

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING



Office of the Director

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MEMORANDUM

TO: Zoning Commission for the District of Columbia

FROM: *LS Sev*
Ellen McCarthy
Director

DATE: June 27, 2005

SUBJECT: ZC 05-01 - Supplemental to Final Report

This report serves as the supplemental report to OP's final report dated March 21, 2005. The report seeks to address the concerns expressed by the Commission and ANC5 representatives who testified at the March 31, 2005 public hearing.

Specifically, the attending ANC5 representatives opposed inclusion of the term adult and inclusion of these facilities as a matter-of-right. Further, it was determined that a distance/proximity requirement between like facilities be included as well as a requirement that operation be limited to less than 24 hours a day.

The Commission requested the Office of Planning to address the issues expressed by the community representatives and OP acknowledged that the following would be addressed.

- How these facilities are currently regulated
- Definition of Adult Development Center
- Distinction of the various populations for adult centers
- Inclusion of language to prohibit them as residential facilities
- Proximity to other residential facilities
- Parking requirements

Therefore, The Office of Planning is amending its previous recommendation of the proposed text amendments to provide for adult development centers in response to the Commission's and community's concerns as previously mentioned.

Therefore, OP recommends

- A separate definition of an adult development center as an adult day treatment facility;
- Prohibition of these facilities in the Residential and C-1 Zone District, as well as the W-0 and W-1 Zone District, with a proximity requirement in all other permitted zone districts.

~~Zoning Commission~~
District of Columbia

CASE NO. 05-01
EXHIBIT NO. 7

ZONING COMMISSION
District of Columbia
CASE NO.05-01
EXHIBIT NO.7

ANALYSIS

Definition

OP conducted further research into the administration and regulation of adult day treatment programs currently in operation in the District. These programs are regulated under Title 29 DCMR Chapter 7, Medicaid Day Treatment Programs¹. This chapter includes the definitions under which the programs are governed. The relevant definitions include:

29 DCMR 799.1

Day Treatment Program (DTP) – a nonresidential program operated for the purpose of providing medically supervised day treatment services for elderly persons, children from birth through age three (3), or adults with a developmental disability, and adults with mental disorders

Developmental disability – a severe, chronic disability of a person that is attributable to a mental or physical impairment, or both, that is manifested before the person attains the age of twenty-two (22) years and is likely to continue indefinitely. The person causes substantial functional limitations in three (3) or more areas of major life activity.

- (a) Self-care,
- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction,
- (f) Capacity for independent living, or
- (g) Economic sufficiency;

A developmental disability reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other service, which are life-long or of extended duration, and are individually planned and coordinated.

Elderly – a Title XIX (Medicaid) Eligible individual, age sixty-five (65) or over, who requires health care supervision for a part of his or her day if he or she is to remain in the community, or if he or she is to move from a twenty-four (24) hour institutional care to the community

In addition, for purposes of clarity and to address the Commission's question regarding mental disorder and mental retardation, 29 DCMR Section 799.1 also provides the following definition:

Mental Disorder - an abnormal mental condition in an individual, who requires the comprehensive and relatively intensive full range of mental health services in a therapeutic and structured environment if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community.

¹ Attached

Mental retardation- a significant sub-average general intellectual level determined in accordance with standard measurements, existing concurrently with impairment in adaptive behavior, which originates during the developmental period.

RECOMMENDATION

Based on the Commission's recommendation that the adult facilities are removed from the definition, OP proposes the following definition of an adult development center to be specifically defined as an adult day treatment facility in Section 199 as follows, together with necessary additional definitions

Adult Day Treatment Facility – a building or part of a building used for nonresidential programs operated for the purpose of providing medically supervised day treatment services for adults with a developmental disability, and adults with mental disorders, totaling six (6) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours. An adult day treatment facility includes the following accessory uses counseling, education, training and health and social services for the person or persons with legal charge of individuals attending the center, including but not limited to any parent, spouse, sibling, child or legal guardian of such individuals.

Mental Disorder - an abnormal mental condition (other than past or current drug use or addiction) in an individual, who requires the comprehensive and relatively intensive full range of mental health services in a therapeutic and structured environment if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community

Mental Retardation- a significant sub-average general intellectual level determined in accordance with standard measurements, existing concurrently with impairment in adaptive behavior, which originates during the developmental period.

These definitions This would also address the question of the population such a center may serve, including only adults with developmental disability or mental disorder. The definition also clearly states that the facility would also be non-residential and would not include provisions for over-night stays or residencies. In addition, OP recommends that the above definitions of Mental disorder and Mental retardation be added to § 199.1, but that language be inserted in the Mental Disorder definition to exclude past or current drug use or addiction

D R Although the current use of child elderly center would remain unchanged, OP proposes that the age range of children who may attend the facility begin at two years of age and that "elderly" be considered those persons who are 65 years of age or older

recommend Title 29 DCMR, Chapter 7 provides the regulations and guidelines which govern day treatment centers including staffing, physical plant requirements, programming requirements, as well as the provision of a community outreach plan (29 DCMR Section 710.12). OP does not believe that the Zone Regulations ~~should~~ address operation of the facilities beyond those prescribed by the governing regulations. OP has no information regarding noise and other adverse impacts due to facilities, which provide services to the mentally disabled.

Location and Proximity Requirement to other facilities

Upon further review of the location of existing facilities provided in OP's previous report in addition to those currently listed on the DC Department of Mental Health's Service Provider Certification website (<http://dmh.dc.gov/dmh/cwp/view,a,3,q516001.asp>) approximately 76% of these facilities are located in the C-2-A and higher density zones

Section 700 defines the C-1 Commercial District as follows.

700.1 The Neighborhood Shopping (C-1) District is designed to provide convenient retail and personal service establishments for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development.

