records of the number of participants being served, the number of individuals on the waiting list, and the number of staff and their qualifications;
 - (3) The provider must maintain all records specified in 130 CMR 419.000, or as otherwise may be required by the MassHealth agency.
 - (4) Job descriptions must be available for all personnel.
- (D) Reporting Requirements.
 - (1) The provider must make all records available to the MassHealth agency as requested.
 - (2) The day habilitation director or designee is responsible for notifying the MassHealth agency immediately by phone and in writing of the following situations:
 - (a) fire, accident, injury, or evidence of serious communicable disease contracted by program staff or MassHealth members;
 - (b) death of a member at, en route to, or en route from the program; and
 - (c) changes in professional personnel.
 - (3) The provider must notify the MassHealth agency at least 60 days before terminating the program but must continue to provide services until all members have been transferred to other day habilitation programs. The provider must develop a discharge plan for each member before termination in accordance with 130 CMR 419.447(B).
 - (4) The provider must notify the MassHealth agency before increasing the number of members in the program.
 - (5) Any increase in member census must be approved by the MassHealth agency.

419.447: Physical Site

A day habilitation program must be located in a facility that meets the following standards.

- (A) The site must be designed to comply with the applicable regulations of the Architectural Access Board (521 CMR 3.00).
- (B) The site must meet the requirements of all state and local building, sanitary, health, fire, and zoning codes, and all other requirements pertaining to health, safety, and sanitation. All certificates of compliance must be displayed in a conspicuous location. The provider must forward to the MassHealth agency, within seven days, any waiver, variance, or other changes received by the licensee to any aforementioned code.
- (C) The MassHealth agency must approve each day habilitation site. In the event of a site change, renovation, and/or new construction, the provider must forward a copy of all plans to the MassHealth agency for approval. Upon completion of renovations, moves or new construction, and upon compliance with the requirements in 130 CMR 419.448(B), the MassHealth agency must view the site to determine compliance with the requirements.
- (D) The site must have easily accessible ABC-type fire extinguishers in each program area.
- (E) The kitchen and bathrooms must be designed and equipped for teaching activities of daily living skills to all participants.

419.448: Right of Entry

Any duly designated officer or employee of the MassHealth agency shall have the right to enter and inspect at any time without prior notice the entire premises of any facility for which an application has been received or for which an agreement exists. Any application shall constitute permission for such entry and inspection.

419.449: Day Habilitation Services for MassHealth Members with Mental Retardation or Developmental Disabilities Residing in Nursing Facilities

For purposes of providing day habilitation services to MassHealth members with mental retardation or developmental disabilities residing in nursing facilities, day habilitation providers must comply with all of the requirements outlined in 130 CMR 419.449 as well as coordinate and communicate with the member, the DMR service coordinator or DD agent, and the nursing facility, actively participate in the development of the RISP, and attend the nursing facility plan of care meeting to ensure that the day habilitation service plan complements and reinforces the service plans referenced in the member's RISP.

(A) Admission Criteria. In addition to the criteria outlined in 130 CMR 419.434, a MassHealth member with mental retardation or developmental disabilities residing in a nursing facility may receive day habilitation services designed to improve the member's level of independent functioning.

(B) Service Needs Assessment (SNA). In addition to the requirements outlined in 130 CMR 419.442, the service needs assessment for a MassHealth member with mental retardation or developmental disabilities residing in a nursing facility who receives day habilitation services must:

- (1) be completed by a qualified professional who must possess a master's degree in human-services-related field or other professional license in a human or health services field;
- (2) include any and all applicable therapy or nursing assessments completed by the nursing facility. In lieu of utilizing assessments completed by the nursing facility, the provider may complete specialized assessments that take into consideration the members disabilities;
- (3) assess all specialized service need areas to determine if specialized services are needed and if so what day habilitation services are appropriate to meet those needs; and
- (4) be completed upon a significant change involving a change in the member's PASARR recommendations or as the member's RISP dictates.

(C) Day Habilitation Service Plan.

