

651 CMR 14.00: AGING SERVICES ACCESS POINTS

Section

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14.01: Purpose and Scope

The purpose of 651 CMR 14.00 is to set forth policies for the operation of Aging Services Access Points (ASAPs), for Elders in the Commonwealth of Massachusetts in accordance with c. 67, § 1 of the Acts of 1996 (M.G.L. c. 19A, § 4B). 651 CMR 2.00 sets forth the functions and responsibilities of the Executive Office of Elder Affairs (Elder Affairs) and designated ASAP entities. The functions include the administration of the Home Care Program and activities defined in an interagency service agreement between Elder Affairs and the Division of Medical Assistance (DMA). The primary goal of this system of care is to assist elders to maintain residence in the community consistent with their clinical and psychosocial needs and in the most cost-effective manner possible.

- (1) The legislative and administrative authorizations for 651 CMR 14.00 are as follows:
  - (a) M.G.L. c. 19A, § 4B providing that the Executive Office of Elder Affairs "shall be responsible for management of the home care program established in section four, and pursuant to an interagency service agreement by the department with the division of medical assistance, for clinical screening, service authorization activities and case management for Medicaid community based long term care made available to eligible elderly persons pursuant to the provisions of M.G.L. c. 118E and regulations promulgated thereunder; provided that the programs and activities authorized by this section shall be administered and coordinated with the single state agency requirement under 42 CFR Part 431 and other applicable requirements of Title XIX of the federal Social Security Act, or its successor title.
  - (b) M.G.L. c. 19A, § 6. The general authority and responsibility of Elder Affairs to promulgate regulations for the conduct of the business of the agency.
- (2) The Definitions set forth in 651 CMR 14.00 and as used in 651 CMR 3.00 shall have the stated meaning, unless the context requires otherwise.

Adult Day Health (ADH) - Services provided by an Adult Day Health program approved for operation by the Division of Medical Assistance and operating in accordance with 130 CMR 404.000 or successor regulation. ADH services provide health care, supervision, restorative services, and socialization.

Adult Foster Care Services (AFC) - Care provided through an Adult Foster Care Program (which meets the requirements set forth by the Division of Medical Assistance) to provide personal care in a family-like setting to Clients in the residence of the caretaker.

Aging Services Access Points (ASAPs) - One or more non-profit agencies, one or more home care providers as defined in M.G.L. c. 19A, § 4, clause (c), a combination of said home care corporations acting jointly, or a state agency which is/are designated by and under contract with Elder Affairs to carry out an interagency service agreement between Elder Affairs and the Division of Medical Assistance (DMA) for the management of clinical screening, service authorization activities and case management for Medicaid community based long term care to eligible elderly persons. ASAPs contract with Elder Affairs to: purchase Community-Based Long Term Care Services for certain Clients, provide Protective Services, (and in some cases provide nutrition services), provide Information and Referral Services, provide Case Management Services, coordinate and authorize the delivery of Home Care Program Services, and provide clinical screening for: Nursing Facility, and Community-Based Long Term Care Services. Each agency is organized to plan, develop, and implement the coordination and delivery of Community-Based Long Term Care Services.

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Applicant - A person who seeks services or screening for Medicaid reimbursed or Elder Affairs reimbursed services from the ASAP.

ASAP Services - Those functions that are performed by the ASAP according to the terms of an ASAP Contract. The functions include Screenings, Interdisciplinary Case Management, Protective Services, Information and Referral, and in cases where the ASAP elects to perform rather than subcontract the function, Nutrition Services.

Certified Home Health Agency - An agency certified by the Department of Public Health that has met the Medicaid and Medicare Conditions of Participation.

Client - A person who is receiving Community Based Long Term Care Services.

Client Record - One record maintained by the ASAP for a Client which contains all required documentation in compliance with Elder Affairs' Documentation Standards.

Clinical Eligibility Determination - A decision regarding medical eligibility rendered by a registered nurse based on medical information.

Community-Based Long Term Care Services - Such services shall include but not be limited to, Home Care Program Services; Adult Day Health (ADH); Adult Foster Care (AFC); Group Adult Foster Care (GAFC)/Assisted Living (AL); Program for All-inclusive Care for the Elderly (PACE) 1115 Demonstration Waiver services and Pre-PACE for purposes of Nursing Facility level of care determinations; Personal Emergency Response System (PERS); 2176 Home and Community-Based Waiver services (for the frail elderly); and Home Health Services.

Congregate Housing - A joint program between Elder Affairs and the Department of Housing and Community Development that offers a shared living environment and integrates housing and supportive services.

