

**CHAPTER 21. DOMICILIARY CARE SERVICES
FOR ADULTS**

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Authority

The provisions of this Chapter 21 issued under section 2203-A of The Administrative Code of 1929 (71 P. S. § 581-3), unless otherwise noted.

Source

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Cross References

This chapter cited in 6 Pa. Code § 20.23 (relating to income); and 55 Pa. Code § 6200.16 (relating to room and board charges from SSI benefits).

GENERAL PROVISIONS**§ 21.1. Scope.**

This chapter establishes standards for domiciliary care service administered by AAAs.

§ 21.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AAA (Area Agency on Aging)—The governing authority designated by the Department within each planning and service area to develop and administer an area plan, or the person, agency or organization which is the subcontractor of the AAA.

Applicant—A person who applies for domiciliary care service or the domiciliary care supplement, either personally or through a responsible adult.

Assessment—A determination based upon a comprehensive review of an applicant's social, physical and psychological status along with a description of the applicant's current resources and needs.

CAO (County Assistance Office)—An office located in each county of this Commonwealth which is responsible for local administration of the programs under the Department of Public Welfare.

Case record—The file maintained on each applicant and client to include pertinent information gathered in assessing need and developing a care plan. The term includes information regarding social supports, activities of daily living, nutrition, physical health and environment, mental and economic status and recent experiences. The term also includes tangential action taken for, or on behalf of, an applicant or client, including, but not limited to, activities done with, for or on behalf of a client, such as contacts with formal and informal service providers, and the like.

Client—A resident of this Commonwealth who is 18 years of age or older who has applied for, and has been determined to be eligible for, domiciliary care service or the domiciliary care supplement.

Communicable disease—An illness due to a specific infectious agent or its toxic products which arises through transmission of that agent or its products from an infected person to a susceptible host, either directly or indirectly through an intermediate plant or animal host, or the inanimate environment.

Department—The Department of Aging of the Commonwealth.

Designate—A person chosen by the applicant or client in writing to be notified in case of emergency, termination of services, home closure or other situations indicated by the applicant or client.

Domiciliary care home or *dom care home*—A premises certified by an AAA for the purpose of providing a supervised living arrangement in a homelike setting for a period exceeding 24 consecutive hours to clients placed there by the AAA.

Domiciliary care provider service—Services, activities and basic items furnished by the provider to the client.

Domiciliary care service or *domiciliary care*—Services and activities performed by the AAA which are necessary to seek out, assess and determine the eligibility of applicants and prospective providers, to certify domiciliary care homes, and to arrange for, oversee and follow-up on the following:

- (i) The placement of clients into domiciliary care homes.
- (ii) The receipt of the domiciliary care supplement by clients.

Domiciliary care supplement—The monthly monetary supplement to the income of a client who has been placed into a domiciliary care home. The supplement is provided by the Commonwealth under 55 Pa. Code Chapter 299 (relating to supplemental security income program and State supplementary payment program).

Exit—A door on the exit path which opens directly to the outside of the building or structure.

Exit path—A continuous, unobstructed, unrestricted and safe way of travel from any point in the home to a safe area of refuge outside the building or structure.

Full assistance—A client who needs to be led or carried from the building or needs help to get into a wheelchair and needs to be wheeled out of the building or needs help getting into another device and needs help evacuating the building and is unable to follow verbal or signed prompts.

Independently mobile—An individual who is physically and mentally capable of vacating the home without the assistance of another person in the case of an emergency. The term includes a person capable of ascending or descending stairs unassisted, if necessary, to vacate the home in which the person is residing.

Joint certification—Certification of a domiciliary care home by an AAA in conjunction with another certifying or licensing agency of the Commonwealth to provide residential care services to domiciliary care clients and clients of other agencies in the same home or facility.

Minimal physical assistance—Assistance in getting to one's feet, into a wheelchair, walker or prosthetic device.

Nonmobile—A client who is physically or mentally unable to vacate the building without the continued full assistance of another person.

PSA (Planning and Service Area)—A geographic area within this Commonwealth, authorized by the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3057g) and designated by the Department for the purposes of planning, development, delivery and administration of aging and social services by an AAA.

Prospective domiciliary care home or prospective home—A residence in the process of being certified by an AAA as a domiciliary care home.

Prospective provider—A person who applies to the AAA to be a provider and is in the process of being determined eligible as a provider.

Provider—A person 21 years of age and older determined eligible by an AAA to have responsibility for the day-to-day operation of a domiciliary care home.

Relative—A person related to the client by consanguinity, affinity or adoption.

SSI (Supplemental Security Income)—Monthly income maintenance provided to aged, blind or disabled individuals through Title XVI of the Social Security Act (42 U.S.C.A. §§ 1381—1382j).

Semimobile—A client who is able to vacate the home with no more than verbal or minimal physical assistance. To be considered semimobile, a person shall be able to effectively operate a device required for moving from one place to another, be able to understand and carry out instructions for vacating the home and be able to ascend or descend stairs if present on the exit path. The term does not include a person who by reason of physical or mental disability or condition is unable to vacate the home in case of emergency without the continual physical assistance of another.

Service management—The process through which AAAs meet their mandate to secure needed services for older people. This process includes the following activities: comprehensive needs assessment to include nutrition assessment; development of a written service plan; arrangement, coordination and follow-up of service delivery; reassessment; and ongoing case recording.

Social Security district office—An office in this Commonwealth which has been designated to administer various programs under the Social Security Act, including SSI, in an assigned geographic area.

Staff person—An adult who is employed by a provider or who volunteers to furnish services to the clients in a domiciliary care home.

State supplement—The monthly monetary supplement to persons receiving SSI in this Commonwealth. The State supplement is provided by the Commonwealth under 55 Pa. Code Chapter 299 (relating to supplemental security income program and State supplementary payment program).

Subcontractor—A person, agency or organization which has a written, legally-binding agreement or contract with the AAA to perform services and activities necessary to seek out, assess and determine the eligibility of applicants and prospective providers, to certify domiciliary care homes, and to

arrange for, oversee and follow-up on, the placement of clients in domiciliary care homes and the receipt of the domiciliary care supplement by clients. The agreement or contract shall meet the contracting standards of the Department as promulgated in the applicable program directive.

Unusual incident—An occurrence which threatens the health and safety of a client. The term includes fires, structural damage to the home, crimes, serious injuries, missing persons, highly contagious diseases, food poisoning, interruptions in utility services which may affect the health and safety of a client, neglect, mistreatment, physical or mental abuse, behavior by a client which constitutes a danger to that client or others, the death of the client, a request by the client for immediate removal or relocation from the domiciliary care home, or the relocation of the domiciliary care home.

Verbal assistance—Giving instructions to assist the client in vacating the home.

§ 21.3. Waivers.

The Department may grant waivers on provisions in this chapter which are not required by Federal, State or local laws. A request for a waiver shall be submitted in accordance with, and meet the standards provided in, the generic policies and procedures for requesting waivers as provided by the Department in the applicable Aging Program directive. In making decisions regarding waiver requests, the Department will consider: whether the objective of the policy in question will be achieved through granting the waiver, how older people will benefit from approval of the waiver, public input—such as public hearings—regarding the issue in question, and other information which would support a waiver request.

§ 21.4. Nondiscrimination.