Section 720 defines the types of uses, which may be located in the C-2 community business center district

The C-2-A District is designed to provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core and shall be located in low and medium density residential areas with access to main highways or rapid transit stops, and shall include office employment centers, shopping centers, and medium-bulk mixed use centers (§§ 720.2, 720.3) Development is permitted to medium proportions, accommodating a major portion of existing commercial strip developments (§§ 720.4, 720.5)

The C-2-B District is designated to serve commercial and residential functions similar to the C-2-A District, but with high-density residential and mixed uses. The districts shall be compact and located on arterial streets, in uptown centers, and at rapid transit stops. (§§ 720.6, 720.7)

The C-2-C District is designed to serve commercial and residential functions similar to the C-2-A District, but with higher density residential and mixed uses. The C-2-C District is also designated for those areas previously zoned C-2-B, where the Zoning Commission had permitted a maximum floor area ratio of six (6.0) (§§ 720.9, 720.10)

OP believes these facilities are compatible uses within the C-2 Zone District and not compatible within the C-1 Zone District. Therefore, OP would not include the adult day treatment facilities in the C-1 Commercial Zone Districts, but would propose inclusion as a use permitted as a matter-of-right in the C-2 Zone Districts and above, except in the W-1 and W-0 Waterfront Districts

The communities have expressed that there are many like facilities, which already seem to overburden the residential neighborhoods. Based on the current location patterns of these facilities, OP proposes that these facilities are not included in the residential zone districts from the date of adoption of the proposed text amendment.

Therefore, adult development centers would be permitted in the following Zone Districts accordingly.

Table 1

Zoning District	Previous Proposal Child/Adult/Elderly Development Center	Current Proposal Adult Day Treatment Facility
Residential (R-1 to R3)	Special Exception	Not Permitted
Residential (R-4 to R-5)	Matter-of-Right	Not Permitted
Special Purpose	Matter of Right	Matter of Right
Mixed Use (CR)	Matter of Right	Matter of Right
Commercial (C-1)	Matter of Right	Not Permitted
Commercial (C-2 to C-5)	Matter of Right	Matter of Right
Industrial (C-M and M)	Matter of Right	Matter of Right
Waterfront (except in W-0 and W-1)	Matter of Right	Matter of Right

OP believes that a proximity requirement should be applied to the CR zone district as follows

Section 601.2 (d) Adult Day Treatment Facility for six (6) or more persons who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours; provided that there shall be no property containing an existing adult day treatment facility for six (6) or more persons either in the same square as or within a radius of 500 feet (500 ft.) from any portion of the subject property.

To reflect the proposed changes to C-1 zone district, Section 701.2 should be amended as follows

701 2 Any use permitted in any R-5 District under §§ 350 4 and 350.5 or in the SP District under § 501, except an adult day treatment facility for six (6) or more persons and a community-based residential facility for seven (7) or more persons not including resident supervisors or staff and their families, shall be permitted in a C-1 District as a matter of right

To provide for flexibility in locating these facilities, OP does not believe that this requirement should be included in the C-2-A zone district.

Parking Requirements

An overview of facilities revealed that day treatment programs may be operated by child development centers as well as adult centers for individuals who may have varying degrees of mental disabilities and in need of an integrated curriculum combining education, counseling, and family interventions. The setting may be tied to the theoretical orientation of the treatment, which ranges from psychoanalytic to behavioral. However, programs operated

by an adult or child development center differ based on the age of the client population but not on the nature of the use

OP visited various centers and it was reported that clients were either picked up by hired contractors from their respective homes or were dropped off at the facilities by family members or caregivers. The centers provide care and services to individuals who typically do not drive, and OP believes that the parking space requirement should be based on the number of employees and staff rather than gross floor area. Similarly, if the nature of the uses were comparable, the impacts due to traffic and parking would have a similar effect

OP maintains that the parking requirement for an adult day treatment center is similar to that of a child/elderly development center as previously stated in the earlier report and that its parking requirement would also be similarly categorized. Since proposed facilities would also require parking accommodation for employees and staff, the term should be included in Section 2101 of the regulations as follows:

Amend §2101.1 SCHEDULE OF REQUIREMENTS FOR PARKING SPACES as follows

USES	NUMBER OF PARKING SPACES REQUIRED
<p style="text-align: center;">Schools</p> <p>Adult Day Treatment Facility</p>	
All Districts	1 for each 4 teachers and other employees.

CONCLUSION

OP believes that while child, adult and elderly development centers possess comparable service functions; they are delineated by the ages of the population. For purposes of clarity and on advice of the Office of the Attorney General's counsel, as well as recommended by the Commission, the adult development center should be classified and defined separately

Further, since the functions are comparable, the potential impact due to parking and traffic determined that the parking space requirements should be similarly categorized. Therefore, for the reasons previously discussed and to reflect the Commission and communities' recommendations, the Office of Planning **recommends approval** of the proposed amendments to 11 DCMR (ZONING) as follows:

- A. Amend §199, Chapter 1, Definitions, 11DCMR, Subsection 199.1 to modify the definitional terms "Child /Elderly Development Center" and include "Adult Day Treatment Facilities" and associated definitions to read as follows

Child/Adult/Elderly Development Center - a building or part of a building, other than a child development home or elderly day care home, used for the non-residential licensed care, education, counseling, or training of individuals two (2) years old or older but under the age of fifteen (15) years of age or less and/or for the non-residential care of individuals age 65 or older totaling six (6) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours. This definition encompasses facilities generally known as child care centers, pre-schools, nursery schools, before-and-after school programs, senior care centers, elder care programs, and similar programs and facilities. A child/elderly development center includes the following accessory uses: counseling, education, training, and health and social services for the person or persons with legal charge of individuals ~~parents or principal guardians of children~~ attending the center, including, but not limited to, any parent, spouse, sibling, child or legal guardian of such individuals

Adult Day Treatment Facility – a building or part of a building, used for nonresidential programs operated for the purpose of providing medically supervised day treatment services for adults with a developmental or physical disability, and adults with mental disorders, totaling six (6) or more persons, who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours. An adult day treatment facility includes the following accessory uses: counseling, education, training and health and social services for the person or persons with legal charge of individuals attending the center, including but not limited to any parent, spouse, sibling, child or legal guardian of such individuals

Mental Disorder - an abnormal mental condition (other than past or current drug use or addiction) in an individual, who requires the comprehensive and relatively intensive full range of mental health services in a therapeutic and structured environment if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community

Mental Retardation- a significant sub-average general intellectual level determined in accordance with standard measurements, existing concurrently with impairment in adaptive behavior, which originates during the developmental period.

