

# SENATE, No. 1114

## AN ACT RELATIVE TO ADULT DAY HEALTH SERVICES

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 7 of Chapter 118G is hereby amended by inserting, in the first  
2 sentence after the words “health care services” the following:-

3 for the purposes of this clause adult day health providers shall be considered institutional  
4 providers;

5 SECTION 2. Chapter 118G is hereby amended by inserting a new section 17A as  
6 follows:-

7 Section 17A. In establishing rates for adult day health providers, the executive office  
8 shall establish separate rates for the Basic and Complex levels of service. The Basic level  
9 of service rate shall be paid for any program participant who meets the requirements of  
10 130 CMR 404.407 or requires skilled services that must be provided in a structured  
11 setting because of the intensity, duration, or frequency of need for these services. Skilled  
12 services are services ordered by a physician with the professional disciplines of nursing,  
13 physical and occupational, or speech therapy. A recipient must require these services to  
14 achieve maximum use of his physical or mental capabilities, to prevent his physical or

15 mental deterioration, or to maintain his optimal level of functioning. Skilled services  
16 include, but are not limited to, the professional health-care management of the following:

17 (a) Impairments in the cardiovascular, respiratory, endocrine, musculoskeletal,  
18 neurological, gastrointestinal, or genitor-urinary systems, which require a plan of skilled  
19 care with documentation of assessment, intervention, teaching, and evaluation of clinical  
20 outcomes;

21 (b) Orthotic or prosthetic devices that necessitate professional assessment, teaching, and  
22 intervention; the presence of an orthotic or prosthetic device does not, in itself, determine  
23 the need for skilled care; however, other related medical conditions or specific medical  
24 complications may necessitate skilled care, and must be documented in the recipient's  
25 medical record;

26 (c) Treatment or prevention of actual or potential deterioration in skin, cardiac, or  
27 respiratory status that requires professional assessment, teaching, intervention and  
28 evaluation;

29 (d) Administration of prescribed topical, oral, and injectable medications;

30 (e) Specialized treatments, such as oxygen therapy and respiratory therapy, or

31 (f) Impairments in mobility that require assessment, teaching, and evaluation in the use of  
32 a cane, walker, or other prescribed durable medical equipment.

33 Sensory loss or impairment is not, in itself, an indication that the recipient requires care  
34 in an adult day health setting. In determining the appropriate site and level of care for a

35 recipient, sensory impairment must be considered with all other factors that affect the  
36 amount, duration, and scope of services necessary.

37 Mental-state or cognitive impairment is not, in itself, an indication that the recipient  
38 requires care in an adult day health setting, nor does it indicate the need for a specific  
39 level of care. A recipient who exhibits mental-state or cognitive impairment such as  
40 confusion, disorientation to time, place or person, memory loss, or defective judgment –  
41 such as an impairment in the ability to judge personal safety and function in a non-  
42 supervised setting or impairment in the ability to perceive or communicate health changes  
43 – may require care in an adult day health setting. In determining the appropriate care for a  
44 recipient, mental-state or cognitive impairment must be considered with all other factors  
45 that affect the amount, duration, and scope of services necessary.

46 Any participant who meets the eligibility criteria for nursing home placement pursuant to  
47 130 CMR 456.409, and has been diagnosed with dementia shall be eligible for  
48 participation in the complex level of care.