Domiciliary care service shall be provided in accordance with Title VI, Section 601, of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000d), section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. § 706), the Age Discrimination Act of 1975 (42 U.S.C.A. §§ 6101—6107) and the Pennsylvania Human Relations Act (43 P. S. §§ 951—963).

§ 21.5. Service goals.

The following are the goals of domiciliary care service:

- (1) To provide supportive, homelike, community-based living arrangements for adults who cannot live independently in the community.
- (2) To encourage and assist clients in developing and maintaining maximum initiative and self-determination in a homelike setting.
- (3) To provide an alternative to institutionalization, and to help adults remain in the community or to return to the community and, if possible, to their own homes.

**ELIGIBILITY DETERMINATION, CERTIFICATION
AND APPLICATION PROCESSES**

§ 21.21. Eligibility for domiciliary care service.

(a) To receive domiciliary care service, an applicant shall meet the following criteria as determined by the appropriate AAA:

- (1) Be a resident of this Commonwealth and 18 years of age or older.
- (2) Be independently mobile or semimobile.
- (3) Not require skilled or intermediate nursing care, or general or special hospital care on a 24-hour residential basis.
- (4) Have no relative, or other person whose relationship with the applicant is important to the applicant's continued well-being, willing or able to provide the necessary support for independent living.
- (5) Be incapable of living alone regardless of available services, or require services to live alone and the services are not available.

(b) An applicant shall meet one or more of the following criteria:

- (1) Have demonstrated difficulties in accomplishing activities of daily living, such as purchasing and preparing meals, bathing and grooming, house-keeping and laundry, financial management and taking medication in proper doses at proper times, to an extent which prevents independent living in the community.
- (2) Have demonstrated difficulties in social or personal adjustment, usually associated with mental disability, as demonstrated by reduced, lost or nondeveloped capabilities for developing and maintaining appropriate personal relationships, dealing constructively with others, and maintaining or attaining a maximum level of functioning.
- (3) Have demonstrated difficulties resulting from disabilities, such as blindness, deafness, amputation, paralysis or birth defects, if the individual is independently mobile or semimobile.

Cross References

This section cited in 6 Pa. Code § 21.23 (relating to application process for domiciliary care service and the domiciliary care supplement); and 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.22. Eligibility for the domiciliary care supplement.

To receive the domiciliary care supplement, an applicant shall meet the following criteria:

- (1) Be eligible for SSI, as determined by the appropriate Social Security District Office and verified by the CAO, or be receiving SSI, as verified by the appropriate CAO, or have personal income less than the combined Federal-State payment level for domiciliary care, as determined by the appropriate CAO under 55 Pa. Code Chapter 299 (relating to supplemental security income program and State supplementary payment program).

- (2) Be eligible for domiciliary care service, as determined by the appropriate AAA.
- (3) Be residing in or awaiting immediate placement into a domiciliary care home in which the provider is not a relative of the client.

§ 21.23. Application process for domiciliary care service and the domiciliary care supplement.

The following procedure shall be used for determining the eligibility of an applicant for domiciliary care service and making payment for the domiciliary care supplement:

- (1) The application process includes activity relating to a request by an applicant for an eligibility determination. It begins with the receipt of an application by an AAA and continues until there is a determination of eligibility or ineligibility.
- (2) The applicant is responsible for:
 - (i) Initiating, completing and signing necessary application forms as promulgated by the Department and the Department of Public Welfare.
 - (ii) Participating in an assessment interview with the AAA.
 - (iii) Sending required application forms to the appropriate AAA.
 - (iv) Promptly notifying the appropriate AAA of changes in circumstances that may affect continued eligibility for domiciliary care service or the domiciliary care supplement.
 - (v) Contacting the appropriate Social Security District Office to place an application for SSI if the applicant is applying for SSI at the same time the applicant is applying for domiciliary care service.
- (3) The AAA is responsible for:
 - (i) Providing the applicant with the necessary application forms and, if appropriate, assisting the applicant with completing the forms.
 - (ii) Receiving the application and reviewing it to assure that forms are complete and the necessary documentation is attached.
 - (iii) Accepting an application from a designate when the applicant is incapable of filing an application on the applicant's own behalf.
 - (iv) Notifying the applicant of the nature of the error and that an application date cannot be established, and assisting the applicant in correcting errors on the application, if the application is incomplete or incorrect.
 - (v) Assisting the applicant in contacting the appropriate Social Security District Office, if the applicant is applying for SSI at the same time the applicant is applying for domiciliary care service.
 - (vi) Arranging for a face-to-face assessment interview within 15 days of the applicant's request for service.
 - (vii) Performing, with the applicant's informed consent, a thorough, indepth, face-to-face assessment of the applicant's level of functioning and

the need for domiciliary care service, as stated in § 21.21 (relating to eligibility for domiciliary care service), using the forms as prescribed by the Department.

(viii) Arranging for a medical examination of the applicant and ensuring that appropriate documentation of the examination is recorded on forms prescribed by the Department of Public Welfare.

(ix) Requesting the domiciliary care review team, within 30 days of the assessment, to review and recommend appropriate action for applicants for whom the AAA is unable to reach a decision concerning the need for domiciliary care service.

(x) Providing notice, in writing, to the applicant or the designate of the applicant's ineligibility for domiciliary care service, if determined ineligible by the AAA, within 10 days after the decision has been made, and providing the reasons for the determination of ineligibility, along with information on the applicant's right to appeal the decision under § 21.101 (relating to fair hearings and appeals).

(xi) Forwarding the original application, along with necessary documentation and forms, to the appropriate CAO and retaining a copy for the AAA's files when the AAA has determined that the applicant is eligible for domiciliary care services and an appropriate domiciliary care home is available in which to place the client.

(xii) Assigning the client to a waiting list until an appropriate domiciliary care home becomes available, when the AAA has determined that the applicant is eligible for domiciliary care service and has made an initial verification that the applicant's income is low enough to meet the eligibility requirements for the supplement, but there is no appropriate domiciliary care home available in which to place the client and informing, in writing, the client or the designate of the determination and the action which has been taken.

(xiii) Initiating domiciliary care services to the client on a private payment basis when the AAA has determined that the applicant is eligible for domiciliary care service, but the CAO has determined that the applicant is not eligible for the domiciliary care supplement because the applicant's income is too high. If there is no appropriate domiciliary care home available in which to place the client, the client shall be assigned by the AAA to a waiting list until an appropriate domiciliary care home becomes available, and the client or the designate shall be informed in writing of the determination and the action which has been taken.

(xiv) Beginning the actual process of placing the client into a domiciliary care home as soon as necessary forms and eligibility determinations have been completed by the AAA and the CAO under this section, and the AAA has available an appropriate domiciliary care home in which to place the client, and informing the client and the designate, if one exists, in writing of the

determination of eligibility and the action which is being taken. The written notification shall take place within 30 days of the date the eligibility determination was made.

(4) The CAO is responsible for determining eligibility for the domiciliary care supplement under 55 Pa. Code Chapter 299 (relating to supplemental security income program and State supplementary payment program) and, in cases where applicants appeal that determination, conducting hearings and appeals under 55 Pa. Code Chapter 275 (relating to appeal and fair hearing).

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); and 55 Pa. Code § 299.2 (relating to eligibility requirements for SSA-administered optional SSP for DCS and PCS).

§ 21.24. Redetermination of eligibility.

