MASSACHUSETTS

Licensure Terms

Assisted Living Residences[1]

General Approach

The state certifies assisted living residences (ALRs) as residential environments with personal care services that support the goal of aging in place. The Executive Office of Elder Affairs (EOEA) is responsible for certification and promulgating regulations.[2] Services are covered under the Medicaid State Plan program and under the Money Follows the Person Residential Supports 1915(c) Waiver program.

Adult Foster Care (AFC). Also called adult family care, AFC is a program for frail elderly adults and adults with disabilities who cannot live alone safely but want to live in a family setting rather than in a nursing home or other facility. In addition to room and board, trained caregivers provide 24-hour supervision, companionship, and personal care. Caregivers may be family members (except legally responsible relatives). AFC is covered as a Medicaid State Plan service for up to three individuals. Providers must be authorized to conduct a business that delivers health and human services to elderly or disabled adult populations and must comply with Medicaid policies and procedures. The state does not regulate AFC providers that serve only private pay residents. *The Medicaid provisions for AFC are not included in this profile but a link to them can found at the end*.

This profile includes summaries of selected regulatory provisions for ALRs. The complete regulations are online at the links provided at the end.

Definitions

Assisted living residence means any entity that provides room and board and personal care services--directly by its employees or through arrangements with another organization, which the entity may or may not own or control--for three or more adult residents who are not related by blood or marriage to their care provider. Personal care services include assistance with one or more of the activities of daily living (ADLs) and the management of self-administered medications.

[1] ALRs are certified, not licensed.

[2] Revised regulations were due to be published in early 2015. This profile includes modifications that were in the red-line version of the revised regulations, dated November 21, 2014, that were relevant to the profile headings. The red-line version is no longer available online and the final version was not yet available in February 2015.

Special care residence means a residence in its entirety or a separate and distinct section within an ALR that provides an enhanced level of supports and services to one or more individuals to address their specialized needs due to cognitive or other impairments.

Resident Agreements

Resident agreements are written contracts between an ALR and a resident that include information about: (1) the services covered in any fees, a description of all other bundled services, and an explanation of other services available at an additional charge; (2) any limitations on the services the residence will provide, such as limitations on services to address specific ADLs and behavioral management; (3) payment arrangements, refund policies, and provisions for terminating the agreement; and (4) resident's rights, including the right to privacy and the right to contract with outside providers. Agreements must include the specific unit number in which the resident will reside.

Disclosure Provisions

Before execution of a residency agreement or transfer of any money, residences must deliver a disclosure statement to prospective residents and their legal representatives that includes information about: (1) the number and type of certified units; (2) current staffing and how staffing is determined; (3) entry and discharge policies and procedures, and the resident assessment process; (4) the cost of services offered and not offered, and payment policies; (5) any limitations on services, including the residence's medication administration policies; (6) eligibility requirements for any subsidy programs, including costs for which the resident would be responsible; and (7) the resident grievance procedure, including the right to contact the state Assisted Living Ombudsman at any time.

Any residence that chooses to advertise, market, or otherwise promote or provide special care for residents must provide a written statement that describes its mission and philosophy, and how it provides care in accordance with same.

Admission and Retention Policy

An ALR may not admit or retain any resident in need of 24-hour skilled nursing supervision unless: (1) it will be provided by a certified provider of ancillary health

services[3] or by a licensed hospice; (2) the certified provider of health services does not train the ALR staff to provide the skilled nursing care; and (3) the resident requires no more than 90 consecutive days of skilled nursing care, or such care is limited to a periodic scheduled basis.

Services

The regulations require that ALRs provide assistance with: (1) ADLs, including at a minimum bathing, dressing, ambulation and similar tasks; and (2) instrumental activities of daily living (IADLs), including at a minimum laundry, housekeeping, socialization and similar tasks. Other required services include management of self-administered prescription or over-the-counter medications, and timely assistance with urgent or emergency needs through 24/7 on-site staff and personal emergency or other response systems required by the EOEA to meet residents' service needs.

Skilled nursing services may only be provided by a certified home health agency on a part-time or intermittent basis. Medical conditions requiring nursing services on a periodic, scheduled basis, such as injection of insulin or other drugs used routinely for maintenance therapy of a disease, may be furnished by a certified provider of ancillary health services. Nurses employed or contracted by residences may not direct any non-licensed staff to perform skilled nursing care or administer medications to residents, or to oversee or supervise such practices.

