

**DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES**

CHAPTER 411

**DIVISION 66
REGISTRATION AND CERTIFICATION STANDARDS
FOR ADULT DAY SERVICES PROGRAMS**

411-066-0000 Statement of Purpose
(Effective 11/7/2007)

Adult day services are community-based group programs designed to meet the service needs of seniors and people with disabilities in a structured non-residential setting. These rules create a registry of adult day services programs and describe the process and criteria for listing on the registry. These rules also allow state certification of Medicaid contracted adult day services programs. Certification by the Department of Human Services, Seniors and People with Disabilities Division is intended to fulfill the Centers for Medicare and Medicaid Services (CMS) requirements of "state certified" adult day service programs with the purpose of continuing eligibility criteria for Medicare beneficiaries. The criteria for state certification are defined in these rules.

Stat. Auth.: ORS 410.070, 410.490 & 410.495
Stats. Implemented: ORS 410.485 to 410.495

411-066-0005 Definitions
(Effective 11/7/2007)

(1) "Activities of Daily Living (ADL)" means those personal, functional activities required by an individual for continued well-being, which are essential for health and safety. Activities consist of Eating, Dressing/Grooming, Bathing/Personal Hygiene, Mobility (ambulation and transfer), Elimination (toileting, bowel and bladder management), and Cognition/Behavior as defined in OAR 411-015-0006.

(2) "Adult Day Services (ADS) Program" means a community-based group program designed to meet the needs of adults with functional impairments through service plans. These structured, comprehensive, non-residential programs provide health, social and related support services in a protective setting during part of a day, but for less than 24 hours per day.

(3) "Assistant Director" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that person's designee.

(4) "Certification" means to certify the individual adult day services program by measuring the ability of the adult day services program to meet the Department of Human Services, Seniors and People with Disabilities Division standards as set forth in these rules.

(5) "DHS" means the Department of Human Services.

(6) "Group" means:

(a) A program with ten or more enrolled participants;

(b) Adult day services programs just beginning, with plans to enroll ten or more participants; or

(c) The enrolled participants in a certified adult day services program.

(7) "Long-Term Care Facilities (LTC)" means nursing facilities, residential care facilities, assisted-living facilities and adult foster homes.

(8) "Registry" means the registration database of all adult day services programs maintained by the Department of Human Services, Seniors and People with Disabilities Division.

(9) "SPD" means the Seniors and People with Disabilities Division, within the Department of Human Services.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 to 410.495

411-066-0010 Registration

(Effective 11/7/2007)

(1) All ADS programs that voluntarily provide SPD with the information described in section (2) of this rule will be placed on SPD's ADS registry.

(2) Information on the registry must include, but is not limited to:

(a) The name and address of the ADS program; and

(b) A checklist to determine the extent to which each ADS program is voluntarily complying with the standards set forth in OAR 411-066-0020.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 to 410.495

411-066-0015 Certification

(Effective 11/7/2007)

ADS programs that contract with SPD to provide services must be certified.

(1) INITIAL CERTIFICATION.

(a) To receive SPD certification and be eligible for a DHS Medicaid contract, ADS programs must complete the certification process that includes the following:

(A) Contacting SPD to schedule an initial certification on-site visit;

(B) Provision of a cover letter detailing qualifications and specific experience in delivering adult day services (at least six months in Oregon);

(C) Completion of an Adult Day Services Medicaid Provider Application;

(D) Completion of the ADS self assessment demonstrating the program meets the standards for adult day services in OAR 411-066-0020;

(E) Completion of a cost justification for the purpose of establishing a state contracted daily rate; and

(F) Participation in a follow-up on-site inspection by a representative(s) of SPD.

(b) SPD will complete an on-site certification assessment form after the visit, citing standards as “met” or “unmet”.

(c) If all standards are met, SPD will certify the ADS program.

