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WELFARE AND INSTITUTIONS CODE - WIC

DIVISION 9. PUBLIC SOCIAL SERVICES [10000 - 18999.98] (*Division 9 added by Stats. 1965, Ch. 1784.*)

PART 3. AID AND MEDICAL ASSISTANCE [11000 - 15771] (*Part 3 added by Stats. 1965, Ch. 1784.*)

CHAPTER 8.7. Adult Day Health Care Programs [14520 - 14590] (*Heading of Chapter 8.7 renumbered from Chapter 8.5 (as added by Stats. 1977, Ch. 1066) by Stats. 1978, Ch. 429.*)

ARTICLE 2. Eligibility, Participation, and Discharge [14525 - 14530] (*Article 2 added by Stats. 1977, Ch. 1066.*)

14525. Any adult eligible for benefits under Chapter 7 (commencing with Section 14000) shall be eligible for adult day health care services if that person meets all of the following criteria:

- (a) The person is 18 years of age or older and has one or more chronic or postacute medical, cognitive, or mental health conditions, and a physician, nurse practitioner, or other health care provider has, within his or her scope of practice, requested adult day health care services for the person.
- (b) The person has functional impairments in two or more activities of daily living, instrumental activities of daily living, or one or more of each, and requires assistance or supervision in performing these activities.
- (c) The person requires ongoing or intermittent protective supervision, skilled observation, assessment, or intervention by a skilled health or mental health professional to improve, stabilize, maintain, or minimize deterioration of the medical, cognitive, or mental health condition.
- (d) The person requires adult day health care services, as defined in Section 14550, that are individualized and planned, including, when necessary, the coordination of formal and informal services outside of the adult day health care program to support the individual and his or her family or caregiver in the living arrangement of his or her choice and to avoid or delay the use of institutional services, including, but not limited to, hospital emergency department services, inpatient acute care hospital services, inpatient mental health services, or placement in a nursing facility or a nursing or intermediate care facility for the developmentally disabled providing continuous nursing care.
- (e) Notwithstanding the criteria established in subdivisions (a) to (d), inclusive, of this section, any person who is a resident of an intermediate care facility for the developmentally disabled-habilitative shall be eligible for adult day health care services if that resident has disabilities and a level of functioning that are of such a nature that, without supplemental intervention through adult day health care, placement to a more costly institutional level of care would be likely to occur.

(Repealed and added by Stats. 2006, Ch. 691, Sec. 4. Effective January 1, 2007. Note: Section 14525.1, in subd. (g), prescribes conditions for possible inoperation of this section.)

14525.1. (a) Except as provided in subdivisions (b) and (c), any adult eligible for benefits under Chapter 7 (commencing with Section 14000) shall be eligible for adult day health care services if that person meets all of the following criteria:

- (1) The person is 18 years of age or older and has one or more chronic or postacute medical, cognitive, or mental health conditions, and a physician, nurse practitioner, or other health care provider has, within his or her scope of practice, requested adult day health care services for the person.
- (2) The person has two or more functional impairments involving ambulation, bathing, dressing, self-feeding, toileting, transferring, medication management, and hygiene.
- (3) (A) Except as provided under subparagraph (B), the person requires substantial human assistance in performing these activities.

(B) The persons described in subdivisions (b) and (c) shall only require assistance in performing these activities.

(4) The person requires ongoing or intermittent protective supervision, assessment, or intervention by a skilled health or mental health professional to improve, stabilize, maintain, or minimize deterioration of the medical, cognitive, or mental health condition.

(5) The person requires adult day health care services, as defined in Section 14550, that are individualized and planned, including, when necessary, the coordination of formal and informal services outside of the adult day health care program to support the individual and his or her family or caregiver in the living arrangement of his or her choice and to avoid or delay the use of institutional services, including, but not limited to, hospital emergency department services, inpatient acute care hospital services, inpatient mental health services, or placement in a nursing facility or a nursing or intermediate care facility for the developmentally disabled providing continuous nursing care.

(6) The person meets the level of care set forth in Section 51120 of Title 22 of the California Code of Regulations.

(b) A resident of an intermediate care facility for the developmentally disabled-habilitative shall be eligible for adult day health care services if that resident meets the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (a) and has disabilities and a level of functioning that are of such a nature that, without supplemental intervention through adult day health care, placement to a more costly institutional level of care would be likely to occur.

(c) Persons having chronic mental illness or moderate to severe Alzheimer's disease or other cognitive impairments shall be eligible for adult day health care services if they meet the criteria established in paragraphs (1) to (5), inclusive, of subdivision (a).

