

130 CMR 419.000: DAY HABILITATION CENTER SERVICES

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419.401: Introduction

130 CMR 419.000 establishes the 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, 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

419.402: Definitions

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

Activities of Daily Living (ADLs) - fundamental personal care tasks performed daily as part of an individual's routine self-care. ADLs include, but are not limited to, eating, toileting, dressing, bathing, transferring, and mobility or ambulation.

Clinical Assessment - the screening process of cataloging a member's need for DH using a tool designated by the MassHealth agency and that forms the basis for prior authorization.

Day Habilitation (DH) - a service, for individuals with an intellectual disability (ID) or a developmental disability (DD), that is based on a day habilitation service plan that 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 Provider (DH Provider) - the entity with responsibility for the day-to-day operation of services and programs subject to 130 CMR 419.000.

Day Habilitation Leveling Tool - a clinical assessment tool that is completed based on the results of the Service Needs Assessment. The DH Leveling Tool indicates whether the member is in the Low-Need, Moderate-Need, or High-Need category.

Day Habilitation Service Manager (DHSM) - individual who manages cases, ensuring that members' service plans are implemented, reviewed, updated as appropriate, and maintained.

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Day Habilitation Service Plan (DHSP) - a written plan of care for each member that sets forth realistic and measurable member-driven 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 his or her optimal level of physical, cognitive, psychosocial, occupational capabilities, and wellness.

Department of Developmental Services (DDS) - an agency of the Commonwealth of Massachusetts established under M.G.L. c. 19B.

Department of Public Health (DPH) - an agency of the Commonwealth of Massachusetts, established under M.G.L. c. 17, § 1.

Developmental Disability - a severe, chronic disability that

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

Developmental Skills Training - a series of planned, coordinated, goal-oriented services that are designed to maintain or improve the functional abilities of a person with an intellectual or developmental disability. Such services include, but are not limited to, self-help skills, sensorimotor skills, communication skills, independent living skills, affective development skills, social development skills, behavioral skills, and wellness.

EOHHS - the Executive Office of Health and Human Services established under M.G.L. c. 6A.

Functional Level - the degree to which individuals can perform daily living activities and manage their lives independently. Functional level is measured through professional clinical assessments.

Health Care Professional - an individual accredited by a professional body upon completing a course of study, and usually licensed by a government agency, to practice a health-related profession such as dentistry, medicine, nursing, occupational health, or physical therapy.

Hospital - a facility that is licensed or operated as a hospital by the Massachusetts Department of Public Health or the Massachusetts Department of Mental Health that provides diagnosis and treatment on an inpatient or outpatient basis for patients who have any of a variety of medical conditions.

Individualized Staffing Supports (ISS) - one-to-one staff supports provided to a member to enable the member to participate in a DH; this includes direct care and nursing. MassHealth determines medical necessity through a prior authorization process which identifies the total units of one-to-one services the member requires to participate in DH. Individualized staffing supports must not be used to enhance general staffing in a DH program.

Instrumental Activities of Daily Living (IADLs) - activities related to independent living that are incidental to the care of the member and that include, but are not limited to, household-management tasks, laundry, shopping, housekeeping, meal preparation and cleanup, transportation, care and maintenance of medical equipment and adaptive devices, medication management or any other need determined by the DH provider as being instrumental to the health care and general well-being of the member.

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Intellectual Disability (ID) - a disability characterized by significant limitations in both intellectual functioning and adaptive behavior as expressed in conceptual, social, and practical skills and that originates before the individual attains age 22. The meaning of ID is consistent with the standard contained in the 12th edition of the American Association on Intellectual and Developmental Disabilities' *Intellectual Disability: Definition, Classification, and Systems of Supports (2021)* or any subsequent publication.

Interdisciplinary Team (IDT) - the team consists of the Registered Nurse (RN)/health care supervisor, developmental specialist, DHSM, and program director. The IDT must also include the following clinical members: a physical therapist, speech and language pathologist, occupational therapist, and behavioral professional. Other health care professionals may be included, as applicable.

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/ID) - a facility, or distinct part of a facility, that provides intermediate care facility (ICF) services as defined under 42 CFR § 440.150, and that meets federal conditions of participation, and is licensed by the Commonwealth primarily for the diagnosis, treatment, or rehabilitation for individuals with intellectual disabilities; and provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration for health or rehabilitative services to help individuals function at their greatest ability.