- B. Section 205.3 is amended by deleting children or elderly__ to read as follows:

The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off ~~children or elderly~~ persons attending the center.

- C Amend
 Chapter 5, § 501.1 ();
 Chapter 7, § 721.2 ()
 Chapter 9, § 901.1 (),
 Chapter 21; §2101.1
 to insert **Adult Day Treatment Facility**

- D. New sub-section
 Chapter 6, § 601.2 (d),
Adult Day Treatment Facility for six (6) or more persons who are not related by blood or marriage to the caregiver and who are present for less than twenty-four (24) hours; provided that there shall be no property containing an existing adult day treatment facility for six (6) or more persons either in the same square as or within a radius of 500 feet (500 ft.) from any portion of the subject property.
- E Amend
 Chapter 7, § 701 2
 Any use permitted in any R-5 District under §§ 350 4 and 350 5 or in the SP District under § 501, except **an adult day treatment facility for six (6) or more persons and a community-based residential facility for seven (7) or more persons not including resident supervisors or staff and their families**, shall be permitted in a C-1 District as a matter of right
- E Chapter 21, OFF-STREET PARKING REQUIREMENTS, is amended by inserting the following use in the table included in § 2101 1, SCHEDULE OF REQUIREMENTS FOR PARKING SPACES under “SCHOOL USES”

USES	NUMBER OF PARKING SPACES REQUIRED
Adult Day Treatment Facility	
All Districts	1 for each 4 teachers and other employees.

TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS
CDCR 29-700 (2005)

29-700. ADMINISTRATION

29 DCMR chapters 3 and 7

700.1 Each day treatment program (also referred to in this chapter as a "DTP") participating in the D.C. Medical Assistance (Medicaid) Program shall have a current organizational chart that defines its structure, lines of authority, and staffing responsibilities.

700.2 Each participating DTP shall have a current program manual that contains its mission statement and goals, range of services to be provided, fee schedule, financial procedures, quality assurance standards, record keeping methods and procedures, personnel policies, patients' rights, policies and procedures, and admission and discharge policies.

700.3 Each participating DTP shall have a full-time director to direct and supervise all aspects of the program except those delegated by the provisions of this chapter to the authority of the physician.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-701 (2005)

29-701. STAFFING REQUIREMENTS: GENERAL

701.1 The provider shall employ qualified individuals to furnish the required services.

701.2 There shall be a minimum of two (2) full-time professional staff members, one (1) of whom shall be a social worker.

701.3 Additional personnel shall be added to maintain a ratio of one (1) full-time staff member involved in providing direct services to participants for each six (6) participants.

701.4 Non-direct care staff (such as secretaries, accountants, and cooks) shall not be included in calculating the one (1) to six (6) ratio.

701.5 A limited number of volunteers may be used to meet the staffing requirements only upon written approval from the Department of Human Services.

701.6 At least twenty five percent (25%) of the staff of a day treatment program primarily serving mentally retarded adults shall be comprised of individuals certified as qualified mental retardation professionals.

701.7 The Department of Human Services may impose additional staff requirements based upon the need of the participants and the particular day treatment program.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-702 (2005)

29-702. PROGRAM DIRECTOR

702.1 The provider shall appoint one (1) of the full-time professional staff members as the Program Director.

702.2 The Program Director in any day treatment program shall have at least a Bachelor's Degree from an accredited college or university and shall meet one (1) or more of the following criteria by the patient population being served in the facilities:

(a) For a DTP serving elderly persons, the Program Director shall have had a minimum of one (1) or more years of experience working in an adult or elderly social or health program;

(b) For the developmentally disabled programs, which includes programs for the mentally retarded and may or may not include programs for individuals with mental disorders, the Program Director shall be a qualified mental retardation professional with experience in handling maladaptive behavior; or

(c) For mental health treatment programs for individuals with mental disorders and which may include the developmentally disabled, the Program Director shall be a mental health professional with experience or training, or both, which familiarized him or her with the characteristics and needs of mental health clients whose conditions require intensive service.

702.3 For exceptionally qualified individuals, the Department of Human Services may waive the experience requirements set forth in § 702.2.

702.4 The Program Director shall be responsible for the development and implementation of the program and organizational policies, goals, and objectives.

702.5 The Program Director shall be responsible for fiscal administration of the program, including billing, budget preparation, and required financial reports.

702.6 The Program Director shall hire and supervise appropriate staff, and shall arrange for volunteers and students if and when indicated.

702.7 The Program Director shall assume the role of coordinator of the admission process.

702.8 The Program Director shall provide for staff orientation and on-going in-service training.

702.9 The Program Director shall also be responsible for the following:

(a) Ensuring implementation of each participant's individualized plan of care;

(b) Educating community agencies and groups on the goals of the day treatment program, the target population, and the service provided;

29 DCMR chapters 3 and 7

(c) Responding to the reporting requirements of the Department of Human Services; and

(d) Developing and establishing a quality assurance system for evaluating program effectiveness and the effectiveness of individual care plans and interventions.

702.10 The provider shall appoint one (1) of the professional staff members as Assistant Program Director to act in the absence of the Program Director.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-703 (2005)

29-703. ACTIVITIES COORDINATOR

703.1 An Activities Coordinator shall have a minimum of one (1) or more years of experience working in an adult or elderly social or recreational program.

703.2 An Activities Coordinator shall have the ability to develop and implement therapeutic activity programming both for specific individuals and for groups.