(d) If any of the standards are unmet, the application for certification will be denied. The ADS program may bring the unmet standards into compliance and request that SPD complete a site certification reassessment. A request for a site certification reassessment must be made within 30 calendar days after denial. If the request for the site certification reassessment is more than 30 calendar days, the ADS program will be required to resubmit the information in sections (1)(a)(B) through (1)(a)(F) of this rule.

(e) If the denial is upheld after a site certification reassessment, the ADS program may request an informal conference in writing within ten business days of receipt of the denial notice. Within ten business days of receipt of the request for an informal conference, the Assistant Director will review all material relating to the denial of the certification. The Assistant Director will determine, based on a review of the material, whether to uphold the denial. If the Assistant Director does not sustain the decision, certification will be granted immediately. The decision of the Assistant Director is subject to a contested case hearing under ORS 183.413 to 183.470 if requested within 90 days.

(2) MAINTAINING CERTIFICATION. Certification for an adult day services program may continue for up to two years from the effective date as long as the ADS program complies with the standards for certification as established in OAR 411-066-0020.

(a) Ninety-days prior to certification ending, ADS programs renewing certification and their DHS Medicaid contract must:

(A) Complete an Adult Day Services Medicaid Provider Application;

(B) Complete an ADS self assessment demonstrating the program meets the standards for adult day services in OAR 411-066-0020; and

(C) Participate in a follow-up on-site inspection by a representative(s) of SPD.

(b) SPD will complete an on-site certification assessment form after the visit, citing standards as “met” or “unmet”.

(c) If all standards are met, SPD will notify the ADS program that certification will be renewed.

(d) If any of the standards are unmet, the ADS program must develop and submit to SPD, within seven calendar days, a written plan of action to comply with the standards. Depending upon the nature of the inadequacy, SPD may perform a follow-up inspection to confirm compliance. SPD may immediately suspend certification for threat to the participant’s health, safety, welfare, or failure to comply with the standards.

(e) If the written plan of action is not accepted in full, or the follow-up inspection reveals non-compliance, SPD may deny, revoke or refuse to renew the certification and contract. The ADS program will be notified in writing of the decision.

(f) If the denial or revocation is upheld after reviewing the plan of action, or follow-up inspection, the ADS program may request an informal conference in writing within ten business days of receipt of the notice. Within ten business days of receipt of the request for the informal conference, the Assistant Director will review all material relating to the denial notice. The Assistant Director will determine, based on a review of the material, whether to uphold the denial or

revocation. If the Assistant Director does not sustain the decision, certification will be granted immediately. The decision of the Assistant Director is subject to a contested case hearing under ORS 183.413 to 183.470 if requested within 90 days.

(3) SPD may perform an unannounced on-site certification review at anytime during the certification period to assure quality and safety standards continue to be met.

Stat. Auth.: ORS 410.070, 410.490 & 410.495
Stats. Implemented: ORS 410.485 to 410.495

411-066-0020 Standards for Adult Day Services Programs
(Effective 11/7/2007)

(1) SERVICE PLANS. For each participant, the ADS program must have a service plan based on services needed and the ADS program's ability to provide those services. The service plan must include the following:

(a) Intake Screening. The intake screening must be completed by the ADS prior to admission in order to determine the appropriateness of the ADS program for the participant and to determine that the participant's needs are within the scope of the ADS program.

(b) Application. An application or enrollment agreement must be completed and include:

(A) Applicant's personal identifying information;

(B) Information regarding health, safety and emergency needs;

(C) Identification of services to be provided;

(D) A disclosure statement that describes the ADS program's range of care and services;

(E) Criteria for admission and discharge; and

(F) Fees and arrangements for payment, including insurance coverage or other payment sources.

(c) Assessment. A written assessment of the participant must include functional abilities and disabilities, strengths and weaknesses, personal habits, preferences and interests, likes and dislikes, medical condition, medications, personal care, assistance required with activities of daily living, a statement on the ability to live independently, and any other information helpful to developing the service plan, such as life history.