Level II Preadmission Screening and Resident Review (Level II PASRR) - a comprehensive evaluation and determination performed by DDS for any individual seeking admission or continued stay in a Medicaid nursing facility, in accordance with 42 CFR 483.100, to determine whether an individual suspected of having intellectual or other developmental disability has such a condition and if so, whether the individual requires the level of services provided by a nursing facility, and if so, whether specialized services are required.

MassHealth - the medical assistance and benefit programs administered by EOHHS pursuant to Title XIX of the Social Security Act (42 U.S.C. 1396), Title XXI of the Social Security Act (42 U.S.C. 1397), M.G.L. c. 118E, and other applicable laws and waivers to provide and pay for medical services to eligible members.

Member - a person determined by the MassHealth agency to be eligible for MassHealth.

Nursing Facility (NF) - an institution (or a distinct part of an institution) which is primarily engaged in providing skilled nursing care and related services for residents who require medical or nursing care, rehabilitation services for the rehabilitation of injured people, people with disabilities, or sick persons, or on a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services that meets the requirements of Sections 1919 (a), (b), (c), and (d) of the Social Security Act and is licensed under and certified by the Massachusetts Department of Public Health.

Primary Care Provider (PCP) - a physician, physician assistant, or nurse practitioner who operates under the supervision of a physician.

Resident Integrated Service Plan (RISP) - a comprehensive service plan developed by an interdisciplinary team consisting of the DDS service coordinator where applicable, the member (or authorized representative), NF 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 ID or DD who reside in NFs and receive specialized services.

Semi-annual Review - a review of the member's overall progress conducted by the IDT at least every six months. Components of the review can be found at 130 CMR 419.419(C)(3).

Service Needs Assessment (SNA) - a compilation of evaluations by the clinical members of the IDT (Registered Nurse, OT, PT, SLP, Behavior Professional). The SNA determines a member's level of functioning, needs, and strengths, and makes specific recommendations for DH to address identified needs.

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Significant Change - a major change in the member's status that

- (1) impacts one or more areas of the member's health status; and
- (2) requires the professional interdisciplinary team's review or revision of the DHSP.

Specialized Services - services specified by EOHHS for an NF resident with ID or DD which, combined with services provided by the nursing facility or other service providers, result in treatment that meets the requirements of 42 CFR 483.440 (a)(1).

Transportation - the method by which a member is brought from their home to the day habilitation provider or from the day habilitation provider to the member's home. Transportation service includes assisting the member while they enter and exit the vehicle, as appropriate.

419.403: Eligible Members

(A) MassHealth Members. MassHealth members, subject to the restrictions and limitations described in 130 CMR 450.105: *Coverage Types* that specifies for each MassHealth coverage type, which services are covered, and which members are eligible to receive those services.

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

(C) For information on verifying member eligibility and coverage type, *see* 130 CMR 450.107: *Eligible Members and the MassHealth Card*.

419.404: Provider Eligibility

An organization seeking to participate in MassHealth as a DH provider must

- (A) be located in Massachusetts;
- (B) enter into a contract with the MassHealth agency through submission of an application that includes all documentation specified by the MassHealth agency or its designee and be certified by the MassHealth agency or its designee in accordance with the requirements set forth in 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations* to conduct a business in Massachusetts that delivers health and human services to individuals with ID/DD;
- (C) accept the MassHealth agency payments as payment in full for DH;
- (D) be in operation at least five business days a week, six hours per day;
- (E) collaborate with DDS in accordance with EOHHS guidelines, to ensure coordination of services to DDS clients;
- (F) be accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Council on Quality and Leadership;
- (G) meet all provider participation requirements described in 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.
- (H) participate in any DH provider orientation required by EOHHS;
- (I) submit to the MassHealth agency or its designee a written description of DH offered by the DH provider and its service plan; and
- (J) agree to periodic inspections by the MassHealth agency or its designee that assess the quality of member care and ensure compliance with 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations*.