The following procedure will be used to redetermine the eligibility of clients for domiciliary care service and the domiciliary care supplement.

(1) Clients are responsible for:

(i) Requesting a redetermination appointment with the AAA and arranging for the completion of necessary redetermination forms upon notification from the CAO, through the AAA, of an annual redetermination of eligibility for the domiciliary care supplement.

(ii) Promptly notifying the AAA regarding a change in circumstances which may affect one's eligibility for domiciliary care service or the domiciliary care supplement.

(2) The AAA is responsible for:

(i) Arranging for a place and time for a redetermination of eligibility for domiciliary care service through a reassessment.

(ii) Completing annually the appropriate forms for redetermination of eligibility for the domiciliary care supplement.

(iii) Forwarding appropriate documentation to the CAO.

(3) The CAO is responsible for redetermination of eligibility for the domiciliary care supplement under 55 Pa. Code Chapter 299 (relating to supplemental security income program and State supplementary payment program).

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.25. Termination of eligibility for domiciliary care service or the domiciliary care supplement.

The following procedures shall be used to terminate a client's eligibility for domiciliary care service or the domiciliary care supplement, or both:

(1) The AAA is responsible for:

(i) Notifying the CAO of a change in the client's status which requires termination of eligibility for domiciliary care service.

(ii) Upon notifying the client or the designate that the client is no longer eligible for domiciliary care service, notifying the client in writing of the client's right to appeal and receive a fair hearing under § 21.101 (relating to fair hearings and appeals). Notification shall take place within 20 days of the date the decision was made.

(2) The CAO is responsible for termination of eligibility for the domiciliary care supplement, through notification of the Social Security District Office and other appropriate actions, under 55 Pa. Code Chapter 297 (relating to Supplemental Security Income Program).

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.26. Domiciliary care home provider eligibility.

To be eligible to act as a domiciliary care home provider, a prospective provider shall meet the following criteria, as determined by the AAA:

- (1) Be a resident of this Commonwealth and 21 years of age or older.
- (2) Reside in the domiciliary care home, or reside in the prospective home.
- (3) Demonstrate to the AAA, through the application and interview process, that the provider has never been convicted of a crime involving assaultive behavior or moral turpitude and has the experience and capacity to accept persons with physical, mental or age related difficulties, has the willingness and ability to work with the AAA and clients, and has the physical health and stamina to be a provider.

Cross References

This section cited in 6 Pa. Code § 21.29 (relating to redetermination of provider eligibility and recertification of domiciliary care homes); 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.54 (relating to AAA care plan responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.82 (relating to other provider responsibilities).

§ 21.27. Domiciliary care home certification and recertification standards.

To become certified and to retain certification as a domiciliary care home, a domiciliary care home shall meet the basic standards in this section, as determined by the AAA from a site inspection and review of relevant documentation, in conjunction with other appropriate agencies or organizations. Domiciliary care homes with four or more clients shall meet the special recertification standards in § 21.30 (relating to special program and recertification standards for domiciliary care homes with four or more clients).

- (1) The home shall be a fixed, individual, private, noncommercial household or family dwelling.
- (2) The home shall be the residence of the provider, the residence of the prospective provider or the intended residence of the prospective provider, and may not have residing within it a person who is an employe of an AAA.

(3) The building in which the home is to be located shall meet applicable Federal, State and local statutes and regulations pertaining to zoning, health and safety.

(4) The building in which the home is to be located shall be in good general repair and free of hazards, such as loose or broken window glass, loose or cracked floor coverings, and have no infestation of insects, rodents or other vermin.

(5) If the home uses water which is obtained from a private source, such as a well, spring or cistern, the source may not be polluted or contaminated nor may it be situated, constructed or maintained so that it may become polluted or contaminated or rendered injurious to health, and the water shall be approved as meeting Commonwealth water quality standards.

(6) The home shall have an adequate supply of piped hot and cold water to bathroom, kitchen and laundry equipment, and may not have hot water exceeding 130°F which would be accessible to clients.

(7) The home shall utilize a public sewerage system where one is available, or if a public system is not available, sewage shall be disposed under 25 Pa. Code Chapter 73 (relating to standards for onlot sewage treatment facilities).

(8) The home may not have exposed heating pipes, hot water pipes or radiators which have a temperature exceeding 110°F, in rooms and areas to be used by clients. If these items are located in areas accessible to clients and have temperatures exceeding 110°F, the radiators shall be covered with protective covers and the heating pipes with insulation.

(9) If the home uses woodburning or coal burning stoves, the stoves shall meet applicable local enforcement codes and be installed using permanent connections.

(10) Stairways shall have securely fastened handrails and nonskid surfaces, such as stairtreads, carpeting and the like. Stair coverings shall be securely fastened.

(11) The home shall have a heating system which has the capacity to maintain a temperature of at least 70°F without the use of portable space heaters.

(12) The home shall have been inspected and approved by the local fire department or other qualified agency or individual for fire safety, and it shall meet the requirements in § 21.79 (relating to fire and safety activities).

(13) The home shall have available adequate artificial lighting which is restricted to electrical lighting.

(14) The home shall have a minimum of one operational smoke detector on each occupied floor, plus one in the basement area.

(15) The home shall have space which would be available for storage of the clients' personal property, such as trunks, suitcases and seasonal clothing.

(16) Each room to be used by clients in the home shall have at least one unobstructed exit path.

(17) The home shall have a living room or recreational area with adequate space which would be available to clients. These areas shall, at least in combination, be large enough to comfortably accommodate all residents at the same time.

(18) The home shall have a dining room or dining area which is properly equipped with items necessary for proper food service. Items of equipment include tables, chairs and utensils for drinking, eating, preparing and serving food and drink. These items shall be furnished in quantities sufficient to serve all residents at the same time.

(19) The home shall have a clean kitchen with working appliances necessary for the preparation of nutritious meals.

(20) The home shall have at least one fully-equipped and operational indoor bathroom which is readily accessible to, and available for use by, clients.

(21) The home shall have bedrooms which meet the following standards:

(i) Bedrooms to be used by clients shall be located on floor levels not more than one story above an exit.

(ii) Bedrooms to be used by clients shall be limited to either single or double occupancy and shall have space which is adequate for a safe and comfortable living environment.

(iii) Bedrooms to be used by clients shall have adequate ventilation and at least one window with direct outside exposure to provide unobstructed natural light.

(iv) Windows in bedrooms to be used by clients shall have adequate covering to ensure the privacy of clients.

Cross References

This section cited in 6 Pa. Code § 21.28 (relating to provider application and home certification process); 6 Pa. Code § 21.29 (relating to redetermination of provider eligibility and recertification of domiciliary care homes); 6 Pa. Code § 21.30 (relating to special program and recertification standards for domiciliary care homes with four or more clients); 6 Pa. Code § 21.31 (relating to provisional certifications); 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.54 (relating to AAA care plan responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.74 (relating to basic furnishings); and 6 Pa. Code § 21.79 (relating to fire and safety activities).

§ 21.28. Provider application and home certification process.

The following process shall be used to determine the eligibility of a prospective domiciliary care home provider and to certify a prospective domiciliary care home.

(1) The prospective provider application process should be conducted by the AAA in conjunction with the domiciliary care home certification process. The interview shall take place in the prospective provider's home and should be conducted at the same time as the home inspection by the AAA.