Congregate Meals - A nutrition program for elders where meals are provided at a congregate meal site such as a church, senior center, or other community center.

Contract - The agreement executed pursuant to the ASAP Request for Responses (RFR) between the ASAP Contractor and Elder Affairs, and any amendments thereto.

Coordination of Care Manual - A manual that sets forth procedures for Clinical Eligibility Determinations.

Division of Medical Assistance (DMA) - The Division of Medical Assistance of the Massachusetts Executive Office of Health and Human Services is a governmental agency responsible for the administration of the Title XIX (Medicaid) Program.

Documentation Standards - Standards issued by Elder Affairs regarding the documentation procedures for gathering and maintaining client information.

Elder - A person age 60 or older.

Elder Affairs - The Executive Office of Elder Affairs of the Commonwealth of Massachusetts.

Enhanced Community Options Program (ECOP) - A program administered by ASAPs for frail elders who are clinically eligible for Nursing Facility services under MassHealth and meet criteria set forth by Elder Affairs. ECOP provides a broad range of community services for these elders to remain in the community that includes services available under the Home Care Program.

Group Adult Foster Care Services - Care provided through an Adult Foster Care Program which meets the requirements set forth by the Division of Medical Assistance, to provide personal care in an Elder's residence.

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Home and Community-Based Waiver (Waiver) - A waiver of federal regulations granted to the Commonwealth, by the U.S. Department of Health and Human Services under 42 U.S.C.#1396n(d), which allows DMA to pay for home and community-based services for MassHealth Members who meet MassHealth criteria for Nursing Facility services but reside in the community.

Home Care Management Information System (HOMIS) - The management information system established by Elder Affairs and used by ASAPs to maintain client demographic and assessment data, service authorization and utilization data, and to manage ASAP expenditures.

Home Care Program Services - Home Care Program Services include: Homemaker, Personal Care, Laundry, Home-delivered Meals, Interdisciplinary Case Management, Chore, Home Health, Transportation, Social Day Care Services, Adult Day Health, Dementia Day Care, Adaptive Housing, Personal Emergency Response, Grocery Shopping/Delivery, Companion, Emergency Shelter, Respite Care and other Home Care Program Services as set forth in 651 CMR 3.01. Service definitions and services standards are established by Elder Affairs and in 651 CMR 3.00, *et seq.*

Hospice means a public agency or private organization or a subdivision of either that is providing care to terminally ill individuals and meets Medicare conditions of participation specified in 42 CFR 418.50 through 418.98 for hospices. Core services include nursing, physician, medical social work, and counseling. Supplemental services include: short term inpatient care; medical appliances and supplies; home health aide and homemaker services; physical therapy, occupational therapy, and speech language pathology services.

Information and Referral Services - Activities related to the maintenance of current information with respect to services and benefits available to Elders, assessments of the type of assistance needed by an elder requesting information, referral to appropriate services, and follow-up to determine if needed services were received. Information and Referral services may be conducted by mail, telephone, electronically, or in person.

Interagency Service Agreement - The agreement between Elder Affairs and the Division of Medical Assistance which establishes ASAP performance requirements in conducting screening activities and managing Medicaid funded community based programs and services.

Interdisciplinary Case Management - A client centered approach to assessment, service acquisition, reassessment, and monitoring of services provided to assist elders to live independently in the community. It includes working cooperatively, coordinating service plans and maintaining ongoing communication with the elder, family members, informal supports and formal supports as necessary. It is provided by registered nurses and case managers working in consultation with physicians, nurses and therapists from home health agencies, hospice providers, nutritionists, housing managers, mental health professionals, and other home and health care professionals. These services comply with the Interdisciplinary Case Management Standards issued by Elder Affairs.

LTC Assessment - The Long Term Care Assessment procedure specified by Elder Affairs to determine eligibility for Home Care Program Services, Community-Based Long Term Care Services and Nursing Facility Services.

LTC Assessment Tool - Instrument designated by Elder Affairs used in the LTC Assessment of Applicants.

Managed Care In Housing Program (MCIH) - MCIH provides a broad range of Home Care Program services including extended morning and evening services and 24-hour emergency response for high risk Clients residing in Elderly housing, congregate housing or designated neighborhoods. These Clients have functional or cognitive impairments such that they need added assistance and supervision to remain safely in the community.

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MassHealth - The Medical Assistance Program administered by the Division of Medical Assistance pursuant to M.G.L. c.118E and Title XIX of the Social Security Act. MassHealth is the name the Commonwealth uses for the Medicaid Program.

MassHealth Member - An individual who has been determined eligible to receive benefits under the Medical Assistance Program (MassHealth).