703.3 For the developmentally disabled or for those with maladaptive behavior, the Activities Coordinator shall have had one (1) year of experience working in the specialty services being provided in the day care treatment program.

703.4 The Activities Coordinator shall implement, in concert with plan of care goals and with other day treatment program staff, activity programs to meet the individual needs of each participant.

703.5 The Activities Coordinator shall not serve as the Program Director.

703.6 The Activities Coordinator shall also be responsible for the following:

- (a) Developing and scheduling educational events;
- (b) Supervising activity program assistants; and
- (c) Participating in the monthly review of each participant's care plan.

703.7 The Activities Coordinator shall enter in each participant's record, at least monthly and more often if indicated, notations regarding the participant's involvement and progress in activities as a part of his or her care plan.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-704 (2005)

29-704. NURSES AND PHYSICIANS

704.1 Except as provided in § 704.2, the provider shall employ a registered nurse (RN) who shall be on the site daily for a minimum of four (4) scheduled hours.

704.2 If there are eighteen (18) participants or more, the registered nurse shall be on the site daily for eight (8) hours.

704.3 For day treatment programs providing services to the elderly, the registered nurse shall have at least two (2) years recent experience or specialized training in the care of the elderly.

704.4 For day treatment programs providing services to persons who are developmentally disabled, the registered nurse shall have specialized training or one (1) year of experience working with the developmentally disabled.

704.5 For day treatment programs offering services to individuals with mental disorders, the registered nurse shall have had specialized training in psychiatric mental health nursing or two (2) years of experience working in a psychiatric mental health setting.

704.6 The registered nurse shall enter in each participant's record written notes on a monthly basis, or more often if indicated, as a part of the participant's care plan. Assistance in this activity may be delegated to other nursing personnel.

704.7 The registered nurse shall coordinate the development and on-going review of each participant's individual care plan.

704.8 The responsibilities of the registered nurse shall include the following:

(a) Providing or supervising required program nursing services for each participant;

(b) Giving technical nursing supervision to other nursing personnel;

(c) Assisting, as necessary, in the delivery of other required program service; and

(d) Assisting in meeting the psycho-social needs of participants.

704.9 A physician shall be available to take professional responsibility for each participant's medication, emergency care, referral to a hospital or other appropriate facility, and all other medical and treatment decisions.

704.10 The physician shall approve, in writing, each participant's individual plan of care.

704.11 The physician shall be responsible for the following activities:

29 DCMR chapters 3 and 7

(a) Assisting in the development of the day treatment program's health policies;

(b) Participating in the multi-disciplinary team conferences;

(c) Consulting with the participant's personal physician when indicated; and

(d) Managing the delivery of all required medical services to ensure that needed services are provided in a timely manner by the appropriate personnel, consistent with each participant's plan of care.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-705 (2005)

29-705. SOCIAL WORKERS, THERAPISTS, AND OTHER STAFF

705.1 A social worker shall coordinate and provide individual, group, and family counseling.

705.2 In specialized day treatment programs, the social worker shall have had at least one (1) year of experience in working with the speciality services being provided or specialized training.

705.3 The Department of Human Services may waive the experience requirement set forth in § 705.2 for exceptionally qualified individuals for the specialized day care programs.

705.4 The social worker shall also be responsible for the following:

(a) Entering monthly notes in each participant's record;

(b) Supporting participants and their families and informing them of available community services;

(c) Referring participants, as necessary, to agencies providing community services; and

(d) Assisting, as necessary, in the delivery of other required program services, including meeting the psycho-social needs of participants.

705.5 A program aide shall have a minimum of one (1) or more years of experience working with adults or the elderly in a health or social service setting.

705.6 In specialized day treatment programs, the program aide shall have a minimum of one (1) or more years of experience in working with developmentally disabled persons or persons with mental disorders.

29 DCMR chapters 3 and 7

705.7 The Department of Human Services may waive the experience requirements set forth in §§ 705.5 and 705.6 for exceptionally qualified individuals.

705.8 If offered, physical therapy services shall be performed by or under the supervision of a licensed physical therapist.

705.9 Physical therapy services shall be directly related to a physician's written plan of care that specifies the part or parts of the body to be treated, type of modalities or treatments to be rendered, expected results of physical therapy treatment, and the frequency and duration of treatment.

705.10 If offered, occupational therapy services shall be performed by or under the supervision of a licensed occupational therapist.

705.11 Occupational therapy services shall be directly related to a physician's written plan of care that specifies frequency and duration of treatment, and expected results.

705.12 If offered, speech therapy services shall be provided by a qualified speech therapist who is certified by the American Speech and Hearing Association or by an aide under the supervision of a speech therapist certified by that association.

705.13 Speech therapy services shall be directly related to a physician's written plan of care that specifies frequency and duration of treatment and expected results.

705.14 Each therapy consultant shall confer at least one (1) hour per month with program staff members to develop or improve therapeutic programming or to provide group therapy education classes for participants.

705.15 Therapy emphasis shall be placed on those activities that will enhance the habilitative process and supportive services that will assist participants to remain in or move toward a least restrictive environment.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-706 (2005)

29-706. PARTICIPATION REQUIREMENTS

706.1 A day treatment program provider desiring to participate as a service provider in the D.C. Medicaid Program shall be certified by the Department of Human Services as fully in compliance with all of the requirements set forth in this chapter.

706.2 Each program shall be operated Monday through Friday, except holidays, for eight (8) hours each day.

706.3 If a program is located outside the District, and certified for participation in the Medicaid program of the state in which it is located, the Department may accept that state's certification as adequate for the provider's

29 DCMR chapters 3 and 7
participation in the D.C. Medicaid Program.

706.4 An application for certification shall be filed on forms provided by the Department of Human Services.

706.5 The application shall contain, but not be limited to, the following:

(a) Name, address, and telephone number of the program;

(b) Names, addresses, and telephone numbers of the provider(s) of the program. If the provider is a corporation, the application shall include the names and addresses of all persons having a five percent (5%) or more ownership interest; and names, addresses, and telephone numbers of all corporation officers and directors;

(c) Names of the Program Director; and

(d) Name of the staff physician.