(d) This section shall only be implemented to the extent permitted by federal law.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of all-county letters, provider bulletins, or similar instructions without taking further regulatory action.

(f) Prior to implementing this section, the department shall meet and confer with provider representatives, including, but not limited to, adult day health care, home- and community-based services, and nursing facilities for the purpose of presenting and discussing information and evidence to assist the department as it determines the methods and procedures necessary to implement this section.

(g) Upon the determination of the director that all necessary methods and procedures described in subdivision (f) have been ascertained and are sufficient to implement the purposes of this section, the director shall execute and retain a declaration indicating that this determination has been made. Subdivisions (a) to (e), inclusive, shall be inoperative, until the date of execution of the declaration. Upon the date of execution of such a declaration, subdivisions (a) to (e), inclusive of this section shall become operative and Section 14525 shall become inoperative.

(Amended by Stats. 2009, Ch. 165, Sec. 1. (SB 117) Effective January 1, 2010. Subds. (a) to (e) are nonoperative as provided in subd. (g).)

14526. Participation in an adult day health care program shall require prior authorization by the department. The authorization request shall be initiated by the provider and shall include the results of the assessment screening conducted by the provider's multidisciplinary team and the resulting individualized plan of care. Participation shall begin upon application by the prospective participant or upon referral from community or health agencies, or the physician, hospital, family, or friends of a potential participant.

(Amended by Stats. 2004, Ch. 797, Sec. 1. Effective January 1, 2005.)

14526.1. (a) Initial and subsequent treatment authorization requests may be granted for up to six calendar months.

(b) Treatment authorization requests shall be initiated by the adult day health care center, and shall include all of the following:

(1) The signature page of the history and physical form that shall serve to document the request for adult day health care services. A complete history and physical form, including a request for adult day health care services signed by the participant's personal health care provider, shall be maintained in the participant's health record. This history and physical form shall be developed by the department and published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(2) The participant's individual plan of care, pursuant to Section 54211 of Title 22 of the California Code of Regulations.

(c) Every six months, the adult day health care center shall initiate a request for an updated history and physical form from the participant's personal health care provider using a standard update form that shall be maintained in the participant's health record. This update form shall be developed by the department for that use and shall be published in the inpatient/outpatient provider manual. The department shall develop this form jointly with the statewide association representing adult day health care providers.

(d) Except for participants residing in an intermediate care facility/developmentally disabled-habilitative, authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the participant meets all of the following medical necessity criteria:

(1) The participant has one or more chronic or post acute medical, cognitive, or mental health conditions that are identified by the participant's personal health care provider as requiring one or more of the following, without which the participant's condition will likely deteriorate and require emergency department visits, hospitalization, or other institutionalization:

(A) Monitoring.

(B) Treatment.

(C) Intervention.

(2) The participant has a condition or conditions resulting in both of the following:

(A) Limitations in the performance of two or more activities of daily living or instrumental activities of daily living, as those terms are defined in Section 14522.3, or one or more from each category.

(B) A need for assistance or supervision in performing the activities identified in subparagraph (A) as related to the condition or conditions specified in paragraph (1) of subdivision (d). That assistance or supervision shall be in addition to any other nonadult day health care support the participant is currently receiving in his or her place of residence.

(3) The participant's network of non-adult day health care center supports is insufficient to maintain the individual in the community, demonstrated by at least one of the following:

(A) The participant lives alone and has no family or caregivers available to provide sufficient and necessary care or supervision.

(B) The participant resides with one or more related or unrelated individuals, but they are unwilling or unable to provide sufficient and necessary care or supervision to the participant.

(C) The participant has family or caregivers available, but those individuals require respite in order to continue providing sufficient and necessary care or supervision to the participant.

(4) A high potential exists for the deterioration of the participant's medical, cognitive, or mental health condition or conditions in a manner likely to result in emergency department visits, hospitalization, or other institutionalization if adult day health care services are not provided.

(5) The participant's condition or conditions require adult day health care services specified in subdivisions (a) to (d), inclusive, of Section 14550.5, on each day of attendance, that are individualized and designed to maintain the ability of the participant to remain in the community and avoid emergency department visits, hospitalizations, or other institutionalization.

(e) When determining whether a provider has demonstrated that a participant meets the medical necessity criteria, the department may enter an adult day health care center and review participants' medical records and observe participants receiving care identified in the individual plan of care in addition to reviewing the information provided on or with the TAR.

(f) Reauthorization of an adult day health care treatment authorization request shall be granted when the criteria specified in subdivision (d) or (g), as appropriate, have been met and the participant's condition would likely deteriorate if the adult day health care services were denied.