419.405: Scope of Day Habilitation

- (A) A DH provider must provide the following services.
- (1) Nursing Services and Health Care Supervision. The DH provider must provide nursing coverage on site. Nursing services must be provided to meet the needs of each member and must include the following:
 - (a) administration of medications and treatments prescribed by the member's PCP during the time the member is at the program;
 - (b) education in hygiene and health concerns;
 - (c) coordination of each member's DHSP with other health care professionals including the NF 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 quarterly, or more often if the member's condition requires more frequent monitoring. Nursing must also document any findings every six months as part of the interdisciplinary team's semi-annual review;
 - (e) reporting changes in the member's condition to the member's PCP;
 - (f) oversight of the implementation of the IDT recommendations, therapy treatment as recommended by a licensed therapist and, as applicable, PCP order; and
 - (g) coordinated implementation of the PCP's orders with the member, authorized representative, and DH provider staff.
 - (2) Developmental Skills Training. The DH provider must provide skills training in the following areas: self-help development, sensorimotor development, communication development, social development, independent living development, affective development skills, behavior development, and wellness.
 - (3) Therapy Services. The DH provider must provide therapy services when recommended by the SNA. Therapy services include
 - (a) speech/language therapy;
 - (b) occupational therapy;
 - (c) physical therapy; and
 - (d) behavior management.
 - (4) Assistance with Activities of Daily Living (ADL). The DH provider must have sufficient staff at its site to provide assistance with ADLs to members as necessary.
 - (5) Day Habilitation Service Management. The DH provider must undertake activities that ensure implementation of the member's day habilitation service plan including required reviews described in 130 CMR 419.419(C).

419.406: Clinical Eligibility Criteria

- (A) All members, except those who are residents of an NF, must meet the following clinical eligibility criteria for receipt of DH:
- (1) have ID or DD as defined in 130 CMR 419.402 and as certified by a PCP; and
 - (2) need DH to acquire, improve, or retain their maximum skill level and independent functioning.
- (B) In order for a member residing in an NF to be eligible for receipt of DH, DDS must have determined via a Level II PASRR that the member requires specialized services.
- (C) In order for a member receiving hospice services to be eligible for receipt of DH, the DH provider must obtain in writing from the member's hospice provider that the DH is not providing services related to the member's terminal illness, and that the DH services to be provided are not equivalent to or duplicative of hospice services.

419.407: Service Needs Assessment, Day Habilitation Leveling Tool, and Prior Authorization, including Individualized Staffing Supports

- (A) A Service Needs Assessment (SNA) is completed by the clinical members of the IDT and determines a member's functional level, needs, and strengths, and makes specific recommendations to address acquisition, improvement, or maintenance of each identified need area for the member. Each SNA must
- (1) be completed within 45 business days of a member's admission and every two years thereafter and upon a significant change in the member's condition;

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- (2) assess each of the following need areas: self-help skills, sensorimotor skills, communication skills, independent living skills, affective development skills, social development skills, behavioral development skills, and wellness; and
- (3) identify which need areas will be addressed in the DHSP.

(B) Day Habilitation Leveling Tool. Using the results of the SNA, a DH provider must identify the member's appropriate DH service level and acquire Prior Authorization (PA). The DH Leveling Tool will identify a member as Low-Need, Moderate-Need, or High-Need. If the SNA and DH Leveling Tool identifies that the member requires one-to-one staffing supports in order to participate in DH services, the DH provider must follow the prior authorization process for ISS in 130 CMR 419.407(C). A new DH Leveling Tool is required every two years or sooner if the member experiences a significant change.

(1) Assessment Period. Members newly seeking DH may receive DH for up to 45 business days concurrent with the provider's completion of the member's initial clinical assessment for DH.

(2) Assessment Criteria. Providers must include the following as part of the initial assessment or reassessment of a member:

- (a) confirmation that the member had a physical examination or wellness visit by a PCP within 12 months prior to the start of DH services; and
- (b) a certification, signed by a PCP, supporting the diagnosis of Intellectual Disability (ID) or Developmental Disability (DD).

(3) For members residing in NFs for whom the Level II PASRR conducted by DDS concluded that the member requires specialized services, the DH provider must obtain a copy of the DDS Level II PASRR determination notice and maintain a copy of this notice in the member's record.

(C) Prior Authorization.