706.6 The site of a day treatment program shall conform to all federal and District laws and codes pertaining to health and fire safety, sanitation, and as appropriate, food preparation and service, and § 504 of Title VI of the Civil Rights Act of 1962.

706.7 Program policies and procedures shall be in compliance with Title VI of the Civil Rights Act of 1962 and, as appropriate, federal and District laws and regulations relating to drug procurement and distribution, disposal of medications and controlled substances, and communicable and reportable diseases.

706.8 Day treatment programs may be operated in free standing facilities or in part of existing facilities such as nursing homes, senior centers, hospitals, or churches.

706.9 If a program is operated within an existing facility, there shall be a written agreement allowing the DTP adequate space during its hour of operation. The written agreement shall specify time of use and obligations of each party regarding maintenance of space, use of equipment, security, fiscal and personnel services, and other shared services.

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-707 (2005)

29-707. PHYSICAL PLANT REQUIREMENTS

707.1 The day treatment program site shall offer easy accessibility by the specialized population being served to public transportation, and easy accessibility to emergency vehicles.

707.2 The building that houses the program shall meet the requirements set forth in this section.

707.3 The building shall be of sound construction and shall be maintained in good repair.

707.4 Curb cuts, handrails, steps, and ramps shall be designed or adapted to offer easy accessibility to the building by the population being served.

707.5 Illumination shall be adequate in all areas and commensurate with the type of activity.

707.6 The relevant sections of the American National Standards Institute (ANSI) "Specifications for Making Buildings and Facilities Accessible To, and Usable By, the Physically Handicapped" shall be the specifications for constructing new facilities or renovating old - facilities to accommodate day treatment programs for the elderly or the handicapped.

707.7 Where appropriate to the population served, light switches, control panels, counters, sinks, and door handles shall be within easy reach of a wheelchair-bound person, and door frames shall be wide enough for easy entering of wheelchairs.

707.8 There shall be at least two (2) toilet facilities at each day care site. Where appropriate, one (1) toilet shall be designed or adapted to provide access and maneuverability for handicapped and wheelchair-bound individuals.

707.9 Each day treatment site program shall have a large room where all participants can gather as well as rooms or divided areas for small group activities including a quiet area for rest.

707.10 A room with a bed and with adequate provision for privacy shall be available at each site for medical examination, treatment, illness, individualized programming or instruction, or acting-out behavior.

707.11 Drinking water shall be easily accessible to the participants and provided by either an angle jet drinking fountain with mouth guard or by a running water supply with individual services drinking cups.

707.12 Drinking facilities shall not be located in toilet rooms.

707.13 There shall be at least one (1) telephone in the building that is not a pay station or locked telephone.

707.14 Additional telephones or extensions as may be required to summon help immediately in case of fire or other emergencies.

707.15 The minimum space requirements for the building shall be as follows:

(a) One hundred square feet (100 ft.<2>) for each of the first five (5) persons;

(b) Eighty square feet (80 ft.<2>) for each of the next ten (10) persons;

(c) Sixty square feet (60 ft.<2>) for each of the next ten (10) persons;

(d) One-thousand six hundred square feet (1,600 ft.<2>) for twenty (20) persons; or

(e) Two-thousand square feet (2,000 ft.<2>) for thirty (30) persons.

707.16 Space requirements outlined in § 707.15 do not include office space, bathrooms, storage, examination room, or dining room unless these rooms are also

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used for activities.

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TITLE 29. PUBLIC WELFARE
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CDCR 29-708 (2005)

708-709. RESERVED

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CDCR 29-710 (2005)

29-710. PROGRAM SERVICES

710.1 The services described in this section and § 711 shall be available in all day treatment programs.

710.2 Nursing services shall be provided for the coordination and implementation of the individual care plan. Health counseling and supervision of maintenance therapy are the major responsibilities of nursing services.

710.3 Nutrition services shall be provided in accordance with the provisions of § 711.

710.4 The physician shall supervise the delivery of all required medical services to ensure that needed services are provided by appropriate personnel consistent with each participant's care plan.

710.5 Day treatment programs shall provide individual and group activity programs that offer social, recreational, and educational events designed to improve each participant's self-awareness and level of functioning. The interest and therapeutic needs of each individual participant shall be considered in the development of activity programs.

710.6 Day treatment programs, under the overall supervision of the registered nurse, shall provide personal care services as necessary, and shall offer training and assistance in the activities of daily living, including accident prevention and use of special aides.

710.7 A social worker or other appropriate staff member shall provide individual and group counseling services to participants and their families.

Counselors shall offer assistance with personal resources, family and adjustment problems.

710.8 If specialized counseling is not available at the time of need in the day treatment program center, the participant or the participant's family shall be referred to appropriate community resources.

710.9 Each program shall have an emergency plan that includes written agreements regarding emergency room care, assurance of transportation to a facility providing emergency care, and a written procedure covering immediate care of patient, persons to be notified, and reports to be prepared.

710.10 At least one (1) staff member trained in first aid shall be on duty at all times. At minimum, first aid supplies recommended by the Red Cross in Standard First Aid and Personal Safety shall be readily available.

710.11 A day treatment program serving the mentally retarded or persons with mental disorders shall also provide restorative, habilitation, or maintenance therapy services.

710.12 The provider shall establish and implement an outreach plan designed to reach the appropriate client population and to inform the community at large of the program's services.

710.13 The community outreach plan shall include the following:

- (a) A program brochure;
- (b) Letters to physicians, health facilities, senior centers, and social service agencies informing them of the services provided by the program;
- (c) Meetings with community service agencies and community leaders to develop referral mechanisms;
- (d) Notices posted in community facilities; and
- (e) Open houses held for the general public and community groups.

710.14 At a minimum, the provider shall consult with the following, as appropriate:

- (a) The Long-Term Care Administration, Department of Human Services;
- (b) Mental health agencies and clinics; and
- (c) Agencies and facilities for the developmentally disabled.