(g) For individuals residing in an intermediate care facility/developmentally disabled-habilitative, authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the resident has disabilities and a level of functioning that are of such a nature that, without supplemental intervention through adult day health care, placement to a more costly institutional level of care would be likely to occur.

(h) Subdivision (e) shall become operative commencing on the first day of the month following 30 days after the effective date of the act adding this subdivision.

(Amended by Stats. 2009, Ch. 165, Sec. 2. (SB 117) Effective January 1, 2010. Repealed on date prescribed in Section 14526.2. After repeal, see related provisions in Section 14526.2.)

14526.2. (a) Initial and subsequent treatment authorization requests may be granted for up to six calendar months, initial and subsequent treatment authorization requests may, at the discretion of the department, be granted for up to 12 calendar months.

(b) Treatment authorization requests shall be initiated by the adult day health care center, and shall include all of the following:

(1) A complete history and physical form, including a request for adult day health care services signed by the participant's personal health care provider shall be obtained annually. A copy of the history and physical form shall be submitted with an initial treatment authorization request and maintained in the participant's health record. This history and physical form shall be developed by the department and published in the inpatient/outpatient provider manual.

(2) The participant's individual plan of care, pursuant to Section 54211 of Title 22 of the California Code of Regulations.

(c) Whenever a subsequent treatment authorization request is submitted, the adult day health care center shall obtain and submit an updated history and physical form from the participant's personal health care provider using a standard update form that shall be maintained in the participant's health record. This update form shall be developed by the department for that use and shall be published in the inpatient/outpatient provider manual.

(d) Authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the participant meets all of the following medical necessity criteria:

(1) The participant has one or more chronic or post acute medical, cognitive, or mental health conditions that are identified by the participant's personal health care provider as requiring one or more of the following, without which the participant's condition will likely deteriorate and require emergency department visits, hospitalization, or other institutionalization:

(A) Assessment and monitoring.

(B) Treatment.

(C) Intervention.

(2) The participant has a condition or conditions resulting in both of the following:

(A) Two or more functional impairments involving ambulation, bathing, dressing, self-feeding, toileting, transferring, medication management, and hygiene.

(B) As set forth in subparagraph (A) and (B) of paragraph (3) of subdivision (a) of Section 14525.1, the need for assistance or substantial human assistance in performing the activities identified in subparagraph (A) as related to the condition or conditions specified in paragraph (1). That assistance or substantial human assistance shall be in addition to any other nonadult day health care support the participant is currently receiving in his or her place of residence.

(3) Except for participants residing in an intermediate care facility/developmentally disabled-habilitative, the participant's network of nonadult day health care center supports is insufficient to maintain the individual in the community, demonstrated by at least one of the following:

(A) The participant lives alone and has no family or caregivers available to provide sufficient and necessary care or supervision.

(B) The participant resides with one or more related or unrelated individuals, but they are unwilling or unable to provide sufficient and necessary care or supervision to the participant.

(4) A high potential exists for the deterioration of the participant's medical, cognitive, or mental health condition or conditions in a manner likely to result in emergency department visits, hospitalization, or other institutionalization if adult day health care services are not provided.

(5) The participant's condition or conditions require adult day health care services specified in subdivisions (a) to (d), inclusive, of Section 14550.6, on each day of attendance, that are individualized and designed to maintain the ability of the participant to remain in the community and avoid emergency department visits, hospitalizations, or other institutionalization.

(e) When determining whether a provider has demonstrated that a participant meets the medical necessity criteria, the department may enter an adult day health care center and review participants' medical records and observe participants receiving care identified in the individual plan of care in addition to reviewing the information provided on or with the TAR.

(f) Reauthorization of an adult day health care treatment authorization request shall be granted when the criteria specified in subdivision (d) or (g), as appropriate, have been met and the participant's condition would likely deteriorate if the adult day health care services were denied.

(g) For individuals residing in an intermediate care facility/developmentally disabled-habilitative, authorization or reauthorization of an adult day health care treatment authorization request shall be granted only if the resident has disabilities and a level of functioning that are of such a nature that, without supplemental intervention through adult day health care, placement to a more costly institutional level of care would be likely to occur.

(h) This section shall only be implemented to the extent permitted by federal law.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement the provisions of this section by means of all-county letters, provider bulletins, or similar instructions without taking further regulatory action.

(j) Upon the date of execution of the declaration described under subdivision (g) of Section 14525.1, this section shall become operative and Section 14526.1 shall become inoperative and on that date is repealed.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 5, Sec. 55. Effective July 28, 2009. Section conditionally operative on date prescribed in subd. (j). After repeal, see related provisions in Section 14526.2.)