(d) Written Service Plans. The service plan, which is based on the assessed needs, strengths, and abilities, must include realistic objectives that are both long-term and short-term. The service plan must also:

(A) Specify number of days per week of attendance;

(B) Define the services to be provided;

(C) Explain how the service will meet the assessed need; and

(D) Identify staff responsible for providing or monitoring service delivery.

(e) Coordination of Care. The need for coordination of care must be considered for each participant. If coordination of care is needed and the participant is receiving services from another agency or resides in a community based care setting, the ADS service plan should be developed to acknowledge and not duplicate the services provided by that agency or facility.

(f) Service Documentation and Reassessment. Progress notes on each participant must be written at least quarterly and must reflect a review of the service plan and the participant's status in regard to the services. Reassessing the participant's needs and reevaluating the appropriateness of the service plan must be completed not less than semiannually. A reassessment of the participant's needs and service plan must also be completed as needed when significant changes

occur in the participant's functional ability, service needs, health status, or living situation.

(2) PARTICIPANT RECORDS.

(a) All ADS programs must maintain a current roster of all participants with dates of admission and discharge. The ADS programs must also accurately record daily attendance documenting the time the participant is in attendance at the ADS program. This does not include transportation to and from the ADS program site.

(b) All ADS programs must maintain an individual file on each participant containing the following:

(A) Intake screening and application forms;

(B) Photograph of participant and statement of use, with a signed release by the individual or guardian;

(C) Medical history. The ADS program must submit a request to the participant's physicians or primary care provider requesting pertinent medical information to assist in developing a service plan;

(D) Nutritional status assessment including medically prescribed dietary needs;

(E) Service plans including information found in section (1) of this rule;

(F) Correspondence;

(G) Transportation Plans. Transportation plans must specify the arrangements for transportation to and from the ADS program. The plan must identify the transportation service provider;

(H) Physician's name and contact information;

(I) Hospital's name and contact information;

(J) A list of the participant's medication;

(K) The ADS program's progress notes;

(L) Advance health care directive form, if the participant has completed a directive;

(M) A Physician's Order for Life Sustaining Treatment (POLST) or a statement that none has been signed, or a completed form developed by the ADS program to document resuscitation status; and

(N) Emergency contact information with at least two contacts (i.e. the participant's designated representative and others as indicated).

(c) The ADS program must retain clinical records for seven years and financial and other records for at least five years from the date(s) of service.

(3) SERVICES. ADS programs must make services identified in the service plan available to the participant. ADS programs must make the following services available:

(a) ADL Assistance. This includes assistance and supervision with activities of daily living.

(b) Social Services. The following social services, if identified on the services plan, must be provided to participants:

(A) Providing resources for mental health counseling within the community;

(B) Providing resources for other community services;

(C) Advocating for the participant's human and civil rights;

(D) Assessing for indicators of physical illness or disabilities and making recommendations and providing resources within the community;

(E) Assessing for indicators of mental illness or dementia and making recommendations and providing resources for diagnosis;

(F) Providing discharge planning and assisting in the transition; and

(G) Providing information and resources for persons not appropriate for adult day services.

(c) Nutrition Services. ADS programs must screen and assess participants for nutrition needs and must provide or refer within the community for nutrition services as appropriate.

(d) Food Services. ADS programs must provide those participants that are present at a typical mealtime with a minimum of one meal per day unless contraindicated by a health condition or by cultural or religious preference. The meal must meet the adult daily nutritional requirement as established by state and federal regulations. Documentation of the food served at meals must be kept in the ADS program's files for up to six months. Nourishing snacks must be available to participants between meals.

(e) Therapeutic Activities. ADS programs must take into consideration participant differences in age, health status, sensory deficits, needs, interests, abilities, and skills by providing opportunities for a variety of activities while encompassing different levels of involvement. The activity plan must be an integral part of the service plan based on the interests, needs, and abilities of the participant. The activities may include social, intellectual, cultural, emotional, physical and spiritual activities.