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29-711. NUTRITION SERVICES

711.1 Nutrition services shall be provided in accordance with this section.

711.2 A hot meal or snacks, or both, shall be prepared under the direction of a dietitian and shall be provided in accordance with the schedule below, to every participant each day he or she attends the day treatment program.

711.3 The hot meal shall be equivalent to at least one-fourth (1/4) of the recommended daily dietary allowance established by the Food and Nutrition Board of the National Research Council.

711.4 The provider shall furnish special diets, if required by the participant, and prescribed by his or her physician.

711.5 Program staff members, under the supervision of a dietitian or a registered nurse, shall provide nutrition counseling and consumer shopping advice to participants and, if necessary, to his or her family or guardian.

711.6 The following schedule shall be used for determining the number of meals and snacks to be provided:

HOURS AT DAY CARE CENTER	MINIMUM MEALS AND SNACKS	PROPORTION OF RECOMMENDED DAILY ALLOWANCE
Less than 3 hours	1 meal or 1 snack	1/4
3 to 4 hours	1 meal and 1 snack	1/3 plus
5 to 8 hours	2 meals and 2 snacks	1/2
More than 8 hours	1 meal and 2 snacks 2 meals and 2 snacks	2/3

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CDCR 29-712 (2005)

29-712. ADMISSION PROCEDURES

712.1 Prior to an individual's first day in a day treatment facility, the provider shall obtain the following information in a written statement from a physician:

(a) The individual's medical history, which shall indicate a physical examination has taken place within the past three (3) months; and

(b) Assessment of the general medical condition, restrictions on activity, diet modifications, any instructions relative to health care, absence of infectious diseases, a list of current medications and treatment, and any specific instructions for participants who will be enrolled in the specialized day treatment programs.

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712.2 A pre-admission interview shall be conducted with the individual and his or her family, if applicable, by a professional member or members of the day treatment program staff to provide information on health characteristics, psycho-social condition, nutritional habits of the individual, and other relevant data pertaining to the home or community support system.

712.3 The pre-admission interview shall acquaint the individual and his or her family with the services, activities, and requirements of the day treatment program.

712.4 Upon admission of an individual into the day treatment program, the provider shall conclude a written agreement with the individual or, if appropriate, with the individual's legal guardian.

712.5 The agreement required by § 712.4 shall specify the basic services offered to the individual by the provider, any financial obligations of the individual by the provider, any financial obligations of the individual and his or her family to the program, and any special arrangements, such as participation in the program other than full-time.

712.6 The provider shall also specify the following in the pre-admission agreement:

- (a) The days and hours during which the program operates;
- (b) A schedule of holidays when the program is closed; and
- (c) The announcement procedures for unexpected closing of the program due to disaster or inclement weather.

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CDCR 29-713 (2005)

29-713. DISCHARGE AND REFERRAL

713.1 A participant shall be discharged from the day treatment program under one (1) of the following conditions:

- (a) If the participant demonstrates improvement sufficient to enable him or her to live more independently;
- (b) If the participant requires institutional care due to illness;
- (c) If the participant develops extreme behavior problems that require referral to a more appropriate environment for assistance before returning to the program;
- (d) If the participant wishes to discontinue participation in the program; or
- (e) If the participant's needs can be better met in another type of

program.

713.2 The provider shall establish, in writing, the following procedures for discharge and referral:

(a) A discharge or referral summary;

(b) Post discharge or referral goals;

(c) Recommendations for sources of continuing care; and

(d) Referral to community service agencies, if indicated, if the participant is returning to a more independent living situation.

713.3 The day treatment program staff shall discuss the discharge plan with the participant and his or her family or guardian as far in advance of discharge as possible.

713.4 The day treatment program provider shall submit to the D.C. Office of Health Care Financing (OHCF) a form that indicates the discharge plan within one (1) week after discharge.

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CDCR 29-714 (2005)

29-714. SPECIAL ADMISSION REQUIREMENTS FOR MENTALLY RETARDED PERSONS

714.1 Prior to the admission of a person who is at least moderately retarded to any day treatment program, the interdisciplinary team for the program shall review the individual's IHP to determine if the program can provide the services required.

714.2 If a current IHP is not available for review, the program shall refer the individual to an outside vendor for development of an IHP and may accept the individual into the day program for a period of time not to exceed sixty (60) days without a current IHP.

714.3 For persons not at least moderately mentally retarded, an interdisciplinary team shall carefully assess the physician's documentation and information obtained from other sources including the individual and the individual's family to determine if the individual can benefit from the day treatment program.

714.4 A pre-admission interview shall be held with the individual, his or her family, and members of the program staff's interdisciplinary team to review either the client's IHP or other information regarding the client's needs, and to discuss services available to meet those needs.

714.5 If the individual is being scheduled for development of an IHP, the placement in the day program shall again be reviewed at the IHP meeting.

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714.6 Upon determination that the day program can meet the client's needs, the individual shall be admitted to the program for an eight (8) week trial period.

714.7 Placement shall again be reviewed with the participant, family, and other appropriate individuals and members of an interdisciplinary team six (6) weeks after the client begins the program.

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CDCR 29-715 (2005)

29-715. PARTICIPANT CARE PLAN

715.1 There shall be a written individual plan of care for each participant designed to maintain the participant at, or to restore him or her to, optimal capability for self-care in a less restrictive environment. The plan shall be based on order of the participant's physician and the assessed total needs of the participant.

715.2 The plan shall address all program activities, treatments, and therapies. It shall list what is needed, how it will be provided, by whom, and during what time frame.

715.3 All services shall be provided in accordance with what is specified in the plan. The plan shall be developed with an interdisciplinary approach.

715.4 The day treatment program staff shall review the plan monthly (or more frequently if necessary) and shall record any changes in the participant's treatment or condition.