(2) The prospective provider is responsible for:

- (i) Submitting a completed application to the appropriate AAA on forms required by the Department.
 - (ii) Reviewing the rules and regulations of the AAA and the Department regarding domiciliary care service.
 - (iii) Providing information requested by the AAA at an interview conducted in the prospective provider's home by the AAA.
 - (iv) Providing the AAA with two written character references, other than relatives, which address the suitability of the prospective provider to offer a homelike setting and care for functionally-impaired persons, and the prospective provider's sensitivity and capability in addressing the needs of potential clients.
 - (v) Providing the AAA with two written financial references which address the prospective provider's current financial situation and ability to function financially independently of client monthly payments. If the prospective provider's home is mortgaged, one of the references shall be from the mortgage-holding institution or person.
 - (vi) Providing the AAA with a report from a physical examination which occurred no more than 6 months before the date the AAA conducts the application process. The examination shall be performed by a licensed physician and shall state that the prospective provider is physically able to care for adults with difficulties in independent living and that the provider is free from communicable disease or a medical condition that would endanger clients. This physical examination shall include a test for tuberculosis which may be either a chest x-ray or a tuberculin test. A physical examination is required every 2 years thereafter, or at the request of the AAA. At the determination of the AAA, other persons working or residing in the home may be required to furnish verification of a physical examination by a licensed physician which states that the person is physically able to care for adults with difficulties in independent living and is free from communicable disease.
 - (vii) Providing the AAA with a signed statement verifying that the prospective provider has never been convicted of a crime involving assaultive behavior or moral turpitude.
 - (viii) Providing the AAA with proof that the prospective home has a current, valid insurance policy which would be adequate for the protection of providers in the event of a client's accident, injury or property damage.
 - (ix) Furnishing the AAA with a statement from the owner that the owner approves of the use of the home for providing domiciliary care services, when the prospective home is rented, and that the use of the home for domiciliary care services would not be in violation of factors—that is, zoning, health and safety—set forth in § 21.27(3) (relating to domiciliary care home certification and recertification standards).
- (3) The AAA is responsible for:

(i) Providing information to prospective providers on the nature of the service, home certification and provider eligibility process and a description of the service requirements.

(ii) Providing necessary application forms and assistance to the prospective provider in completing the forms.

(iii) Requesting from the prospective provider the information required in paragraph (2)(iv)—(ix) and obtaining verification from a State Police records search that the statement received from the prospective provider regarding paragraph (2)(vii) is correct. The AAA may request an FBI records search on a prospective provider.

(iv) Presenting the prospective provider with a copy of this chapter so that the prospective provider can review it.

(v) Arranging for an interview and home inspection with a prospective provider within 30 days of the date on which the application was received and conducting the interview with the prospective provider to obtain the requisite information regarding the prospective provider and other persons who will live in the prospective home—other than clients—to demonstrate that the prospective provider has the capacity to perform as an acceptable provider.

(vi) Conducting and documenting an inspection of the prospective home to assure that it meets the standards in § 21.27.

(vii) Requesting the domiciliary care review team to review the application and recommend appropriate action regarding prospective providers and homes for which the AAA is unable to reach a determination of eligibility or decision on certification.

(viii) Determining the eligibility or ineligibility of the prospective provider, based on the application, interview and, if applicable, the recommendation of the domiciliary care review team.

(ix) Certifying or not certifying the prospective domiciliary care home, based on the standards in § 21.27.

(x) Notifying the prospective provider, if the prospective provider is determined ineligible to be a provider, or if the prospective home is determined to be not certifiable, of the determination in written form which lists the reasons for the decision and gives information on the prospective provider's right to appeal and receive a fair hearing under Chapter 3 (relating to fair hearings and appeals). The notification shall be provided within 30 days of the date on which the determination of ineligibility was made by the AAA.

(xi) Notifying the provider, if the prospective provider is found to be eligible and the home is certified, of the determination of eligibility and certification, and placing the home on the central registry of domiciliary care homes required in § 21.56 (relating to the central registry of certified homes).

(xii) Entering into a written agreement with the provider, on forms provided by the Department, which sets forth the responsibilities of the AAA and the provider.

(xiii) Issuing a certificate of compliance to a certified domiciliary care home.

Cross References

This section cited in 6 Pa. Code § 21.29 (relating to redetermination of provider eligibility and recertification of domiciliary care homes); 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.56 (relating to central registry of certified homes); 6 Pa. Code § 21.60 (relating to recordkeeping); and 6 Pa. Code § 21.82 (relating to other provider responsibilities).

§ 21.29. Redetermination of provider eligibility and recertification of domiciliary care homes.

The following process shall be used to redetermine the eligibility of providers and recertify domiciliary care homes:

(1) The provider is responsible for:

(i) Permitting access to the home for the AAA to conduct follow-up interviews and inspections. The AAA may inspect the home to ensure that it complies with this chapter. This inspection shall occur during normal business hours.

(ii) Permitting access to the home for the AAA for emergency visits. These visits may occur anytime and may be based upon a report of a client in need of protective services, investigation of a death or injury to a client or occurrence of an unusual incident.

(iii) Notifying the AAA of a change in the provider's situation or home standards which may affect the eligibility of the provider or certification of the home. The eligibility requirements in §§ 21.26 and 21.28 (relating to domiciliary care home provider eligibility; and provider application and home certification process) are of a continuing nature and it is the obligation of the provider to meet these standards on a continuing basis. Failure to comply with this subparagraph renders the provider ineligible.

(2) The AAA is responsible for:

(i) Annual redetermination of provider eligibility using the criteria in § 21.26 during a face-to-face interview with the provider.

(ii) Annual recertification of the home using the standards in either § 21.27 or § 21.30 (relating to domiciliary care home certification and recertification standards; and special program and recertification standards for domiciliary care homes with four or more clients), depending upon how many clients reside in the home, during a site inspection conducted by the AAA.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); and 6 Pa. Code § 21.82 (relating to other provider responsibilities).

§ 21.30. Special program and recertification standards for domiciliary care homes with four or more clients.

(a) For domiciliary care homes with four or more clients, the following special building recertification standards apply. Domiciliary care homes with four or more clients shall meet the home recertification standards in this section in lieu of the standards in § 21.27 (relating to domiciliary care home certification and recertification standards).

(1) Domiciliary care homes with four to eight clients shall meet the standards for small group homes in 34 Pa. Code Chapter 56 (relating to division C-3 small group habitation) and shall provide verification of inspection and approval by the Department of Labor and Industry under 34 Pa. Code Chapter 49 (relating to administration—buildings) before recertification is granted by the AAA.

(2) Domiciliary care homes with nine or more clients shall meet the standards for large facilities in 34 Pa. Code Chapter 55 (relating to division C-2 hotels, motels, apartment buildings, etc.) and shall provide verification of inspection and approval by the Department of Labor and Industry under 34 Pa. Code Chapter 49 before recertification is granted by the AAA.

(3) Homes located in Philadelphia, Pittsburgh or Scranton shall provide verification of inspection and approval in accordance with the Occupancy and Fire Safety Codes of the appropriate city.

(4) Prior to recertification by the AAA, the home shall provide verification that remodeling, reconstruction or substantial alteration to the domiciliary care home has been done in accordance with plans approved by the Department of Labor and Industry under 34 Pa. Code Chapter 49.