(f) Health-Related Services. ADS programs must provide health care coordination, prevention and education. Services, as appropriate to the participant, may include a health assessment, nursing consultation services and restorative therapy.

(g) Transportation. ADS programs must provide resources for transportation to enable persons, including persons with disabilities,

to attend the ADS program. The ADS program must provide, arrange or contract for transportation to enable participants to attend ADS program-sponsored outings.

(h) Emergency Response for Participants. ADS programs must have a written procedure for handling participant, as well as facility-wide medical emergencies. This documentation must include procedures for notification, transportation arrangements and provision for escorts, if necessary. This provision, along with the participant's medical information, must be reviewed semiannually and kept in the participant's record.

(i) Resources. Guidance to locate resources must be made available to the families or caregivers and participants to enhance the general well-being and improve the level of independence of the participant.

(4) PHYSICAL DESIGN, ENVIRONMENT AND SAFETY.

(a) The facility housing the ADS program must comply with applicable state and local building regulations, zoning, fire and health codes or ordinances.

(b) The facility must be designed in such a way that it is accessible and functional in meeting the identified needs of the population it serves in accordance with the Americans with Disabilities Act.

(c) Each physical location must develop, maintain, update and enforce an emergency plan for the protection of all persons in the event of an emergency. The written emergency plan must address fire and natural and human caused events identified as a significant risk for the facility and locality. The written emergency plans must specify how the ADS program will notify participants and contacts of closure.

(d) The facility must have a minimum of one toilet per ten participants in an accessible bathroom. Each bathroom must be equipped with a sink, grab bars and call system appropriate to the population served. The participant's privacy and comfort must be considered in developing procedures for incontinence care. Bathrooms and fixtures

must function properly and must be maintained in a sanitary and odor free condition.

(e) Each bathroom must contain an adequate supply of liquid hand soap, toilet tissue, and paper hand towels with dispenser or an electrical hand dryer. Common towels are not allowed.

(f) There must be a minimum of 60 square feet of common floor space per participant. (The square footage excludes hallways, offices, restrooms, and storage spaces.) ADS programs serving participants, of which 25 percent or more are cognitively impaired or require the use of adaptive equipment, must provide at least 80 square feet of common floor space per participant.

(g) The physical building, premises, and equipment must be maintained in a clean and sanitary condition, free of hazards and in good repair.

(h) Outside space that is used for outdoor activities must be safe, accessible to indoor areas and accessible to those with a disability.

(i) Heating, cooling, ventilation and lighting must be appropriate for the age and physical condition of the participants to provide for their health and safety.

(j) Flooring must be easily cleaned and made of a nonskid material. Stairways must have handrails and the stairs must be covered with nonskid material.

(k) There must be sufficient private space for the provision of confidential staff consultation with the participant, and nursing or therapy services if provided.

(l) There must be provisions for the participant to rest.

(m) There must be an accessible telephone available for use by participants.

(n) Storage space must be provided for files, records, recreational and cleaning supplies.

(o) Sufficient furniture for the entire participant population must be of sturdy construction that will not easily tip over or move when used for seating or support while walking. The furniture must be safe and comfortable.

(p) Safe drinking water must be readily available to participants at all times, as well as a supply of safe drinking water as part of the program's emergency disaster plan. Disposable paper cups, individual drinking cups or drinking fountain must be provided.

(q) ADS programs that dispense medications must designate a secured area for storing labeled medication away from the participant activity area. Each ADS program must have a written policy for medication management and must designate which staff are trained and authorized to administer medications. The medication management policy, which includes the training program, must be approved by a Registered Nurse or Pharmacist. ADS programs must only dispense physician approved medications.

(r) ADS programs must provide a safe and sanitary environment. This includes food services, general maintenance and cleaning, sewage disposal, infection control, and standard precautions.