715.5 The plan shall indicate, in writing, any other supportive services that the participant is receiving away from the day treatment program such as homemaker services, other therapies, and other services.

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CDCR 29-716 (2005)

29-716. DRUG ADMINISTRATION AND RECORDING

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716.1 The day treatment program shall have appropriate written and dated procedures for storing, dispensing, and administering drugs and biologicals.

716.2 Medications shall not be administered without a written order signed by a physician.

716.3 Injectable medications shall be given by a registered nurse, physician, or licensed practical nurse.

716.4 The individual responsible for medicating participants who are not capable of self-medicating shall personally prepare the dosage, observe the act of swallowing oral medicines, and record the dosage given.

716.5 The day treatment program provider shall be responsible for providing a safe, secure, locked place for drugs and make them available to the participant in accordance with the written instructions of his or her personal physician.

716.6 Records shall be kept of all (U.S. Food and Drug Administration) Schedule II drugs.

716.7 Schedule II drugs shall be kept in a locked box within the medicine cabinet. Inspections of drug storage conditions shall be made by the registered nurse once a month.

716.8 Medications requiring refrigeration shall be kept in a separate locked refrigerator or in a locked box in the refrigerator at or near the office of the Program Director.

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CDCR 29-717 (2005)

29-717. RECORD KEEPING AND REPORTING

717.1 Patient/client records shall contain the following identifying information:

(a) Name, address, telephone number, sex, age, and ethnic background;

(b) The name and telephone number of the person to be notified in case of emergency;

(c) Next of kin;

(d) Travel directions between home and facility, when indicated; and

(e) Identifying numbers related to health care benefits;

717.2 Patient/client records shall contain functional assessments, including an original and revised version indicating the participant's progress.

717.3 Patient/client records shall contain an assessment of the participant's home environment.

717.4 Patient/client records shall include the individual plan of care for each participant, which shall include the following:

(a) The physician's report, including medical (or psychiatric, when indicated) status evaluation and subsequent pertinent additional information;

(b) Medications prescribed and any drug reactions; and

(c) Types of services participant is receiving, how often, who is providing them, and physician's approval, signature, and date.

717.5 All records shall be maintained so that they are accessible only to the Director, staff, and to the funding and monitoring agencies.

717.6 The program staff shall not discuss or reveal the contents of any client's record without the client's written permission.

717.7 Individual personnel records shall be maintained on all program staff and consultants.

717.8 Individual personnel records shall include the following:

(a) Name, address, telephone number, age, and sex;

(b) Educational background;

(c) Employment history and notes on references;

(d) Evaluation of performance and attendance;

(e) Certification that the staff member is free of tuberculosis in a communicable stage;

(f) The names and means of contacting persons to be notified in case of emergency; and

(g) Copies of formalized agreements with consultants identifying services to be provided.

717.9 Program administrative and fiscal records shall include at least the following:

(a) Expenditures with supporting documentation;

(b) The fee schedule and fee charges;

(c) Current and projected budgets, including specific cost allocations;

(d) The annual program evaluation report with supporting statistics;

(e) In-service programs offered;

(f) Current health and fire safety inspection reports;

(g) The daily menus of meals for a thirty (30) day period;

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- (h) The daily schedule of activities;
 - (i) Attendance reports;
 - (j) Audit reports;
 - (k) The number of individuals waiting for admission to the program;
and
 - (l) The source of gross monthly program income.

717.10 The Program Director shall notify the Office of Health Care Financing immediately, in writing, in the following situations:

- (a) Fire, accident, injury, or evidence of serious communicable disease contracted by staff or participants;
- (b) Changes in professional staff;
- (c) The intention to relocate the program site before relocation takes place;
- (d) The death of a participant at, en route to, or en route from the program site; or
- (e) At least sixty (60) days in advance of planned action, notice of the provider's intention to withdraw from the Medicaid Program.

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CDCR 29-718 (2005)

29-718. REIMBURSEMENT POLICY

718.1 A participating DTP shall have an established fee schedule covering each of the services it provides for which a charge is made.

718.2 Medicaid shall not reimburse providers for services given without charge.

718.3 A participating DTP shall agree to accept as payment, in full, the amount determined by the Department of Human Services as the fee for the authorized services provided to Medicaid patients.

718.4 No additional charge shall be made to the Medicaid patient, any member of the family, or to any other source.

718.5 A participating DTP shall agree to bill any and all other known third party payors prior to billing Medicaid.

718.6 A participating DTP shall not file any false claims, statements, documents, or conceal any factual material. Violations of the provisions of this

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subsection may be prosecuted under applicable federal and District laws.

718.7 Reimbursement shall be at a negotiated rate and shall not exceed the maximum allowable per diem rate established by the D.C. OHFC for all programs.

718.8 The following day treatment programs shall have the rates listed for services rendered on or after the effective date of these rules:

Provider Name	Rate
Whitman Walker	\$ 158.82
NCC Infant Day Treatment	\$ 125.92
St. John's Day Treatment	\$ 122.00
Art and Drama Therapy Institute-S	
S Street Location	\$ 114.09
Brookland	\$ 108.28
PSI- M Street Location	\$ 105.00
Psychiatric Center Chartered-Bladensburg	
Road Location	\$ 81.00
United Cerebral Palsy	\$ 85.84

History of Regulations since Last Compilation (May 1987)
August 15, 2003 29 DCMR 718.8 amended at 50 DCR 6702 by the Department of Health; statutory authority D.C. Code § 1-307.02, Mayor's Order 97-42
June 20, 2003 29 DCMR 718.8 emergency at 50 DCR 4990 by the Department of Health; statutory authority D.C. Official Code § 1-307.02, Mayor's Order 97-42
[EXPIRED]
September 26, 1997 29 DCMR 718.8 amended at 44 DCR 5490 by the Department of Health
June 27, 1997 29 DCMR 718.8 emergency at 44 DCR 3681 by the Department of Health
[EXPIRED]

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TITLE 29. PUBLIC WELFARE
CHAPTER 7. MEDICAID DAY TREATMENT PROGRAMS

CDCR 29-799 (2005)

29-799. DEFINITIONS

799.1 When used in this chapter, the following terms and phrases shall have the meanings ascribed:

Day treatment program (DTP) - a nonresidential program operated for the purpose of providing medically supervised day treatment services for elderly persons, children from birth through age three (3), or adults with a developmental disability, and adults with mental disorders.