Each special care residence must submit an operating plan to the EOEA that explains how the special care residence will meet its resident populations' specialized needs, including those who may need assistance in directing their own care due to cognitive or other impairments. In addition to providing the services listed above, the special care residence must prepare a planned activity program that addresses residents' needs, on at least a daily basis, in the following areas of resident function, as applicable: gross motor activities, self-care activities, social activities, and sensory and memory enhancement activities.

Service Planning

Prior to an individual's admission, the residence must conduct an initial screening and assessment to determine the individual's needs and preferences and the residence's ability to meet those needs. If determined able, the residence must develop a service plan based on the assessment and an evaluation--conducted within the previous 3 months by the resident's physician or authorized practitioner--of the individual's physical, cognitive, and psychosocial condition. The service plan must

[3] A certified provider means a person or legal entity certified to provide home health care services or hospice care services under Title XVIII of the Social Security Act, or a licensed practitioner such as a physician, pharmacist, restorative therapist, podiatrist, and home health aide. Ancillary health service means any nursing or skilled service a resident may need that the ALR is not allowed (under regulation) to provide but that a resident can obtain by hiring an outside provider to come into the residence to provide separately as a private service.

include information regarding the individual's diagnoses; current medications (including dosage, route, and frequency); allergies; dietary needs; need for assistance in emergency situations; history of psychosocial issues; level of personal care needs; and ability to manage medications.

The residence must review the initial resident service plan within 30 days of the individual's admission, and whenever a significant change in condition is identified, but not less than once every 6 months.

Third-Party Providers

The residence may arrange for the provision of health services by a certified provider of ancillary health services or licensed hospice. Residents may directly engage or contract with licensed or certified health care providers to obtain necessary health care services in the resident's unit or in such other space in the ALR as may be available to residents to the same extent available to persons residing in their own homes.

Medication Provisions

Management of self-administered medications, a required service, includes reminding residents to take medications, opening containers and pre-packaged medications, reading the medication label to residents, and observing them while they take the medication. Management of self-administered medication may only be performed by an individual who has completed personal care service training as described in the training section below.

Limited medication administration is an optional service and ALRs must disclose the availability of this service and its cost in the residency agreement and/or the disclosure of rights and services. Limited medication administration may only be provided in ALRs by a family member or by a practitioner as defined in state law[4] or a nurse registered or licensed under state law. A nurse may only administer medication from an original, pharmacy filled and pharmacy labeled container.

A licensed nurse employed by the residence may administer non-injectable medications, prescribed or ordered by an authorized prescriber, by oral or other methods (e.g., topical, inhalers, eye and ear drops, medicated patches, as-necessary oxygen, suppositories).

[4] Includes a physician, dentist, podiatrist, or optometrist.

Food Service and Dietary Provisions

An ALR must provide up to three[5] regularly scheduled meals daily and use daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences as a minimum dietary standard. In addition, the residence must provide or arrange for the availability of food selections that would permit a resident to adhere to a diet consistent with the most recent edition of Dietary Guidelines for Americans, and dietary plans that do not require complex calculations of nutrients or preparation of special food items. Dietary plans may include sodium-restricted and sugar-restricted and low-fat diets. The residence must have a qualified dietitian to review residents' dietary needs, and counsel residents regarding therapeutic diets and other dietary issues. The dietician must review the residence's dietary plans at least every 6 months.

Staffing Requirements

Type of Staff. Each ALR must designate a *manager* who has general administrative charge of the residence and at least one *service coordinator* who is primarily responsible for developing, reviewing and revising each resident's service plan. *Personal care staff* must be *licensed nurses*, *certified nursing assistants* (CNAs), *certified home health aides*, or qualified *personal care homemakers*; otherwise, they must complete a 54-hour training course, described below.

Staff Ratios. *No minimum ratios*. A residence must have sufficient staffing at all times to meet the scheduled and reasonably foreseeable unscheduled resident needs as required by the residents' assessments and service plans on a 24-hour-per-day basis. Staffing must be sufficient to respond promptly and effectively to individual resident emergencies and the residence must have a plan to secure staffing necessary to respond to emergency, safety, and disaster situations affecting residents.

Each residence must develop and implement a process for determining its staffing levels. The plan must include an assessment of the appropriateness of staffing levels, to be conducted at least quarterly but more frequently if the residence so chooses.

Training Requirements

Prior to active employment, all staff and contracted providers who will have direct contact with residents and all food service personnel must receive an initial 7-hour general orientation that includes the following topics:

- Philosophy of independent living in an ALR.

