

Testimony on Adult Day Settings

Juliet Marsala, Deputy Secretary

Office of Long-Term Living

House Aging & Older Adult Services Committee Informational Hearing

March 18, 2024



pennsylvania
DEPARTMENT OF HUMAN SERVICES

Good morning, Chairwoman Kim and Chairman Mentzer, committee members, and staff. I am Juliet Marsala and I serve as the Deputy Secretary for the Office of Long-Term Living (OLTL) in the Department of Human Services (Department or DHS). I would like to thank you for the opportunity to testify today regarding long-term care settings, specifically Adult Day settings and how the Department considers this setting integral to the long-term care continuum.

Pennsylvania's long-term care system is a life-sustaining resource for older adults and adults with disabilities who require daily care and support, and Adult Day settings are an important option for addressing the needs of this population. The Department offers Adult Daily Living services as one of the available service options under OLTL's Community HealthChoices (CHC) and the Omnibus Budget Reconciliation Act (OBRA) waiver programs.

Adult Daily Living services afford older adults and individuals with physical disabilities the opportunity to socialize and engage in planned activities in a group setting, while still receiving needed health services. The availability of Adult Daily Living services also offers family caregivers respite from caregiving duties while knowing that their loved one is in a safe, integrated space.

Adult Daily Living Services under the Department's OLTL Waiver Programs

Adult Daily Living services are designed to assist participants in meeting, at a minimum, personal care, social, nutritional, and therapeutic needs. Adult Daily Living services are viewed as an important service option for older adults and individuals with physical disabilities to enable them to integrate more fully into the community while ensuring their health, welfare, and safety. Participants served through OLTL waivers routinely learn about Adult Daily Living services during Person Centered Service Planning meetings with their service coordinator and choose

whether this service would meet their needs as part of the assessment and person-centered service planning process.

Adult Daily Living services may be provided by Adult Day Centers meeting licensing requirements under the Department's regulations at 55 Pa. Code, Chapter 2380 (relating to adult training facilities) or the licensing requirements for Older Adult Daily Living Centers (OADLC) under Department of Aging's regulations at 6 Pa. Code, Chapter 11 (relating to older adult daily living centers). Adult Daily Living services are generally furnished for four or more hours per day on a regularly scheduled basis as specified in a participant's person-centered service plan in a non-institutional, community-based center encompassing both health and social services needed to ensure the optimal functioning of the participant. OLTL's Adult Daily Living waiver service includes two components:

- Basic Adult Daily Living services; and
- Enhanced Adult Daily Living services.

Basic Adult Daily Living services are comprehensive services provided to meet an individual's needs in a licensed center. Many of OLTL's Adult Daily Living providers are licensed by the Department of Aging as OADLCs. Under those licensure requirements, the required core services for these settings include personal assistance, nursing services in accordance with regulation, social and therapeutic services, nutrition and therapeutic diets, and emergency care for participants. Meals provided as part of these services shall not constitute a "full nutritional regimen" (three meals per day). Basic Adult Daily Living services may be provided either for a full day or a half day.

In addition to providing Basic Adult Daily Living services, Adult Daily Living providers may enroll with OLTL to provide Enhanced Adult Daily Living waiver services. To be reimbursed the enhanced rate, the provider must include the following additional service elements as outlined in the CHC and OBRA waivers. Any adjustments to these requirements would require the Department to submit a waiver amendment to the Centers for Medicare and Medicaid Services.

- **Nursing.** The **Enhanced Adult Daily Living provider** is required to directly provide, contract for, or otherwise arrange for nursing services. In addition to the requirements under 6 Pa.Code § 11.123 (2) (relating to core services), a Registered Nurse (RN) must be available on-site one hour weekly for each enrolled waiver participant.

- **Staffing.** An OADLC providing Enhanced Adult Daily Living services must use a staff to participant ratio of 1:5. Also, for an OADLC provider to be eligible Enhanced Services rate, the **OADLC** must be open a minimum of 11 hours daily during the normal work week of Monday through Friday.

- **Specialized Services.** The guidelines for the specialized services for the OADLC provider include the provision of physical therapy, occupational therapy, speech therapy, and medical services under 6 Pa.Code § 11.402 (relating to specialized services). Similar to Basic Adult Daily Living Services, Enhanced Adult Daily Living services may be provided either for a full day or a half day.

Both **Basic and Enhanced Adult Daily Living providers** may provide, arrange, or contract for transportation to enable participants, including participants with physical disabilities, to attend centers and participate in center-sponsored outings. Travel costs for these types of

activities is included in the current reimbursement rate for the CHC and OBRA Adult Daily Living service. However, it should be noted that transportation is not included in the reimbursement rate for participant transportation to and from the center, as this is not required of the Adult Daily Living provider and may be covered through non-medical transportation.