(1) A DH provider must obtain PA from the MassHealth agency or its designee as a prerequisite to payment for the provision of DH upon admission, every two years thereafter, and upon significant change. A DH provider must also obtain PA for Individualized Staffing Supports (ISS) prior to claiming payment for DH ISS.

(2) PA determines the medical necessity for DH as described under 130 CMR 419.406 and in accordance with 130 CMR 450.204: *Medical Necessity*.

(3) PA specifies the level of payment for the service, and as applicable, the medically necessary units of ISS.

(a) The MassHealth agency pays DH providers for DH provided from the first date on which services are authorized through PA in the form and format required.

(b) PA through MassHealth authorizes DH providers to claim for DH services provided to an eligible member at one of three levels of payment reflecting the member's assessed need for DH.

(c) PA through the MassHealth agency may also authorize DH providers to claim for the provision of DH ISS provided to an eligible member. A PA for DH ISS specifies the units of DH ISS the provider may claim and which reflects the member's need for one-to-one staffing.

(4) PA does not establish or waive any other prerequisites for payment such as the member's financial eligibility described in 130 CMR 503.007: *Potential Sources of Health Care* and 130 CMR 517.008: *Potential Sources of Health Care*.

(5) When submitting a request for PA for payment of DH to the MassHealth agency or its designee, the DH provider must submit requests in the form and format as required by the MassHealth agency. The DH provider must include all required information, including, but not limited to, documentation of the completed SNA, DH Leveling Tool, other nursing, medical, or psychosocial evaluations or assessments, and any other additional assessments, documentation, or information that the MassHealth agency, or its designee, requests in order to complete the review and determination of PA.

(6) In making its prior authorization determination, the MassHealth agency or its designee may require additional assessments of the member or require other necessary information in support of the request for prior authorization.

(D) Notice of Determination of Prior Authorization.

(1) Notice of Approval. If the MassHealth agency or its designee approves a request for prior authorization, it will send written notice to the member and the DH provider.

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(2) Notice of Denial or Service Modification. If the MassHealth agency or its designee denies, or modifies, a request for prior authorization of DH, the MassHealth agency or its designee will notify both the member and the DH provider. The notice will state the reason for the denial or service modification and contain information about the member's right to appeal and the appeal procedure.

(3) Right of Appeal. A member may appeal a service denial or modification by requesting a fair hearing in accordance with 130 CMR 610.000: *MassHealth: Fair Hearing Rules*.

(E) Review. The MassHealth agency, or its designee, may at any time review the medical necessity of the provision of DH and DH ISS to MassHealth members, including, but not limited to, instances in which there has been a significant change in the member's status as defined in 130 CMR 419.402.

419.408: Quality Management

DH providers must participate in any quality management and program integrity processes established by the MassHealth agency including making any necessary data available and access to visit the provider's place of business upon request by the MassHealth agency or its designee.

419.409: Conditions of Payment

(A) The MassHealth agency pays for DH in accordance with the applicable payment methodology and rate schedule established by EOHHS, including supplemental staffing for those who reside in an NF and attend a community-based DH and for DH provided in NFs. Rates of payment for DH do not cover or include any room and board.

(B) 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*.

(C) The MassHealth agency pays a DH provider for DH only if

- (1) the member receiving DH is eligible under 130 CMR 419.403;
- (2) the member meets the clinical eligibility criteria for DH in accordance with 130 CMR 419.406;
- (3) the DH provider has obtained prior authorization for DH and DH ISS, if applicable, in accordance with 130 CMR 419.407;
- (4) the DH provider is not billing for days that are non-covered under 130 CMR 419.431; and
- (5) the DH provider bills at the payment level authorized by the MassHealth agency or its designee; and
- (6) for members who reside in an NF, the member's Level II PASRR conducted by DDS determines that the member requires specialized services.

(D) Transition between Two DH Providers. If a member changes from one DH provider to another DH provider, a new SNA and DH Leveling Tool is required and the new DH provider must obtain a new PA, and for DH ISS if applicable. The previous DH provider must discharge the member from its DH program before the new DH provider may bill the MassHealth agency for DH. The MassHealth agency will pay only one DH provider per day for the provision of DH to a member.