(A) Food Services. In order to assure the provision of safe food, all facilities serving 16 or more persons must meet the minimum requirements as outlined in the DHS, Public Health Division's Food Sanitation Rules, OAR chapter 333, division 150. Facilities serving 15 or fewer persons or a facility that purchases meals from an outside meal source or prepare meals must meet the minimum requirements of the Food Sanitation Rules relating to the preparation, storage, and serving of food. Facilities serving 15 or fewer persons are not required to use commercial equipment.

(B) Garbage and Refuse. Garbage and refuse containers must be insect-proof, rodent-proof, leak-proof and nonabsorbent. Garbage and refuse must be removed at least once a week from the premises or more often if needed to prevent odors and attraction of insects, rodents and other animals. Items being

recycled must be clean and pending removal, stored in a manner that does not present rodent harborage or insect breeding. Recycled items must be stored separately from food supplies and food preparation equipment.

(C) Cleaning and Maintenance. The facility must be kept clean, safe and in good repair. In facilities serving 16 or more persons, a utility sink must be provided.

(D) Sewage Disposal. If a community disposal system is available it must be utilized by the facility. If a septic system is utilized, it must be properly operating and meet code requirements.

(E) Infection Control. Local health department standards must be met regarding communicable diseases.

(F) Smoking. If permitted, smoking must be supervised in an outdoor, adequately ventilated and designated area away from the main ADS program.

(G) Standards of Precautions. Written procedures for the safe handling of soiled items minimizing the potential for the spread of communicable diseases must be established. Such procedures must include:

- (i) Soiled item disposal and storage;
- (ii) Hand washing;
- (iii) Sanitizing of contaminated surfaces; and
- (iv) Preventing contamination.

(5) EMERGENCY STANDARDS.

(a) ADS programs must adopt and implement emergency policies and procedures.

(b) The ADS program's emergency plan must be posted and provide the locations of fire extinguishers and exit routes.

(c) Staff must be trained in evacuation procedures and major emergency plans as part of their initial orientation and ongoing training.

(d) Records for fire and evacuation drills must be kept as a part of the ADS program's plan. Fire and evacuation drills must be held at least once every six months.

(e) A fire warning system must be installed in all adult day services facilities to insure the safety of the participants and the staff.

(f) At least one fire extinguisher classed as 2A-10BC must be visible and readily accessible.

(g) Written protocol regarding sick or injured participants must be developed and given to participants, family and care providers upon admission.

(h) Emergency first aid kits must be visible and accessible to staff. Personnel trained in first aid and CPR must be on duty whenever participants are present.

(i) At least two well-identified exits must be available.

(6) STAFFING REQUIREMENTS.

(a) All employees and volunteers must comply with the criminal history check rules in OAR 407-007-0200 through 407-007-0380. There must be written procedures to evaluate and determine employment status based on criminal findings.

(b) Each staff person and volunteer must be competent and qualified for the position held. Qualified means education or experience dealing with the adult day services population. Staff must hold personal information about participants and their families in confidence, treating all participants with respect and dignity.

(c) ADS programs must assure that employees and volunteers comply with standards for tuberculosis testing and hepatitis immunization specified by the local public health department.

(d) The staff to participant ratio must be a minimum of one staff person to six participants (1 to 6). ADS programs serving over 50 percent of participants who require full assistance with three or more activities of daily living must have a staff to participant ratio of one to four (1 to 4).

(e) Each ADS program that is located within the same facility as another program, (e.g. a hospital, nursing facility, senior center, church or community based care facility) must be separate and distinct with designated staff and staff hours committed to the ADS program.

(f) To insure adequate care and safety of participants, there must be provisions and identified resources for qualified substitute staff.

(g) Staff must have sufficient knowledge to provide essential services to the participants. There must be at least one staff person or combination of staff on duty at all times who are knowledgeable of:

(A) The fire, safety and disaster plan;

(B) Infection control;

(C) CPR and first aid;

(D) Body mechanics and transfer techniques;

(E) Personal care;

(F) Mandatory reporting laws of abuse and neglect;

(G) Managing behavioral symptoms; and

(H) The needs of the participants.