[5] The regulations require a minimum of one meal and up to three meals per day, but nearly all ALRs in the state provide three meals per day as part of the service package.

- Resident bill of rights.
- Elder abuse, neglect, and financial exploitation (at least 1 hour).
- Communicable diseases.
- Policies and procedures concerning disaster and emergency preparedness.
- Communication skills.
- Review of the aging process.
- Dementia/cognitive impairment including a basic overview of the disease process, communication skills, and behavior management (at least 2 hours).
- Resident health and related problems.
- Job requirements.
- Management of self-administered medications.
- Sanitation and food safety.

In addition, all personnel providing personal care services must receive at least 1 additional hour of orientation devoted to the topic of management of self-administered medications, and both the manager and service coordinator must receive an additional 2 hours of training devoted to dementia care topics. A residence may include the use of techniques such as the shadowing of more experienced employees during the first 5 days of an employee's tenure.

ALR staff and contracted providers of personal care services (unless they are licensed nurses, CNAs, certified home health aides, or qualified personal care homemakers as stated under type of staff above) must complete an additional 54 hours of training prior to providing personal care services to a resident, 20 hours of which must be specific to the provision of personal care services and conducted by a qualified registered nurse. Topics include personal hygiene; the effects of dehydration; maintaining skin integrity; management of self-administered medication; elimination; nutrition; human growth, development and aging; family dynamics; grief, loss, death and dying; mobility; maintenance of a clean, safe and healthy environment; home safety; and assistance with appliances.

Prior to or within 48 hours after the provision of personal care services to a resident, a qualified nurse must review the resident's service plan with all relevant personal care workers, who must demonstrate competence in the assigned personal care tasks in the resident's service plan. At least twice per year, a nurse must evaluate the personal care services provided by the residence's personal care staff or by contracted providers.

A minimum of 10 hours per year of ongoing education and training is required for all employees, with at least 2 hours on the specialized needs of residents with Alzheimer's disease. Other topics include the causes and prevention of falls and of injuries; behavior management, including prevention of aggressive behavior and de-escalation techniques (mandatory); defining, recognizing and reporting elder abuse (mandatory); and death and dying. Residence managers must complete an additional 5 hours of training that complements the individual's background and experience.

All staff providing assistance with personal care services must be trained in first-aid and the residence's policy on emergency response to acute health issues, and must also complete at least 1 hour of ongoing education and training per year on the management of self-administered medications.

Each residence must conduct an annual training needs assessment to prepare the curriculum for its required training and establish a process by which it will evaluate the efficacy of its training program.

Provisions for Apartments and Private Units

Apartment-style units are not required. Units must have lockable doors and may be single-occupancy or double-occupancy only. All newly constructed ALRs must provide a private bathroom for each unit, which must be equipped with one sink, one toilet, and one bathtub or shower stall.

All other ALRs must provide, at a minimum, a private half-bathroom (i.e., equipped with one sink and one toilet) for each living unit and provide at least one bathing facility (equipped with either a shower or bathtub) for every three residents.

All facilities must provide, at a minimum, either a kitchenette or access to a refrigerator, sink, and heating element for residents of all living units.

An ALR that serves Medicaid waiver participants must provide apartments with separate living, sleeping, bathing, and cooking areas; lockable entrance and exit doors; and meet other criteria.

Provisions for Serving Persons with Dementia

Dementia Care Staff. Special care residences must designate a *manager* who will be responsible for the operation of the special care residence, and must have sufficient staff--but never less than two staff members--qualified by training and experience awake and on-duty at all times to meet residents' 24-hour-per-day scheduled and reasonably foreseeable unscheduled needs, based on their assessments and service plans. Staffing must be sufficient to respond promptly and effectively to individual resident emergencies, and the residence must have a plan to secure staffing necessary to respond to emergency, safety, and disaster situations affecting residents.

Each residence must develop and implement a process for determining its staffing levels. The plan must include an assessment, to be conducted at least quarterly but more frequently if the residence so chooses, of the appropriateness of staffing levels.

Dementia Staff Training. In addition to completing requirements for general orientation, all new employees who work within a special care residence and have direct contact with residents must receive 7 hours of additional training on topics related to the specialized care needs of the resident population (e.g., communication skills, creating a therapeutic environment, dealing with difficult behaviors, competency, sexuality, and family issues). A minimum of 10 hours per year of ongoing education and training is required for all employees (as described above), with at least 4 additional hours on the specialized needs of residents with Alzheimer's disease and other dementias, including the development of communications skills for residents with dementia.