14527. Participation in an adult day health care program shall be voluntary. The participant may end the participation at any time. However, an adult day health center shall not otherwise terminate the provision of adult day health services to any participant unless approved by the state department.

No provider may employ, or contract for, persons specifically for the sole purpose of solicitation of eligible participants. A provider shall not use false advertising or false statements to induce participants. No solicitation of participants shall include the granting or offering of any monetary or other valuable consideration for participation.

All informational material for potential participants prepared by the provider shall have the prior approval of the department.

(Added by Stats. 1977, Ch. 1066.)

14528. Before acceptance into the program, all adult day health providers shall conduct a multidisciplinary assessment directed towards ascertaining the individual's pathological diagnosis, physical disability, functional ability, psychological status, and social and physical environment.

(Added by Stats. 1977, Ch. 1066.)

14528.1. (a) The personal health care provider, as defined in Section 14552.3, shall have and retain responsibility for the participant's medical care.

(b) If the participant does not have a personal health care provider during the initial assessment process to determine eligibility for adult day health care, the adult day health care center staff physician may conduct the initial history and physical for the participant.

(c) The adult day health care center shall make all reasonable efforts to assist the participant in establishing a relationship with a personal health care provider.

(d) If the adult day health care center is unable to locate a personal health care provider for the participant, or if the participant refuses to establish a relationship with a personal health care provider, the adult day health care center shall do both of the following:

(1) Document the lack of personal health care provider relationship in the participant's health record.

(2) Continue to document all efforts taken to assist the participant in establishing a relationship with a personal health care provider.

(e) (1) A personal physician for one or more of an adult day health care center's enrolled participants may serve as the adult day health care staff physician.

(2) When a personal physician serves as the staff physician, the physician shall have a personal care services arrangement with the adult day health care center that meets the criteria set forth in Section 1395nn(e)(3)(A) of Title 42 of the United States Code.

(3) A personal care physician, an adult day health care staff physician, or an immediate family member of the personal care physician or adult day health care staff physician, shall comply with ownership interest restrictions as provided under Section 654.2 of the Business and Professions Code.

(Amended by Stats. 2008, Ch. 648, Sec. 9. Effective January 1, 2009.)

14529. (a) The multidisciplinary health team conducting an assessment shall consist of at least the individual's personal physician or a staff physician, or both, a registered nurse, and a social worker.

(b) For the initial assessment, the multidisciplinary health team shall also include a physical therapist and an occupational therapist. In addition, when the need is identified by a physician or nurse, qualified consultants with skills in recreational therapy, speech language pathology, or dietary assessment shall serve as team members.

(c) The multidisciplinary team described in subdivision (b) shall conduct an initial assessment. At the time of reassessment, if an individual plan of care has been developed by the physical therapist or the occupational therapist, they shall reassess the participant to determine any ongoing or different needs for physical therapy or occupational therapy services. If it is determined that no further physical therapy or occupational therapy is needed, the physical therapist and the occupational therapist shall not be required to sign the treatment plan. For further reassessments, the nurse or physician shall determine if the physical therapist or occupational therapist is needed.

(d) The assessment team shall:

(1) Determine the medical, psychosocial, and functional status of each participant.

(2) Develop an individualized plan of care, including goals, objectives, and services designed to meet the needs of the person, which shall be signed by each member of the multidisciplinary team, except that the signature of only one physician member of the team shall be required.

(3) At least biannually reassess the participant's individualized plan care and make any necessary adjustments to the plan.

(4) If the initial assessment or any subsequent reassessment shows that restorative therapy is needed, acute rehabilitative treatment shall be provided by the appropriate licensed or certified personnel.

(5) If the initial assessment or any subsequent reassessment shows that restorative therapy is not needed, the multidisciplinary team shall determine whether the participant requires maintenance program services and if the team finds that the participant requires these services, the multidisciplinary team shall develop an individual maintenance program as part of the plan of care.

(Amended by Stats. 1991, Ch. 985, Sec. 5.)

14530. (a) Individual plans of care shall be submitted to the department. Services for each participant shall be provided as specified in the individual plan of care approved pursuant to Section 14526.

(b) Individual monthly service reports shall be submitted to the department.

(c) Each provider shall supply a written statement to the participant explaining what services will be provided and specifying the scheduled days of attendance. This statement, which shall be known as the participation agreement, shall be signed by the participant and a provider representative and retained in the participant's file.

(Amended by Stats. 2001, Ch. 681, Sec. 14. Effective January 1, 2002.)