(E) Every two years or upon significant change, the DH provider must review each member in its care to ensure that the clinical eligibility criteria for DH continues to be met. A DH provider may not bill and the MassHealth agency will not pay for any member who does not meet the clinical criteria for DH.

(F) The MassHealth agency's payment to a DH provider ends on the date on which a member no longer meets the clinical criteria for DH described in 130 CMR 419.406 or is no longer receiving DH, whichever comes first.

(G) Day Habilitation Individualized Staffing Supports. DH ISS will only be paid to the provider if there is a valid PA on file.

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(H) The MassHealth agency pays for DH provided by a participating DH in an NF where the member resides if the conditions of 130 CMR 419.409 and 130 CMR 419.433 are met.

(I) The MassHealth agency pays for DH delivered at an approved site and census.

419.410: Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services

The MassHealth agency pays for all medically necessary day habilitation services for EPSDT-eligible members in accordance with 130 CMR 450.140: *Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services: Introduction*, without regard to service limitations described in 130 CMR 419.000, and with prior authorization.

419.411: Transportation Services

(A) Transportation Service. Transportation service provides for transporting members from the member's home to the DH provider (for the provision of DH services) or from the DH provider to the member's home, including assisting the member while entering and exiting the vehicle, as appropriate. For the purposes of 130 CMR 419.411, a home includes any residential service locations, as well as private dwellings.

(B) Provision of Transportation.

(1) DH providers may provide transportation as required at 130 CMR 419.409(C)(5) either directly or through a subcontractor.

(2) The transportation plan must be documented in the member's record.

(C) Rates of Payment. The MassHealth agency pays DH providers for transportation in accordance with the applicable payment methodology and rate schedule established by EOHHS.

(D) Other Requirements. The DH provider must ensure that all transportation provided by the DH program or its subcontractor meets the following criteria:

(1) All vehicles used for transporting members are licensed by the Massachusetts Registry of Motor Vehicles;

(2) The operation of these vehicles is in accordance with all local, state, and federal statutes and ordinances; and

(3) Any driver of these vehicles must

(a) possess a valid Massachusetts driver's license;

(b) have met the criteria for new employees outlined in 130 CMR 419.421(A)

(c) not operate any vehicle when impaired by any legal or illegal drug, including alcohol and cannabis, even if such drug is prescribed to the driver;

(d) be certified in cardiopulmonary resuscitation (CPR) and first aid;

(e) have experience with or demonstrated competence in safely transporting people;

(f) have received training in meeting the needs, including the transportation-related needs people with D/DD, behavioral health issues, persons with disabilities, and elderly persons;

(g) have received training in wheelchair securement and tie down procedures;

(h) have received training prior to contact with MassHealth members of the rules and procedures for the mandated reporting of abuse or neglect of members; and

(i) have received training on universal precautions and infection control practices, prior to contact with MassHealth members.

(E) Familial Subcontractor Requirements. The familial subcontractor must

(1) possess a valid Massachusetts driver's license;

(2) have met the criteria for new employees outlined in 130 CMR 419.421(A)(1)(b) through (e)

(3) not operate any vehicle when impaired by any legal or illegal drug, including alcohol and cannabis, even if such drug is prescribed to the driver.

(F) Travel Distance and Time. The DH provider and the transportation provider should attempt to minimize travel distance and travel time.

419.416: Day Habilitation Provider Responsibilities

In addition to meeting all of the qualifications set forth in 130 CMR 419.000 and 130 CMR 450.000: *Administrative and Billing Regulations*, the DH provider must meet all of the following requirements.

(A) Policies and Procedures Manual. Each DH provider must develop, maintain, and periodically review and update policies and procedures governing the delivery of DH. The policy and procedures manual must at minimum include