Dementia Facility Requirements. A special care residence must prepare a plan that includes a description of the physical design of the structure and the units, the physical environment, and specialized safety features. Entry and exit doors in common-use areas must be secured.

Background Checks

Applicants for ALR certification must ensure that none of its officers, directors, trustees, limited partners, or shareholders has ever been found in violation of any local, state, or federal statute, regulation, ordinance, or other law by reason of the individual's relationship to an ALR.

No person working in a residence must have ever been found in violation of any local, state, or federal statute, regulation, ordinance, or other law reasonably related to the safety and well-being of a resident or patient at an ALR or health care facility; and the residence manager must never have been convicted of a felony.

Inspection and Monitoring

The EOEA conducts compliance reviews of ALRs prior to the issuance of initial or renewal certification and at least every 2 years. The reviews include inspections of the common areas, living quarters (by consent of the resident), inspection of resident records (by consent of the resident), including service plans and resident agreements, and a review of the resident satisfaction survey. Inspectors may, at their discretion, interview the person or legal entity named in the certification, as well as the manager, staff and residents. Compliance reviews may be initiated at any time with probable cause. Any duly designated EOEA officer or employee has the right to enter and inspect at any time without prior notice.

Public Financing

The Medicaid State Plan covers services in ALRs, AFC homes, and conventional elderly housing for individuals who are chronically disabled and require 24-hour

supervision, daily assistance with at least one ADL, and assistance with managing medications. Services include assistance with ADLs and IADLs, other personal care as needed, and nursing services and oversight.

Assisted living services are also available under the Money Follows the Person Residential Supports Waiver program. To qualify for the program, an applicant must be eligible for Medicaid and be living in a nursing home or long-stay hospital for at least 90 consecutive days (excluding Medicare rehabilitation days); and need residential support services with staff supervision 24 hours a day, 7 days a week.

Room and Board Policy

The majority of ALRs in Massachusetts are for profit entities that charge fair market rates for rental units; most reserve only a small number of units for lower-income residents who are eligible for Medicaid.

To support residents who do not have sufficient income to pay for room and board in an ALR, the state provides an optional state supplement (OSS) that is added to the federal Supplemental Security Income (SSI) payment. The maximum payment in 2011 for an individual in an ALR was $1,128, which included the SSI payment of $674 and the OSS of $454. A personal needs allowance (PNA) was not reported.[6] The state does not have a policy on family supplementation.

Location of Licensing, Certification, or Other Requirements

Code of Massachusetts Regulations, Title 651, Section 12.00: Certification Procedures and Standards for Assisted Living Residences. Executive Office of Elder Affairs. [August 23, 2006] *These regulations were updated in early 2015, but were not yet available online in February 2015. The relevant modifications were included in this profile*.
http://www.mass.gov/elders/docs/651cmr-1.doc

Massachusetts Medicaid Provider Manual Series: Adult Foster Care Manual. [February 1, 2007]
http://www.mass.gov/eohhs/gov/laws-regs/masshealth/provider-library/provider-manual/adult-foster-care-manual.html

Information Sources

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Massachusetts Executive Office of Elder Affairs

[6] Social Security Administration, *State Assistance Programs for SSI Recipients*, January 2011. http://www.socialsecurity.gov/policy/docs/progdesc/ssi_st_asst/2011/ma.html. Current information about the OSS and the PNA was not available online or through other sources.

COMPENDIUM OF RESIDENTIAL CARE AND ASSISTED LIVING REGULATIONS AND POLICY: 2015 EDITION

Files Available for This Report

FULL REPORT

Executive Summary	http://aspe.hhs.gov/execsum/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-executive-summary
HTML	http://aspe.hhs.gov/basic-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition
PDF	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition

SEPARATE STATE PROFILES

[***NOTE***: These profiles are available in the full HTML and PDF versions, as well as each state available as a separate PDF listed below.]

Alabama	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alabama-profile
Alaska	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-alaska-profile
Arizona	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-arizona-profile
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Ohio	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-ohio-profile
Oklahoma	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-oklahoma-profile
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Pennsylvania	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-pennsylvania-profile
Rhode Island	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-rhode-island-profile
South Carolina	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-carolina-profile
South Dakota	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-south-dakota-profile
Tennessee	http://aspe.hhs.gov/pdf-report/compendium-residential-care-and-assisted-living-regulations-and-policy-2015-edition-tennessee-profile
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