(5) There shall be at least one operational bathroom, having a toilet, sink and tub or shower, for every eight clients.

(6) When the home consists of a cluster of living units rather than a single living unit, the clustered living units shall be in physical proximity, and each unit shall conform to the applicable sections of this chapter.

(7) No domiciliary care home may have more than 13 clients residing within it.

(b) In addition to other program requirements provided in this chapter, the following special program requirements apply to domiciliary care homes with four or more clients:

(1) *Mobility.* Clients residing in domiciliary care homes having four or more clients shall be independently mobile or semimobile. The semimobile clients shall be able to get out of bed without assistance from another person.

(2) *Staffing.*

(i) During the waking hours established by the home, at least one provider or staff person shall be present and available on the premises when one or more clients are present in the home. If one or more of the clients are not independently mobile, at least one provider or staff person shall be present and available in each building or cluster unit where clients are present.

(ii) During hours when clients are sleeping, one provider or staff person shall be present and available in each building or cluster unit housing clients who are not independently mobile. For buildings or cluster units with only independently mobile clients, one provider or staff person who is awake and circulates to each building or unit hourly or who is on the premises and available to clients through an intercom system may be substituted for a provider or staff person in each building or cluster unit.

(iii) The AAA may require an increase in the number of staff persons as it deems necessary.

Cross References

This section cited in 6 Pa. Code § 21.27 (relating to domiciliary care home certification and recertification standards); 6 Pa. Code § 21.29 (relating to redetermination of provider eligibility and recertification of domiciliary care homes); and 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.31. Provisional certifications.

The AAA may grant provisional certification of a domiciliary care home if the home is in substantial compliance with this chapter so that the health and safety of clients are not endangered. Provisional certification may not exceed 90 days and can only be granted subject to an agreement with the provider that the domiciliary care home shall meet the standards prescribed in § 21.27 (relating to domiciliary care home certification and recertification standards) by the end of the 90-day period. The AAA may place a provisionally certified home on the central registry of certified homes so that placements may begin in that home.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.32. Joint certifications.

(a) For homes which are jointly certified on or after January 6, 1990 or had been jointly certified prior to January 6, 1990 and had a certified capacity of three or fewer total clients, the following applies: The AAA may not conduct placement activities which result in more than three clients or residents unrelated to the provider, including clients of other certifying or licensing agencies, residing in one home at one time.

(b) A jointly-certified home which has a certified capacity of four or more total clients prior to January 6, 1990 may continue to operate with more than three clients, if applicable State and local laws are observed in conjunction with this chapter.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.33. Decertification of domiciliary care homes and removal of provider eligibility.

The AAA shall notify the provider in writing of the provider's right to appeal and receive a fair hearing under Chapter 3 (relating to fair hearings and appeals), if the home has been decertified or if the provider has been determined to be ineligible. Grounds for decertification of a domiciliary care home or removal of provider eligibility are specified in § 21.55(q) (relating to AAA placement activities).

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

DEPARTMENT OF AGING RESPONSIBILITIES

§ 21.41. Departmental responsibilities.

The Department is responsible for the following activities under this chapter:

- (1) To develop regulations and to supervise and administer domiciliary care service on the State level under section 2203-A(16) and (19) of The Administrative Code of 1929 (71 P. S. § 581-3(16) and (19)).
- (2) To provide technical assistance to AAAs and other community organizations and persons regarding domiciliary care service.
- (3) To issue program directives, forms and assessment instruments under this chapter.
- (4) To monitor and evaluate AAAs with regard to the provision of domiciliary care service.
- (5) To conduct hearings and appeals regarding domiciliary care service under Chapter 3 (relating to fair hearings and appeals).
- (6) To determine the monthly dollar amount which clients shall pay to providers for domiciliary care provider services. The determination shall be issued at least annually by the Department through the Department's program directive process, based on the annual cost of living increase to clients who receive SSI. Increases will normally be apportioned so that 82% of the client's total monthly domiciliary care payment—that is, the Federal SSI payment plus the State supplement plus the domiciliary care supplement—is given as a monthly fee to the provider, and 18% retained by the client, although the Department

may revise this distribution if warranted by economic circumstances. Private-pay clients in the domiciliary care program shall pay the same monthly dollar amount to the provider as do the clients who are SSI recipients.

(7) To act as the standard-setting authority for domiciliary care service under 45 CFR Part 1397 (relating to standard setting requirements for medical and nonmedical facilities where SSI recipients reside) and to work with the Department of Public Welfare for enforcement of the standards set for domiciliary care homes in accordance with established procedures.

Cross References

This section cited in 6 Pa.B. § 21.54 (relating to AAA care plan responsibilities); and 6 Pa. Code § 21.92 (relating to client responsibilities).

AAA RESPONSIBILITIES

§ 21.51. General provisions.

The AAA is responsible for the overall local administration and operation of domiciliary care service in the PSA.

§ 21.52. AAA service responsibilities.

Specific service activities to be performed by AAAs providing domiciliary care service include, but are not limited to, the following:

- (1) Determining client eligibility under § 21.21 (relating to eligibility for domiciliary care service).
- (2) Placing clients, with their informed consent or the consent of their legal guardian, in domiciliary care homes suited to their individual needs.
- (3) Performing the eligibility and home certification activities as prescribed in §§ 21.23—21.33.
- (4) Maintaining ongoing contact—as set forth in § 21.54 (relating to AAA care plan responsibilities)—with clients placed in domiciliary care homes to assure adequacy of care and appropriateness of placement.
- (5) Identifying prospective domiciliary care home providers who are qualified under § 21.26 (relating to domiciliary care home provider eligibility) and arranging for their training. The training shall be based on course materials as required by the Department and shall ensure that providers achieve competencies through educational programs which include the following:
 - (i) Major health problems of older persons.
 - (ii) Accident prevention.
 - (iii) Nutrition.
 - (iv) The psychology of aging.
 - (v) Interpersonal communication.
 - (vi) General principles of cleanliness and hygiene.
 - (vii) Recognition and response to crises and emergency situations.

(6) Maintaining a registry of certified domiciliary care homes under § 21.56 (relating to a central registry of certified homes).

(7) Assuring provision of services by domiciliary care providers in accordance with §§ 21.71—21.82.

Cross References

This section cited in 6 Pa. Code § 21.82 (relating to other provider responsibilities).

§ 21.53. AAA client and applicant related activities.

Specific client and applicant related activities to be performed by AAAs providing domiciliary care service include, but are not limited to, the following:

(1) The AAA shall actively engage in information and referral efforts to identify adults in need of domiciliary care service and shall maintain contact with community resources which will facilitate the identification of adults in need—for example, clergy, physicians and civic organizations.

(2) The AAA shall make available information on domiciliary care service to community agencies and shall encourage and assist these agencies in the identification of adults in need of domiciliary care.

§ 21.54. AAA care plan responsibilities.

(a) The AAA shall be responsible for the development and implementation of a plan of care for each domiciliary care client.

(b) The care plan shall be developed in consultation with the client and shall be signed by the client or the designate, if appropriate, and the provider indicating their agreement with the plan.

(c) The care plan shall indicate problems or needs identified, desired outcomes (long and short term goals), services or providers (informal or formal), pattern of service delivery and follow-up monitoring and reassessment updates.