- (1) governance documentation, including, but not limited to
 - (a) a mission statement;
 - (b) the goals and objectives of the program;
 - (c) an organizational chart describing the lines of authority and communication needed to manage the DH program, including the lines of authority for delegation of responsibility down to the member care level;
 - (d) job descriptions that include titles, reporting authority, qualifications, and responsibilities;
 - (e) a description of the governing body; and
 - (f) a description of the fiscal/business management system that clearly specifies the use of funds within budgetary constraints and fiscal restrictions and fiscal reporting by month, reflecting all sources of income and program expenses.
- (2) administrative policies and procedures, including, but not limited to
 - (a) human resources and personnel;
 - (b) staff and staffing requirements;
 - (c) backup staff in the event coverage is required due to illness, vacation, or other reasons;
 - (d) staff education and training;
 - (e) DH provider staff evaluation and monitoring;
 - (f) emergencies including fire, safety, and disasters, including notifying the fire department and police in emergencies and relocating members during an emergency;
 - (g) MassHealth member rights;
 - (h) human rights and nondiscrimination;
 - (i) incident and accident reporting;
 - (j) staff and member grievances;
 - (k) cultural competency;
 - (l) quality assurance and improvement;
 - (m) emergency services and plans;
 - (n) first aid and cardiopulmonary resuscitation requirements;
 - (o) Health Insurance Portability and Accountability Act (HIPAA);
 - (p) food storage and preparation areas;
 - (q) coordination of DH with other services the member is receiving; and
 - (r) procedures to be followed if a member is missing or lost.
- (3) clinical policies and procedures, including, but not limited to
 - (a) evaluations and assessments;
 - (b) privacy and confidentiality;
 - (c) medication administration, management, storage, and disposal;
 - (d) universal precautions;
 - (e) infection control and communicable diseases;
 - (f) recognizing and reporting abuse (physical, sexual, emotional, psychological), neglect, self-neglect and financial exploitation;
 - (g) description and use of positive behavioral supports (PBS);
 - (h) admission criteria; and
 - (i) discharge planning and follow-up.
- (4) All documentation required in 130 CMR 419.416(A) must be kept on-site or readily accessible.

(B) Recordkeeping and Reporting Requirements.

- (1) Recordkeeping. The DH provider must maintain records in compliance with the requirements set forth in 130 CMR 450.000: *Administrative and Billing Regulations* and all other applicable state and federal laws. All records, including, but not limited to, the following, must be accessible and made available on site for inspection by the MassHealth agency or its designee.

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(a) Member Records. The record must contain information necessary to identify the member. Each member's record also must include all documentation pertaining to the DHSP and the design of an appropriate DHSP, including, but not limited to, the following:

1. the member's name, member identification number, address, telephone number, sex, age, marital status, next of kin or authorized representative, school or employment status, the date of initial contact with the program, and the emergency fact sheet in accordance with 130 CMR 419.430(D);
2. a member profile that includes a brief history, including diagnoses and clinical and behavioral needs. If applicable, the member profile must also include specialized service needs, the name of the DHSM assigned to the member, and the name and contact information of the DDS service coordinator, if applicable;
3. an educational, social, medical, and vocational history with assessment reports from providers, as applicable;
4. an updated record of past and present immunizations and tuberculin tests or screening, based on the recommendations of the CDC;
5. a copy of the initial clinical assessment, and copies of any reassessments;
6. a report of the member's most recent annual physical examination or wellness visit;
7. the name, address, and telephone number of the PCP serving the member;
8. written approval of the DHSP from the IDT and the member or the member's authorized representative;
9. documentation that the PCP was notified in writing of the approved DHSP;
10. documentation supporting the level of payment associated with services provided to the member;
11. DH staff documentation of all conferences with the member, the member's authorized representatives, and with outside professionals;
12. daily attendance records;
13. transportation records when MassHealth DH or subcontracted transportation is provided;
14. progress notes updated monthly by the DHSM when appropriate and available, and by other people significantly involved in implementing the DHSP;
15. progress notes written by the health care supervisor, updated quarterly or more often as necessary to address any significant changes in member's status;
16. reports of all semi-annual reviews conducted in accordance with 130 CMR 419.405(A)(1)(d) and 419.419(C)(3) and any other reports generated in compliance with 130 CMR 419.000;
17. written authorization from the member or the member's authorized representative for the release of information, as applicable;
18. the discharge notice, if the member is discharged;
19. a copy of the Level II PASRR notice, if applicable;
20. documentation that the PA approval supporting the need for DH ISS was obtained prior to billing, if applicable;
21. documentation of each 15-minute unit of ISS delivered to the member, if applicable; and
22. documentation received from a hospice provider, if applicable, affirming DH services are not related to the member's terminal illness.