- (1) The comprehensive day habilitation service plan must:
 - (a) be completed and forwarded to the DMR service coordinator or DD agent, together with the service needs assessment, within 90 days of the referral for specialized services;
 - (b) be completed in conjunction with the DMR service coordinator, the DD agent (where appropriate), and the nursing facility;
 - (c) provide for day habilitation services that are adequate in frequency and intensity to lead to progress; and
 - (d) ensure, in conjunction with the nursing facility, that the day habilitation service plan interventions complement and reinforce the RISP.
- (2) The day habilitation services contained in the day habilitation service plan must be available and offered to the member.
- (3) To ensure progress toward goals and objectives and to identify significant changes, the day habilitation service plan should be evaluated on the following schedule:
 - (a) Monthly Reviews. In addition to the requirements outlined in 130 CMR 419.444(A), the day habilitation service manager must notify the member's DMR service coordinator or DD agent, within seven business days, if the monthly review demonstrates a significant change in the member's condition that may affect the PASARR recommendations.
 - (b) Quarterly Reviews. In addition to the requirements outlined in 130 CMR 419.444(B) the quarterly review must:
 1. include a reevaluation of continued need for in-facility day habilitation services; and
 2. conduct quarterly reviews with the DMR service coordinator or DD agent in conjunction with the nursing facility quarterly plan of care meeting when applicable;

130.449: continued

(D) Communication and Coordination Requirements.

- (1) For each nursing facility resident with mental retardation or developmental disabilities that received day habilitation services, the day habilitation program staff must:
- (a) meet with the nursing facility at least twice each year, in addition to the annual plan of care meeting, to coordinate the development of the day habilitation service plan;
 - (b) provide copies of the proposed day habilitation service plan to the members of the RISP interdisciplinary team at least three days prior to the initial RISP meeting;
 - (c) submit the final day habilitation service plan, and any changes to the plan, for approval by the RISP interdisciplinary team;
 - (d) incorporate any changes recommended by the RISP interdisciplinary team into the final day habilitation service plan within 45 days of the initial RISP meeting;
 - (e) determine what other care plans have been, or are in the process of being, developed by other providers or agencies in an effort to avoid duplication;
 - (f) ensure that the goals and objectives of the day habilitation service plan are consistent with those in the other plans, and forward a copy to the DMR area office, the DD agent and the nursing facility; and
 - (g) immediately notify the DMR service coordinator or DD agent in the event of a disruption of day habilitation services.

(E) Ongoing Documentation and Recordkeeping Requirements.

- (1) In addition to the requirements outlined at 130 CMR 419.442 through 419.446, day habilitation providers must develop and maintain records that document the day habilitation services provided to members with mental retardation or developmental disabilities residing in a nursing facility. Such documentation must include:
- (a) the date the member was referred for specialized services in a day habilitation setting; and
 - (b) documentation that the RISP interdisciplinary team has approved the day habilitation service plan and any subsequent plan revisions.
- (2) Nursing Facilities. The day habilitation provider must:
- (a) provide copies of the day habilitation service plan and any revisions to it, the service needs assessment, and quarterly progress notes to the nursing facility;
 - (b) attend the annual Plan of Care meeting at the nursing facility to coordinate the development of the two plans; and
 - (c) accommodate requests from nursing facilities regarding carry-over of the strategies employed in the provision of day habilitation services to a member.
- (3) DMR Service Coordinators or DD Agent. The day habilitation providers must communicate with DMR service coordinators and DD agent as follows:
- (a) contact the DMR or DD agent for instruction in the event that the day habilitation provider determines that it is not appropriate to provide day habilitation services to a member in the specialized services need areas; and
 - (b) communicate with the DMR service coordinator or DD agent concerning all issues related to the day habilitation services, including notification of any changes in the day habilitation service plan goals, objectives and/or strategies.
 - (c) forward a copy of the day habilitation service plan and quarterly reviews to the DMR service coordinator or DD agent for inclusion in the RISP at the nursing facility.

(F) Provision of Day Habilitation Services in a Nursing Facility (In-facility). Day habilitation services may be provided in the nursing facility to a member with mental retardation or developmental disabilities when:

- (1) the member is so medically fragile that transport to a day habilitation program outside of the nursing facility presents a significant risk to the health and safety of the resident;
- (2) the member has declined to receive day habilitation services at the day habilitation program site; or
- (3) as determined by the RISP Interdisciplinary Team, day habilitation services are the only services that are available to meet the member's specialized services needs.

REGULATORY AUTHORITY

130 CMR 419.000: M.G.L. 118E, §§ 7 and 12.