Medicaid - see MassHealth.

Nursing Facility - A facility which is licensed by the Massachusetts Department of Public Health to provide skilled nursing care to residents which meets the provider eligibility requirements as specified in Division of Medical Assistance regulations at 130 CMR 456, *et seq.*, or successor regulations.

Nursing Facility Screening - A clinical assessment of an Applicant for Nursing Facility services which is conducted by ASAP staff to determine eligibility for Nursing Facility services in accordance with the Division of Medical Assistance regulations at 130 CMR 456.408 *et seq.*, or successor regulations.

Nutrition Services - Home-delivered Meals and Congregate Meals as defined in 651 CMR 3.00 and 651 CMR 4.00 *et seq.*

PACE - The federal Health Care Financing Administration's (HCFA's) Program of All-inclusive Care for the Elderly service delivery model designed to keep elderly persons at risk of Nursing Facility placement in the community while providing for medical and social long term care needs. The model utilizes an Adult Day Health center and an interdisciplinary team to assess and monitor the needs of participants. In order to participate, an individual must be screened by an ASAP nurse and determined to meet the minimum criteria for Nursing Facility eligibility according to the Division of Medical Assistance Nursing Facility regulations.

Performance Measures - The method to determine ASAP performance and compliance with the ASAP contract, and the impact that services have on clients.

Purchased Services - Any service directly provided by a vendor under Contract with the ASAP.

Respite Care - The provision of one or more Home Care Program services to temporarily relieve the caregiver of a Client in emergencies, or in planned circumstances, to relieve the caregiver of the daily stresses and demands of caring for a Client in efforts to strengthen or support the Client's informal support system. In addition to services available under the Home Care Program, Respite Care services may include short term placements in Adult Foster Care, Nursing Facilities, Rest Homes, or Hospitals.

Screening - A determination of an individual's clinical eligibility for Community-Based Long Term Care Services or Nursing Facility Services.

Service Plan - A plan of care that delineates all services from all funding sources to be provided to a Client, developed in conjunction with the Client and/or the Client's designated representative.

Vendor - An entity which has entered into a contract with an ASAP to provide one or more Home Care Program Services.

14.02: Functions and Responsibilities of the Executive Office of Elder Affairs in the Designation of ASAPs

(1) As the principal agency of the Commonwealth charged with the responsibility to mobilize the human, physical, and financial resources available to plan, develop and implement programs to insure the dignity and independence of Elders in the Commonwealth, Elder Affairs shall carry out the functions and responsibilities related to the designation of ASAPs as prescribed under these specified authorities within the Commonwealth. Elder Affairs shall be responsible for carrying out ongoing planning, coordination, administration, monitoring, and evaluation activities necessary to establish ASAPs in the Commonwealth and provide for an ongoing program of technical assistance to ASAPs.

14.02: continued

(2) General Functions and Responsibilities.

- (a) Enter into a contract with the ASAPs which sets forth the conditions under which the ASAP will receive reimbursement from Elder Affairs for the provision of ASAP services;
- (b) Develop performance standards and quality measures to carry out ongoing monitoring and evaluation of ASAP services;
- (c) Establish reporting procedures through which ASAPs shall inform Elder Affairs of program information in order to assist Elder Affairs to effectively carry out its legislative and administrative functions and responsibilities;
- (d) Issue written policy instructions and technical assistance information which relate to the operation of the ASAPs to effectively carry out their functions and responsibilities;
- (e) Establish written policies as to the award of contracts by the ASAP in accordance with applicable Federal and State laws; and
- (f) Perform other functions which relate to the appropriate and efficient administration of ASAPs in the State, including provision for training, manpower development and public information; and
- (g) Manage, administer and oversee activities related to the screening and authorization of Community Based Long Term Care Services and related case management services, as delegated by DMA pursuant to the terms of the interagency agreement.