(b) Administrative Records. The DH provider must maintain

1. payroll records;
2. personnel records, including requirements set forth in 130 CMR 419.421(A), including evidence of completed staff orientation and training;
3. financial and billing records;
4. member utilization records, including the number of members being served and, if applicable, number of individuals on a waiting list;
5. records of staffing levels and staff qualifications;
6. records of complaints and grievances; and
7. contracts for subcontracted services.

(c) Incident and Accident Records. The DH provider must maintain an easily accessible record of member and staff incidents and accidents. The record may be kept within the individual member medical record or employee record or within a separate, accessible file.

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(2) Reporting Requirements.(a) Program Reporting.

1. The DH provider must submit all of the following information in the format and time frames as requested by the MassHealth agency or its designee:
 - a. cost and expense information in accordance with the requirements of 957 CMR 6.03: *Reporting Requirements for Type 1 Providers*; and
 - b. any change in DH provider contact information.
2. The DH provider must make available to the MassHealth agency or its designee any additional information requested by MassHealth or its designee related to the provider's provision of DH, including information such as clinical and statistical or cost and expense information, accreditation correspondence with CARF or Council on Quality and Leadership, and other data necessary to measure the quality of the services delivered by the DH provider.
3. The DH provider must comply with all applicable reporting requirements of other state agencies such as DDS.

(b) Critical Incident Reporting. The DH provider must immediately notify the MassHealth agency of any critical incidents outlined on the MassHealth Critical Incident Report Form.

(C) Staffing Ratios and Requirements. A DH provider must have sufficient qualified staffing in accordance with 130 CMR 419.421 to deliver DH and have specific personnel policies, including procedures for monitoring current licensure or certification of professional staff, staff training, supervision, and evaluation. Definitions and minimum qualifications relating to these disciplines can be found at 130 CMR 419.421.

(1) A DH provider must have a full-time program director.

(2) A DH provider must have the following clinicians, either by contract or direct hire, as part of the interdisciplinary team:

- (a) physical therapist;
- (b) speech and language pathologist;
- (c) occupational therapist; and
- (d) behavioral professional.

(3) DH providers must have a registered nurse health care supervisor available at all times when members are receiving DH services. Licensed Practical Nurses may carry out all duties as delegated and overseen by the nurse health care supervisor, as appropriate. A nurse must be available to be on site within 30 minutes during the core hours of DH operation. The RN/health care supervisor will provide supervision of Licensed Practical Nurses (LPNs). Additional nursing supports should be provided to ensure all members' needs are met.

(4) A DH provider may employ direct care staff (paraprofessionals) to help meet the needs of its members and reach the minimum staff-to-member ratio of one-to-seven. Additional staff may be required to meet the needs of the members served.

(5) Staffing ratios will be based on the average daily census of members enrolled with the DH provider at the specific DH site during the rate year, calculated using data from the last quarter.

NON-TEXT PAGE

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(D) An emergency fact sheet on each member, updated upon change and reviewed annually, that contains the following information

- (1) the name and telephone number of the member's PCP;
- (2) the member's diagnosis;
- (3) any special treatments or medications the member may need;
- (4) the member's allergies;
- (5) insurance information; and
- (6) the name and telephone number of the identified contact person, the authorized representative to be notified in case of emergency and, if applicable, DDS service coordinator.

(E) A written policy on staffing that includes that at least two staff members certified in first aid and cardiopulmonary resuscitation (CPR) be on duty at all times. The provider must maintain a current record of training and recertification of staff and post the names of certified individuals in a conspicuous location.

419.431: Noncoverage

The following are considered non-covered days and are ineligible for payment under 130 CMR 419.000.

(A) Any portion of a day outside the approved rate structure described in 101 CMR 348.00: *Rates for Day Habilitation Services*, during which the member is not receiving scheduled services from the DH provider, unless the provider documents that the member was receiving services from the DH provider's staff in a community setting.

(B) DH provided to a member when the member's needs can no longer be met by the DH as determined by the PCP and the professional interdisciplinary team in consultation, or by a qualified representative of the MassHealth agency, DDS, or DPH.