(h) Volunteers can be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualifications, have designated responsibilities, a signed written job description and documentation of volunteers' schedule in the facility.

(i) There must be general orientation and continued in-service training for both paid staff and volunteers including, but not limited to:

(A) Program mission and philosophy;

(B) Mandatory reporting laws of abuse and neglect and indicators of abuse;

(C) Behavioral intervention and behavior acceptance and accommodations;

(D) Standard precautions;

(E) Participant rights;

(F) Fire, safety, disaster plan and emergency procedures;

(G) Body mechanics and transfer techniques; and

(H) Assistance with ADLs.

(7) ADMINISTRATION.

(a) Plan of Operation. Each ADS program must develop and implement a plan of operation. The plan of operation must be reviewed and, if necessary, revised annually. The plan must include:

(A) A definition of the target population;

(B) Geographical definition of the service area;

(C) Description of basic services and any optional services;

(D) Hours and days of operation;

- (E) Admission and discharge policies and procedures;
- (F) Staffing;
- (G) Statement of participants' rights and grievance procedure;
- (H) Rates;
- (I) Procedures for reporting suspected abuse; and
- (J) A written policy for dealing with lost or wandering participants must be developed and some type of identification for participants who wander must be provided.

(b) Advisory Committee. An ADS program must have a body that serves as an advisory committee. Members of the advisory committee must be representative of the community and must include family members of current or past participants and non-voting staff representatives. The advisory committee must meet at least twice a year and must have an opportunity, at least annually, to review and make recommendations on program policies. Agendas and minutes must be on file at the ADS program site.

(c) Discharge and Grievance Policy.

(A) The ADS program must develop a participant discharge policy that includes at a minimum:

- (i) Time frame for termination;
- (ii) Criteria for discharge;
- (iii) Notification procedures;
- (iv) Appeal policy; and
- (v) End of service. When possible, the ADS program must provide referrals or resources to the participant for

services from other organizations whether the discharge was voluntary or involuntary.

(B) The discharge notification must include reasons for discharge and a discharge summary. Each participant, family or caregiver must receive a minimum of two weeks' notice. Notice may be issued with less than two weeks advance notice when the participant presents imminent danger to other participants or his or herself, or when the service needs have increased to the level at which the ADS program can no longer meet the participant's needs safely or adequately.

(C) A grievance policy for resolving participants' concerns, complaints or discharge from the ADS program must be developed and include, but not limited to, process and time frames, a written response to the participant and a written record of the grievance to be filed at the facility.

(d) Program Evaluation. As part of the quality assurance plan, the ADS program must develop policies and procedures for evaluating operation and services. The plan must include a survey of employees, participants, families or services providers and referral services discussing all aspects of the ADS program. The ADS program must determine further action to ensure continuous improvement in service delivery. A written report summarizing the annual evaluation findings, with implementation or correction time tables must be posted for review, provided to the ADS program's advisory committee, and the state's ADS program coordinator, as well as maintained as part of the facilities permanent record.

(e) Personnel Policies and Practices. The ADS program must have written personnel policies for both staff and volunteers.

(f) General Records Policies. The ADS program must have a records policy for administrative records and participants' records.

(A) The ADS programs must maintain administrative records which include personnel records, fiscal records, statistical reports, government-related records, contracts, organizational records, quality improvement plans or quality assurance plans,

advisory committee minutes, certificates of annual fire and health inspections as required by local ordinances, and incident reports.

(B) The ADS programs must develop a written policy on confidentiality and the protection of participants' records. The policy must define procedures for the use and removal of:

(i) Participants' records;

(ii) Conditions for the release of information; and

(iii) Conditions that require authorization in writing by the participant or his/her legally responsible person, for the release of information, not otherwise authorized by law.

Stat. Auth.: ORS 410.070, 410.490 & 410.495

Stats. Implemented: ORS 410.485 to 410.495