14.03: ASAP Organizational Structure, Functions and Responsibilities

- (1) An ASAP may be operated by one or more nonprofit agencies, one or more home care providers as defined in M.G.L. c.19A, § 4, a combination of said home care corporations acting jointly, or a state agency.
- (2) An ASAP shall not provide direct services to Elders (*i.e.* Community Based Long Term Care Services), except for ASAP Services as defined in 651 CMR 2.01 *et seq.* The Secretary may grant a waiver of this restriction upon a finding that public necessity and convenience require such a waiver.
- (3) An ASAP shall not have a direct or indirect financial ownership interest in an entity that provides institutional or community long-term care services on a compensated basis. The Secretary may grant a waiver of this restriction upon a finding that public necessity and convenience require such a waiver.
- (4) An ASAP shall not be a vendor to another ASAP for the purpose of providing direct services.
- (5) ASAPs are organized to plan, develop, implement, and coordinate the delivery of Community-Based Long Term Care Services.
- (6) ASAPs are designated by Elder Affairs and under contract with Elder Affairs to carry out activities related to clinical screening, service authorization activities and case management for Community Based Long Term Care Services, and carry out activities related to Protective Services designation.
- (7) ASAPs shall administer the Home Care Program in compliance with 651 CMR 3.00 and all contract requirements.
- (8) ASAPs shall administer the Home and Community Based Waiver Program in compliance with all contract requirements
- (9) ASAPs shall conduct screening functions in compliance with an interagency service agreement between Elder Affairs and DMA, Medicaid regulations, procedures issued by Elder Affairs and contract requirements.
- (10) ASAPs shall administer the Protective Services Program in accordance with M.G.L. c. 19A, §§ 14 through 26 and regulations at 651 CMR 5.00.

## 14.03: continued

(11) ASAPs shall provide the following services:

(a) Information and Referral Services are activities related to the maintenance of current information regarding benefits, services and programs available to elders in Massachusetts. Determinations of the type of assistance needed by an elder requesting information, referrals to appropriate services, and follow-up is provided to determine if needed services were received. Information and Referral services may be conducted by mail, telephone, or in person without regard to income. Referrals for terminally ill elders, with their consent, shall include referral to a licensed and certified hospice for determination of eligibility, appropriateness and consumer interest in the service.

(b) Interdisciplinary Case Management Services are provided by registered nurses and case managers employed by ASAPs working in consultation with physicians, nurses and therapists from home health agencies, hospice providers, nutritionists, housing managers, mental health professionals, and other home and health care professionals in compliance with Interdisciplinary Case Management Standards issued by Elder Affairs. It includes:

1. conducting intake and comprehensive needs assessments, including pre-admission screening and clinical eligibility determinations for elders seeking institutional and community care services from Medicaid or the Home Care Program;
2. developing and implementing service plans based on the needs of the elder; provided that a medical plan of care for an elder be developed by a licensed or certified health provider;
3. arranging for, coordinating, authorizing, and purchasing community long term care services called for in the comprehensive service plan;
4. reassessing and monitoring the outcomes of the services, and making periodic adjustments to the service plan, in consultation with service and health care providers, formal and informal supports and the Client and/or family;
5. working cooperatively, coordinating service plans and maintaining ongoing communication with the elder, family members, informal supports and formal supports as necessary.

(c) Protective Services means services provided in accordance with M.G.L. c. 19A, §§ 14 through 26 and regulations at 651 CMR 5.00, which are necessary to prevent, eliminate or remedy the effects of abuse to an Elder. Subject to appropriation, these services shall include, but not be limited to: capacity to respond to an emergency or a Rapid Response situation; Protective Services Casework; counseling; the capacity to provide or arrange for Home Care and other services; petitioning the Court for guardianship, conservatorship, protective orders through the court; and legal assistance.

(d) Screening. A determination of an individual's clinical eligibility for Community-Based Long Term Care Services or nursing facility services. These determinations are carried out by Registered Nurses working for ASAPs and in compliance with Division of Medicaid Assistance regulations and contract requirements.

14.04: Financial and Administrative Responsibilities of ASAPs

(1) The ASAP shall comply with regulations set forth in 651 CMR 14.00, *et seq.*, requirements set forth in the Commonwealth Terms and Conditions for Human and Social Services Contracts and all written policies and procedures issued by Elder Affairs.

(2) The ASAP shall participate in the Peer Review Process and Quality Improvement activities in cooperation with Elder Affairs.

(3) ASAPs shall utilize the management information system (HOMIS) developed and maintained by Elder Affairs for the purpose of managing client information, ASAP expenditure and service delivery data. ASAPs shall submit reports as required by Elder Affairs contracts and written requests.

(4) The ASAP shall establish financial systems and procedures that shall comply with the requirements set forth in 808 CMR 1.00, *et seq.*, Title 45 CFR Part 74, and written policies and procedures issued by Elder Affairs.

(a) Expenses which do not conform to generally accepted accounting principles, or which are specifically identified as unallowable costs as defined in 808 CMR 1.00 *et seq.*, are unallowable costs for programs or services under contract with Elder Affairs.

14.04: continued

(b) Costs of direct services, other than ASAP services as defined in 651 CMR 14.01, are not allowable costs unless the ASAP has requested and been granted a waiver in writing from Elder Affairs to provide such direct services.