(C) Days or portion(s) of a day outside of the rate structure in 101 CMR 348.00: *Rates for Day Habilitation Services* on which the following services are provided:

- (1) vocational- and prevocational-training services, which include vocational-skills assessment, career counseling, job training, and job placement;
- (2) work-related services, which provide participants with work skills and supervised employment for the production of saleable goods;
- (3) educational services, which involve traditional classroom instruction of academic subjects, tutoring, and academic counseling; and
- (4) social, vocational, and recreational services not administered through the DH provider.

(D) DH provided to members residing in ICF/ID.

(E) DH provided more than five days per week and six hours per day per member;

(F) DH provided at a site that has not been approved by the MassHealth agency or its designee or does not have a current approval on file;

(G) DH provided on or after the effective date of the discharge plan; and

(H) Claims billed above the census on file as approved by the MassHealth agency or its designee.

419.432: Physical Site

(A) Physical Site. The MassHealth agency or its designee approves each DH site and census. A DH provider must provide DH at a site that meets all of the requirements in 130 CMR 419.432(B)(1) through (17).

(B) In the event of a site change, renovation, new construction, or change in census, the DH provider must forward a copy of all plans to the MassHealth agency or its designee for approval.

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- (1) The site must be designed with adequate space for the provision of all DH, with a minimum of 50 square feet of programming space per participant. This minimum does not include offices (except nurses' offices if used for member treatment), hallways, storage areas, reception areas, and other areas not used for the provision of DH. For sites with kitchens used for activities other than meal preparation, 100% of the kitchen floor area is counted as part of the participant space requirement.
- (2) When located in a building or facility housing other services, the DH provider may utilize all available space but must have separate and distinct staff for each service.
- (3) As of September 7, 2018, a newly enrolled DH provider site must be in a location that complies with the Americans with Disabilities Act (ADA) and ADA Standards for Accessible Design that include, but are not limited to:
 - (a) the site is on-ground level with at least two means of egress;
 - (b) the site is free of architectural barriers;
 - (c) the site is designed to meet the needs of people with disabilities; and
 - (d) the site is in compliance with local health, fire, and safety codes.
- (4) For sites approved on or before September 7, 2018, that occupy multi-level space, the site must have at a minimum one elevator for egress, and evacuation plans must include specific procedures for evacuation of those in wheelchairs and comply with local and state evacuation requirements.
- (5) The site must include adequate outdoor space for members to safely arrive at and depart from the DH provider site.
- (6) DH providers must provide a protected and secure environment for members, including members who wander or require increased supervision and security.
- (7) The site must include sufficient parking capacity to satisfy the needs of members, staff, and the public.
- (8) The site must include a clean and sanitary food preparation area equipped with a refrigerator, a sink, adequate counter space, and adequate storage space.
- (9) Adequate artificial lighting must be available in all rooms, stairways, hallways, corridors, bathrooms, and offices.
- (10) A DH provider site serving five or more unrelated participants must comply with the Massachusetts State Building Code, 780 CMR 3.00: *Use and Occupancy Classification*.
- (11) The MassHealth agency must approve each DH site. In the event of a site change, renovation, 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, the MassHealth agency or its designee must view the site to determine compliance with the requirements.
- (12) The kitchen and bathrooms must be designed and equipped for teaching ADL skills to all participants.
- (13) In at least one participant area, the site must have a fire extinguisher and a first aid kit, easily accessible to staff.
- (14) 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.
- (15) The participants must have access to hand sanitizer dispensers and to at least one handwashing station. Hand sanitizer dispensers and hand washing stations must be conveniently placed and accessible to staff. Hand sanitizer dispensers and handwashing stations must be placed with consideration for participant safety and accessibility.
- (16) Participants must have access to natural light and outside views.
- (17) Participants must have adequate lighting, heating, and ventilation so that participants are comfortable in all seasons of the year.

419.433: Day Habilitation for MassHealth Members with ID/DD Residing in NFs

For purposes of providing DH to MassHealth members with ID or DD who are residing in NFs, DH providers must comply with all of the requirements outlined in 130 CMR 419.433 as well as coordinate and communicate with the member, the DDS service coordinator, if applicable, and the NF, actively participate in the development of the RISP, and attend the NF plan of care meetings to ensure that the DHSP complements and reinforces the service plans referenced in the member's RISP.