Developmental disability - a severe, chronic disability of a person that is attributable to a mental or physical impairment, or both, that is manifested before the person attains the age of twenty-two (22) years and is likely to continue indefinitely. The disability causes substantial functional limitations in three (3) or more of the following areas of major life activity:

(a) Self-care;

- (b) Receptive and expressive language;
- (c) Learning;
- (d) Mobility;
- (e) Self-direction;
- (f) Capacity for independent living; or
- (g) Economic sufficiency;

A developmental disability reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, or other service which are life-long or of extended duration, and are individually planned and coordinated.

Elderly - a Title XIX (Medicaid) eligible individual, age sixty-five (65) or over, who requires health care supervision for a part of his or her day if he or she is to remain in the community, or if he or she is to move from twenty-four (24) hour institutional care to the community.

Habilitation services - a variety of services designed to maximize the functioning of mentally retarded persons or persons with related conditions. Services provided may include monitoring of health care needs, behavior management, money management, social skills, personal care skills, and practical living skills.

Least restrictive environment - that living or habilitation arrangement which least inhibits an individual's independence and right to liberty that can be effective in meeting the individual's needs.

Maintenance therapy services - supplemental or follow-up therapies performed by day treatment program staff members under the direction of occupational, physical, or speech therapist, the program's registered nurse, or both.

Maladaptive behavior - a condition in which a person manifests socially unacceptable modes of expressions, and which requires the person to receive domiciliary or institutional care, but which is stable enough to allow him or her to participate in a DTP.

Medically supervised - the supervision, by a licensed physician, of treatment services for all program participants.

Mental disorder - an abnormal mental condition in an individual, who requires the comprehensive and relatively intensive full range of mental health services in a therapeutic and structured environment if he or she is to remain in the community or if he or she is to move from twenty-four (24) hour institutional care to the community.

Mental health professional - any of the following:

(a) **Psychiatric nurse** - a registered nurse who holds a Master's Degree from a school of nursing of recognized standing, and is eligible for certification as a Psychiatric Mental Health Nursing Specialist by the American Nurses Association;

(b) **Psychiatrist** - a physician who has completed a residency in psychiatry approved by the American Board of Psychiatry and Neurology and who is licensed to practice medicine in the jurisdiction in which the program operates;

(c) **Psychologist** - the holder of a Doctoral Degree in Psychology

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conferred by a graduate school of recognized standing, who is licensed
in the jurisdiction in which the program operates;

(d) Social worker - the holder of a Master's Degree in Social Work from an accredited university and social work program accredited by the council on Social Work Education, and who meets the qualifications set by the Clinical Registers of the National Association of Social Workers and the Federation of Clinical Social Workers; or

(e) Other mental health professionals - persons in this category are not considered automatically qualified to perform services reimbursable under Title XIX, nor considered eligible to serve as Program Directors, until and unless prior approval is granted in writing by the Administrator, Mental Health Services Administration, Department of Human Services. These persons are those having equivalent professional education, training, and experience in mental health disciplines or behavioral sciences.

Mental retardation - a significant sub-average general intellectual level determined in accordance with standard measurements, existing concurrently with impairment in adaptive behavior, which originates during the developmental period.

Personal care services - assistance in performing the activities of daily living including toileting, dressing, and assistance with eating.

Program day - any day during which the day treatment program is in operation

Provider - the individual, organization, or corporation, public or private, that provides day treatment program services and seeks reimbursement for providing those services under the Medicaid program.

Provider agreement - the agreement between the Department of Human Services and the provider of day treatment program services, specifying the services to be provided, methods of operation, a program statement, financial and legal requirements which must be met, and identification of the population to be served.

Qualified mental retardation professional - any of the following:

(a) A psychologist with at least a Master's Degree from an accredited program and with specialized training or a minimum of one (1) year of experience in a mental retardation program;

(b) A physician with specialized training in mental retardation or with a minimum of one (1) year of experience in treating the mentally retarded;

(c) An educator with a degree in education from an accredited program and with specialized training or a minimum of one (1) year of experience in working with mentally retarded persons;

(d) A social worker with a Master's Degree from a school of social work accredited by the Council on Social Work Education (New York, New York), and with specialized training in mental retardation or with a minimum of one (1) year of experience in working with mentally retarded persons;

(e) A social worker with a Bachelor's Degree from an undergraduate social work program accredited by the Council on Social Work Education who is currently working and continues to work under the supervision of a social worker as defined in paragraph (d), and who has specialized training in mental retardation or a minimum of one (1)

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year of experience in working with mentally retarded persons;

(f) A rehabilitation counselor who is certified by the Commission on Rehabilitation Counselor Certification (Chicago, Illinois) and who has specialized training in mental retardation or a minimum of one (1) year of experience in working with mentally retarded persons;

(g) A physical therapist or occupational therapist with a Bachelor's Degree from an accredited program in physical or occupational therapy and who has specialized training or a minimum of one (1) year of experience in working with mentally retarded persons;

(h) A therapeutic recreation therapist who is a graduate of an accredited program and who has specialized training or a minimum of one (1) year of experience working with mentally retarded persons; and

(i) A registered professional nurse with a Master's Degree from an accredited school of nursing and with specialized training or a minimum of one (1) year of experience in working with mentally retarded persons.

Restorative services - physical, occupational, or speech therapies directly performed by a physical therapist, occupational therapist, or speech pathologist.

Site - The location of the day treatment program. If a day treatment provider operates a program in two (2) or more separate locations, each location is considered to be a separate site.

History of Rules since Last Compilation by Agency (May 1987)