(d) Arrangements for service to supplement service given by the provider shall be prescribed in the care plan and may be made by the AAA directly or by referral to another agency. The purpose of the supplemental service shall be to address special client needs which provide the support necessary for the client to be maintained in the domiciliary care home.

(e) The AAA shall orient the provider to the client's care plan, secure the provider's approval and furnish the provider with a copy of the plan.

(f) When the care plan is carried out by an agency other than the AAA, that agency shall, with the concurrence of the AAA, modify the care plan as required. This modification may include specification of the client's role in providing for or assisting with laundry or meal service as specified in § 21.74 (relating to basic furnishings).

(g) When the care plan is carried out by an agency other than the AAA, the AAA shall monitor as necessary to insure that the care plan is being implemented.

(h) When an agency other than an AAA has the primary care plan responsibility for a client, and the home in which that client resides or is to be placed is operating under a joint certification between the AAA and the agency with primary care plan responsibility, the provider residency requirements in §§ 21.26(2) and 21.27(b)(relating to domiciliary care home provider eligibility; and domiciliary care home certification and recertification standards) and determinations regarding the apportionment of payments by clients to providers made in accordance with § 21.41(6) (relating to Departmental responsibilities) are not applicable.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.60 (relating to recordkeeping); 6 Pa. Code § 21.74 (relating to basic furnishings); and 6 Pa. Code § 21.76 (relating to personal care responsibilities).

§ 21.55. AAA placement activities.

(a) *Limitation.*

(1) In a home which is certified on or after January 6, 1990 or which had a certified capacity of three or fewer clients under a certification or recertification made prior to January 6, 1990, the AAA shall conduct its placement activities so that no more than three clients reside in the home at one time.

(2) A domiciliary care home which had a certified capacity of four or more clients prior to January 6, 1990 may continue to operate with more than three clients, if applicable State and local laws are observed in conjunction with the applicable sections of this chapter.

(b) *Selection of home.* The AAA shall, in consultation with the specialized service agency having primary care management responsibilities, if one has been assigned, select a home for the client from the central registry of certified domiciliary care homes located in the PSA.

(c) *Approval required.* The domiciliary care home selected shall have the approval of the client prior to placement. Recipients of SSI shall be given the opportunity to accept placement in a domiciliary care home, subject to provider approval, prior to the offering of placement to private pay clients.

(d) *Provider approval.* The client selected for the domiciliary care home shall have the approval of the provider prior to placement.

(e) *Department certification.* The domiciliary care home shall have been certified by the Department under § 21.28 (relating to provider application and home certification process).

(f) *Follow-up by other agency.* In selecting a domiciliary care home for a client, the AAA shall insure, if the follow-up is to be assigned to another agency, that every effort is made to minimize the number of agencies and staff which will be relating to a single domiciliary care home.

(g) *Visit prior to placement.* A visit shall be made to the domiciliary care home by the client and the designated agency staff person responsible for the placement prior to placement for the purpose of acquainting the client with the home, the provider and the surrounding community. During this visit, the rights and responsibilities of both the client and the provider shall be reviewed by the designated staff person in the presence of the client and provider. Other elements necessary for a successful placement shall also be reviewed prior to placement, including the following:

- (1) Client and provider preferences.
- (2) Acceptable behaviors.
- (3) Smoking and consumption of alcohol.
- (4) Pets.

(h) *Decision by client.* The decision of the client to accept or reject the placement shall be made following the visit and out of the presence of the provider. The AAA is required to show only a reasonable number of homes to a client before placement activity with that client is suspended.

(i) *Notification of impending move.* If appropriate, the AAA shall encourage and assist the client in notifying all concerned; for example, the client's family or designate and the post office, of the impending move to a domiciliary care home.

(j) *Information to provider.* The AAA shall provide the domiciliary care home provider with the following written information about a client:

- (1) Name.
- (2) Sex.
- (3) Date of birth.
- (4) Social security number.
- (5) Religious affiliation, if the client chooses to disclose.
- (6) Date of entry into the home.
- (7) The name of the referring agency.
- (8) The names, addresses and telephone numbers of the client's family.
- (9) The name and telephone number of the person to be called in case of emergency.
- (10) A copy of the provider/client agreement.
- (11) An inventory of personal property which the client brings to the facility, on an inventory form developed by the AAA.
- (12) Dietary restrictions.
- (13) A full disclosure of medical problems or history of medical problems.
- (14) Medication regimen.
- (15) The name and telephone number of the client's personal physician and dentist. In the absence of a personal physician or dentist, the client shall participate in the selection of a physician or dentist.
- (16) The guardian's name, address and telephone number, if applicable.

(k) *Follow-up agency and information.* The AAA shall inform the provider, in writing, of the agency and person responsible for follow-up and the telephone number of the person or agency responsible for follow-up.

(l) *Placement.* A mutually agreeable time and date for the placement shall be determined by the provider, the client and the agency responsible for placement. The agreement between the client and the provider shall be developed and completed at the time of placement on a form provided by the Department.

(m) *Domiciliary care house rule approval.* The AAA shall, before placement, approve the house rules of the domiciliary care home and assure that the client has a written copy of the rules and that the rules are explained to the client. The house rules shall be incorporated into the agreement between the client and provider specified in § 21.75 (relating to the client and provider agreement). The house rules shall, at a minimum, contain an agreement outlining when the client is expected to be present in the home and when the client is expected to be away from the home. The purpose of this agreement is to allow the client and provider the necessary freedom to participate in activities not related to the domiciliary care home. A dispute regarding the interpretation of house rules shall be decided by the AAA.

(n) *Follow-up assessment.* Follow-up, ongoing assessment and monitoring of the care plan and placement shall be conducted as follows:

(1) The AAA shall evaluate or designate another agency to evaluate the client's adjustment to the domiciliary care home within 15 days of the placement and shall insure that indicated modifications to the care plan are made. Follow-up of a client placed in a domiciliary care home shall be performed by a home visit at least once every 6 months thereafter, the results of which shall be recorded in writing.

(2) An evaluation shall include a visit to the home and shall be based on discussion with the client outside the provider's presence, and then with the client and provider together.

(3) The AAA shall reassess the continuing adequacy of the placement and care plan at least every 6 months using the reassessment form provided by the Department and shall insure that indicated modifications are made to the care plan. Additionally, when the care plan calls for the provider to manage a client's financial affairs under § 21.81(c) (relating to provider financial accountability), the AAA shall review the financial records of the provider at 6-month intervals.

(4) A complete and comprehensive reassessment of need, utilizing forms prescribed by the Department, shall be performed annually, at minimum, or more frequently, as may be indicated by a significant change in the client's health or a demonstrated change in the client's level of functioning.

(5) If the follow-up, ongoing assessment and monitoring of the placement is performed by an agency other than the AAA, the AAA shall obtain periodic reports and otherwise monitor these activities to insure that they are being performed.

(o) *Notification upon unusual incident.* The AAA shall notify promptly the client's family or designate, if these persons are available, in the event of an unusual incident involving the client.

(p) *Investigation of reports.* A report of an unusual incident in the domiciliary care home shall be thoroughly investigated by representatives of the AAA as follows:

(1) The investigation shall include a home visit which shall take place within 72 hours of the date the report was received by the AAA. One copy of the investigation report shall be kept by the AAA as part of the case record and one copy sent to the agency with primary care plan responsibilities, if this agency is not the AAA.