As of February 2024, OLTTL has 128 enrolled Adult Daily Living providers. Of that total enrollment, 55 are enrolled to provide Basic Adult Daily Living services and 73 are enrolled to provide Enhanced Adult Daily Living services. During the period of July 1, 2022 – June 30, 2023, approximately 388 CHC waiver participants utilized these Basic Adult Daily Living services and 3,617 utilized Enhanced Adult Daily Living services.

Flexibility and investment during the COVID-19 Public Health Emergency (PHE)

To help ensure access to Adult Daily Living services during the COVID-19 PHE, under the Department's Appendix K amendment, Adult Daily Living providers had the flexibility to provide Adult Daily Living services to participants in their homes and/or by HIPAA-compliant telephonic or web-based means.

Remote or telephonic Adult Daily Living services provided an invaluable option during the PHE to combat isolation and anxiety. Adult Daily Living services offered a structured program that provided participants with socialization, supervision and monitoring, personal assistance, and nutrition.

The Department also distributed funding to ensure continued access to Adult Daily Living services. This included funding for providers to make any adjustments or re-tool at the provider level as they began to re-open during the PHE.

- In 2022, Adult Daily Living providers were allocated \$6.99 million in federal American Rescue Plan Act (ARPA) funding under Act 2022-54.
- In 2021, Adult Daily Living providers received \$13 million total that was distributed across Adult Daily Living providers as one-time payments to strengthen the direct care workforce. These payments were part of Pennsylvania's Home and Community-Based Services (HCBS) Spending Plan using funding made available through enhanced federal match for certain HCBS claims.
- Lastly, in 2020, Adult Daily Living providers received \$13 million in funding for COVID relief through Act 2020-24. This allocated funding from the federal Coronavirus Aid, Relief, and Economic Security Act – also known as the CARES Act. Funding from Act 24 was to be used to cover necessary COVID-19 related costs incurred between March 1, 2020 and November 30, 2020.

In early 2023 and in alignment with the federal unwinding of the PHE and through stakeholder input, the Department's OLTL provided notice of the discontinuance of the emergency flexibilities under Appendix K and provided guidance on the return to pre-emergency operations as outlined in the approved CHC and OBRA waivers. Stakeholder feedback identified the value of face-to-face interactions and socialization that occurs at the physical provider site, and Adult Daily Living providers were asked to make the necessary changes to resume normal operations by May 11, 2023.

Future Evaluation

OLTL has been charged by the Governor to conduct a rate study for direct care workers providing Personal Assistance Services. The intent of the study is to evaluate more recent data on the cost to deliver services. Adult Daily Living services will be part of this evaluation process.

Requirements for Home and Community Based Settings

It is important to understand that OLTL's CHC and OBRA Waivers are 1915(c) waivers and services and settings within those programs need to meet specific requirements for home and community-based settings. For 1915(c) home and community-based waivers, home and community-based settings must have all of the following qualities defined at 42 CFR §441.301(c)(4) and §441.710 respectively, and such other qualities as the U.S. Secretary of the Department of Health and Human Services determines to be appropriate, based on the needs of the individual as indicated in their person-centered service plan:

- The setting is integrated in and supports full access of individuals receiving Medicaid home and community-based services (HCBS) to the greater community, including opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community, to the same degree of access as individuals not receiving Medicaid HCBS.
- The setting is selected by the individual from among setting options including non-disability specific settings and an option for a private unit in a residential setting. The setting options are identified and documented in the person-centered service plan and are based on the individual's needs, preferences, and, for residential settings, resources available for room and board.
- Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint.

- Optimizes, but does not regiment, individual initiative, autonomy, and independence in making life choices, including but not limited to, daily activities, physical environment, and with whom to interact.

- Facilitates individual choice regarding services and supports, and who provides them.

Settings that are not Home and Community-Based: For 1915(c) home and community-based waivers, settings that are not home and community-based are defined at 42 CFR §441.301(c)(5) as follows:

- A nursing facility;
- An institution for mental diseases;
- An intermediate care facility for individuals with intellectual disabilities;
- A hospital; or,
- Any other locations that have qualities of an institutional setting, as determined by the Secretary of the Department of Health and Human Services.

Thank you again for the opportunity to testify on the Department's OLTL Adult Daily Living services and thank you for your continued support of Pennsylvania's older adults and adults with physical disabilities.

Rates not changed since 2009

Employees not making a living wage