(c) Each ASAP shall secure the services of an independent certified public accountant to perform annual audits required by 808 CMR 1.04 (2). Such auditor shall be selected through an open competitive process conducted at least every three years, including at a minimum an advertisement in a newspaper or a written solicitation to at least three certified public accountants. The audit shall be performed according to requirements of the Division of Purchased Services and any requirements Elder Affairs may prescribe. Prior to initiation of the audit, the ASAP shall provide any such requirements to the auditor and shall inform the auditor in writing that the audit must meet these requirements.

(5) Procurement. Procurement of goods and services shall be in compliance with Title 45 CFR Part 74, Subpart C, §§ 74.40 through 74.48 and with policies and procedures issued by Elder Affairs.

(6) Confidentiality. Any contractor, sub-contractor or grantee of Elder Affairs shall comply in all respects with the Privacy and Confidentiality Regulations law M.G.L. c. 66A, 801 CMR 3.00 *et seq.*, 651 CMR 5.20, where applicable and supplementary privacy and confidentiality policies and procedures developed by Elder Affairs (Elder Affairs - Program Instruction, PI-97-22 and successors).

(7) Affirmative Action. Any grantee or contractor of Elder Affairs shall have in effect an affirmative action plan which meets the requirements of all applicable federal and state laws and regulations, including Elder Affairs policies and procedures. Upon reasonable notice, Elder Affairs may conduct audits of the affirmative action performance of contractors and grantees.

(8) Non-Discrimination in Hiring, Employment and Service Delivery. The contractor shall comply with all federal and state laws, rules and regulations promoting fair employment practices, or prohibiting employment discrimination and unfair labor practices. The contractor shall not discriminate in the delivery of services against any person who otherwise meets the eligibility criteria for services, or in the hiring of any applicant for employment, nor shall any qualified employee be demoted, discharged or otherwise subject to discrimination in the tenure, position, promotional opportunities, wages, benefits or terms and conditions of their employment because of race, color, national origin, ancestry, age, sex, religion, disability, status as a Vietnam Era Veteran, sexual orientation or for exercising any rights or benefits afforded by law. This will include, but not be limited to, the provisions of Title VI of the Civil Rights Law of 1964, and all requirements imposed by or pursuant to the Regulations of the Department of Health and Human Services (45 CFR part 80) issued pursuant to that Title which will be applied in the operation and administration of the contract or award. The requirements in this section extend to all subcontracts and sub-awards made under the contract or grant from Elder Affairs.

(9) Affirmative Market Program. ASAPs shall comply with all requirements Elder Affairs may issue to implement Executive Order 390, which created an Affirmative Market Program to promote the award of state contracts in a manner that develops and strengthens Minority and Women Business Enterprises (M/WBEs). ASAPs are strongly encouraged to subcontract with M/WBEs and to otherwise foster new business relationships with M/WBEs.

(10) Administration of Contract Activities. ASAPs shall administer activities funded by Elder Affairs in compliance with all applicable federal, state, and local laws and regulations, and shall specifically comply with the provisions of Title 45 CFR Part 74.

14.05: General Provisions

(1) The establishment of a comprehensive service plan for an elder shall not establish an entitlement to services for any eligible person for services beyond that established by law or beyond the amounts appropriated for the services.

14.05: continued

(2) Insofar as a waiver of a specific portion of 651 CMR 14.00 or 3.00 would not contradict any applicable state or federal law or regulations, a waiver may be granted by the Secretary. All requests for waivers must be made in writing to the Secretary by the President of the Board of Directors of the ASAP. The waiver request must clearly identify the applicable regulation; which conditions have made such a waiver necessary; what steps have been taken to resolve current issues and insure future waivers will not be necessary; the consequences to the Clients of the ASAP of not granting the waiver request; and the consequences to the ASAP of not granting the waiver request.

(3) All ASAPs and their contractors are subject to audits by Elder Affairs or its authorized agents, the Secretary of the Executive Office of Health and Human Services or his/her authorized agents, or the Commonwealth of Massachusetts or its authorized agents. Furthermore, the Governor or his/her designee, the Secretary of Administration and Finance or his/her designee, and the State Auditor or his/her designee shall have the right at reasonable times and upon reasonable notice to examine the books, Client records, and other compilations of data of the ASAPs which pertain to the performance of ASAP requirements. An audit may include but need not be limited to a review of an ASAP's: financial statements, accounting records, procedures, and management practices; compliance with and efficiency in carrying out the terms of the ASAP contract.

#### REGULATORY AUTHORITY

651 CMR 14.00: M.G.L. c. 19A, §§ 4B and 6.