(2) Investigations performed by the AAA as part of a protective services intervention under the Older Adults Protective Services Act (35 P. S. §§ 10211—10224) and Chapter 15 (relating to protective services for older adults) satisfy the requirements in paragraph (1).

(q) *Grounds for removal and decertification.* One or more of the following reported and documented occurrences shall be grounds for removal and relocation of the client from a domiciliary care home and, if appropriate, decertification of the home or removal of provider eligibility by the AAA:

(1) Neglect, mistreatment or physical or mental abuse of a client.

(2) Violation of a client's rights as cited in § 21.91 (relating to client rights).

(3) Failure of the provider to comply with § 21.26 or §§ 21.71—21.83 (relating to provider rights and responsibilities), or the domiciliary care home's failure to meet the standards in § 21.27 or § 21.28 (relating to domiciliary care home certification and recertification standards; and provider application and home certification process).

(4) Relocation for the client's physical or mental health and welfare when it is determined, in consultation with the client, to be necessary.

(5) A client becomes nonmobile. In this case, the provider shall immediately inform the AAA and make arrangements for the client to be examined by a physician. If the physician finds that the medical and health needs of the client cannot be met in the domiciliary care home, the AAA and provider shall cooperate to transfer the client to the appropriate level of care. The AAA shall ensure the safety of the client pending transfer to the appropriate level of care by providing or making available other services and supports considered necessary or appropriate by the AAA.

(r) *Neglect, mistreatment or abuse of client.* Reports of neglect, mistreatment or abuse shall be made as follows:

- (1) The AAA shall report to the Department, within 72 hours, a documented instance of client neglect, mistreatment or abuse, or a major fire or structural damage in a domiciliary care home and an associated client injury or death.
- (2) Reports which are related to protective services cases and are made by the AAA under the Older Adults Protective Services Act and Chapter 15 satisfy the requirements in paragraph (1).
- (s) *Relocation of client.* The AAA is responsible for the relocation of a client in the event of home closure. However, with regard to joint certifications, the agency which has primary care plan responsibility for a client is responsible for relocation of that client.
- (t) *Relatives excluded.* The AAA may not place a client into the home of a provider who is a relative of that client.

Cross References

This section cited in 6 Pa. Code § 21.33 (relating to decertification of domiciliary care homes and removal of provider eligibility); 6 Pa. Code § 21.60 (relating to recordkeeping); 6 Pa. Code § 21.75 (relating to client and provider agreement); 6 Pa. Code § 21.77 (relating to provider and AAA related activities); and 6 Pa. Code § 21.91 (relating to client rights).

§ 21.56. Central registry of certified homes.

- (a) The AAA shall develop and maintain a registry of certified domiciliary care homes within the PSA.
- (b) The registry shall contain the following information for each home:
 - (1) The name, address and telephone number of each provider.
 - (2) The dates of inspection, certification or recertification and follow-up visits.
 - (3) The written record of the information obtained from the interview with the provider conducted under § 21.28(3)(vi) (relating to provider application and home certification process) and inspection of the home.
 - (4) The total resident capacity.
 - (5) The number of clients presently placed in home and dates of placement.
 - (6) The name of the agency and person responsible for follow-up.
 - (7) Other information determined necessary and useful, such as a record of unusual incident reports.
- (c) Homes in which clients are placed shall be drawn from the registry.
- (d) It is the responsibility of the AAA to continually update the occupancy data contained in the registry.

Cross References

This section cited in 6 Pa. Code § 21.28 (relating to provider application and home certification process); and 6 Pa. Code § 21.52 (relating to AAA service responsibilities).

§ 21.57. Domiciliary care review team.

(a) A domiciliary care review team shall be established by the AAA which shall consist of at least one person from the AAA, one person from the CAO and one person from the county mental health/mental retardation program. A representative from another agency, such as Office for the Visually Handicapped, may be included at the determination of the AAA.

(b) The AAA may utilize its existing advisory council as the domiciliary care review team if the membership of the advisory council meets the standards in subsection (a).

(c) The domiciliary care review team shall meet as often as the AAA deems necessary. Minutes of domiciliary care review team meetings shall be maintained on file by the AAA.

(d) The domiciliary care review team shall be used to handle complaints or appeals from providers, prospective providers, applicants and clients.

§ 21.58. Staffing responsibilities for AAAs providing domiciliary care.

(a) The AAA shall have paid staff sufficient in number and qualifications to carry out the responsibilities required by this chapter. These responsibilities shall include, but not be limited to, the following:

- (1) Prompt assessment of applicants.
- (2) Prompt inspection of homes and ongoing assessment of providers.
- (3) Necessary contact with referral agencies and community resources.
- (4) Monitoring of agencies assigned responsibility for service plan development including the placement of adults in domiciliary care homes, implementation and follow-up.

§ 21.59. Training requirements.

The AAA shall assure that its staff receives periodic training in job-related areas.

§ 21.60. Recordkeeping.**(a) Confidentiality.**

(1) Client record information is confidential and may not be disclosed or made use of, directly or indirectly, except in the legitimate performance of domiciliary care services, and in monitoring and evaluation of the service by State and local officials.

(2) If names and other identifying information are disguised, material from client records may be used for other legitimate functions such as:

- (i) Teaching and research purposes.
- (ii) Development of understanding and knowledge of agency services by the placement agency.
- (iii) Other similar educational purposes.

(b) *Client records.*

(1) A case record for each applicant and client reflecting an assessment of the applicant or client, and a clearly defined and periodically updated service plan for each client as specified under §§ 21.54 and 21.55 (relating to AAA care plan responsibilities; and AAA placement activities) shall be maintained. A record shall include, from intake until the termination of service, a description of the responsibilities assumed by the AAA and the manner in which these responsibilities are carried out, either directly or through assignment to another agency, as well as periodic evaluations of the service delivered to the client. The evaluations shall include the appropriateness of the service from the perspective of the client and the agency.

(2) Documentation pertaining to the applicant or client, including medical and psychiatric reports; forms required by the Department to implement the domiciliary care program; and other relevant information, including relevant information regarding client and provider contract, shall be filed in the case record.

(c) *Home records.*

(1) A record shall be maintained for each of the homes for which an application for certification as a domiciliary care home is filed. A record shall contain information obtained from the interviews with the provider, the home inspection and the written references described in § 21.28 (relating to provider application and home certification process).

(2) Documentation pertaining to the certification of the home and application of the provider, including forms required by the Department, shall be filed with the home records.

§ 21.61. Domiciliary care service's relationship to service management.

The AAA shall determine how domiciliary care service interrelates with service management and specify that interrelationship in a written statement to be kept on file for review by the Department.

§ 21.62. Facility ownership.

The AAA may not own or directly operate a domiciliary care facility.

**PROVIDER RIGHTS AND
RESPONSIBILITIES**

§ 21.71. General provisions.

A domiciliary care home provider shall operate in accordance with applicable provisions of this chapter to assure a safe, supportive, homelike setting for clients.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.72. Staff qualifications.

The provider shall ensure that the following basic qualifications are met for the staff persons involved in home provider services. A staff person:

- (1) Shall be 18 years of age or older.
- (2) Shall be capable of performing home provider services in accordance with this chapter.
- (3) May never have been convicted of a crime involving assaultive behavior or moral turpitude.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.73. Staffing.

(a) At least one provider or staff person shall be present and available on the premises when one or more clients are present in the home.

(b) The AAA may waive the requirements in subsection (a), if the clients are independently mobile and the provider or staff absences would be of limited duration and not during hours when the clients are sleeping. This waiver, if granted by the AAA, shall be made in writing and recorded in the case record.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.74. Basic furnishings.

A provider is responsible for furnishing to a client or, if appropriate, paying for the full cost of, the following basic items:

- (1) Adequate housing in accordance with the standards in §§ 21.27 and 21.80 (relating to domiciliary care home certification and recertification standards; and domiciliary care home maintenance activities).
- (2) Basic utilities, including heat, electricity, hot and cold water, sewage and nontoll telephone service.
- (3) Laundry service for bed linens, towels and personal clothing. A provider shall allow access to laundry equipment such as a washer, dryer, iron and ironing board for a client if the service is specified in the care plan. The home

shall have sufficient bed linens to allow for a complete change of linens for a client once a week, or more often if necessary, and bed linens shall be changed at least once every week.

(4) Three nutritious meals per day, provided in accordance with § 21.78 (relating to nutrition responsibilities of providers). If some meals are provided through a Department-funded senior center, the provider shall pay the center for the full cost of meals received by the client at the center, or pay the center for meals as otherwise specified in the care plan developed under § 21.54(d) (relating to AAA care plan responsibilities).

(5) Other meals received outside the domiciliary care home which are initiated by the provider or which otherwise can be identified as the responsibility of the provider.

(6) Basic furnishings to include the following:

(i) A twin (or larger) bed without casters, or with locked casters, which does not require a client to climb steps or a ladder to get into or out of the bed.

(ii) A mattress and box spring.

(iii) A bed pillow.

(iv) A bedside table or shelf and bedside light.

(v) A dresser and mirror.

(vi) A clothes closet or wardrobe.

(vii) Bed linens and blankets.

(viii) Towels and washcloths and a towel bar.

(7) Transportation to enable a client to receive necessary, nonemergency medical services.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.54 (relating to AAA care plan responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.75 (relating to client and provider agreement); 6 Pa. Code § 21.81 (relating to provider financial accountability); and 6 Pa. Code § 21.92 (relating to client responsibilities).

§ 21.75. Client and provider agreement.

(a) There shall be a written agreement between the provider and the client, specifying the monthly charge for domiciliary care provider services in accordance with the amounts established by the Department. The agreement, to be completed on a form provided by the Department, shall be fully explained to the client prior to placement.

(b) The agreement is subject to prior approval by the AAA and shall, at a minimum, specify the house rules of the provider established under § 21.55(m) (relating to AAA placement activities) and set forth the responsibilities of the provider to furnish items specified in § 21.74 (relating to basic furnishings).

(c) The agreement shall be amended at least annually to reflect changes in client payments to providers as established by the Department. The agreement may be amended at other times, on terms mutually agreeable to the provider and the client, subject to review and approval by the AAA.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.81 (relating to provider financial accountability); and 6 Pa. Code § 21.92 (relating to client responsibilities).

§ 21.76. Personal care responsibilities.

(a) The provider shall help the client in developing or maintaining self-help skills, personal hygiene skills and other skills relating to activities of daily living in accordance with the care plan established under § 21.54 (relating to AAA care plan responsibilities).

(b) If necessary, the provider shall assist with the administration of medication prescribed for self-administration, and will do so in accordance with the care plan established under § 21.54.

(c) When the provider assists clients with the administration of medication, the following standards apply:

(1) The provider shall take reasonable precaution to assure that drugs are stored and maintained in a safe and secure manner to protect against contamination, spillage, misidentification and pilferage. In establishing a means for safe storage with the client, the provider shall consider the status of the client and others living in the home, the degree to which the client needs immediate access to the drug and the potential harm if the drug should be misused.

(2) The provider may assist with medications by helping the client to remember the client's schedule in accordance with the prescription, storing the medication in a secure place and offering the client the medication at the prescribed times.

(3) Only currently prescribed medication of a client living in the home may be stored in the home.

(4) Medication, prescription and nonprescription and topical preparations, except as specified in paragraph (5), shall be stored in locked areas.

(5) Medication may be stored in a client's room for self-administration upon written instructions of a licensed physician.

(6) Medication prescribed for one client may not be provided to another client.

(7) Medication assistance errors and drug reactions shall be reported immediately to the physician who ordered the medication.

(8) Medication shall be kept in its original prescription container.

(9) When the client permanently leaves the home, the client's medications are to be given to the client, the family or the client's designate.

(10) When medication is discontinued, becomes outdated or was prescribed for a client who died before taking all of the prescribed medications, the remaining medications shall be destroyed.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.77. Provider and AAA related activities.

(a) The provider, in cooperation with the AAA, shall:

(1) Assure that each client visits or is seen by his physician at least annually or more frequently if indicated by the client's health needs.

(2) Obtain emergency medical care when the client's personal physician is not available.

(3) Assure that dental, eye and other medical services are made available to clients as necessary.

(b) If a client becomes nonmobile or if the client's medical situation, as determined by a physician, indicates the need for a transfer to a health care facility, the provider shall immediately notify the AAA so that the AAA can assist with the client's transfer to the appropriate facility and take appropriate action under § 21.55(q)(5) (relating to AAA placement activities).

(c) If a provider intends to close a home, at least 30 days prior to the intended date of closure, the provider shall submit a written statement to each client, the designate—if one exists—and the AAA. The statement shall include:

(1) The provider's intent to cease operations.

(2) The closing date.

(3) A guarantee that the domiciliary care home will continue operation at least 30 days beyond the closing date for the relocation of clients except in cases in which the AAA determines that removal of the client at an earlier time is necessary for the client's health and welfare.

(d) The provider shall maintain information on each client containing the information listed in § 21.55(j).

(e) The provider shall notify immediately the AAA regarding unusual incidents which occur. The AAA shall then take action, deemed appropriate, in accordance with § 21.55.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.78. Nutrition responsibilities of providers.

The provider shall assure that:

- (1) A client is served daily at least three well-balanced meals which are designed to meet the daily nutritional requirements of the client and which are prepared either by the provider, or as indicated in the care plan, by the client with the supervision of the provider.
- (2) A substitute meal is available to the client, if a client misses a meal.
- (3) Dietary restrictions prescribed by the client's personal physician are followed.
- (4) Meals are served to clients in a dining area, except that:
 - (i) Meal service to a client's bedroom shall be made available only if the client is temporarily ill or indisposed.
 - (ii) Meal service to other rooms in the home may be made available if the client requests that service and the provider agrees to deliver that service.
- (5) Food returned from individual plates is discarded and is not used in the preparation of other food dishes or served again.
- (6) Milk served to clients or used in food preparation is pasteurized, canned or powdered.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.74 (relating to basic furnishings); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.79. Fire and safety activities.

The provider shall assure that:

- (1) First aid supplies such as bandages, adhesive tape, bandaids, slings, cotton, sterile dressings, antiseptics, safety pins and scissors, are available in the home.
- (2) The telephone number of the local fire department, police, poison control and ambulance serving the home is posted by the telephones.
- (3) A minimum of one operational fire extinguisher is located on each occupied floor, with at least one fire extinguisher located in the kitchen or cooking area, unless otherwise prescribed by the local fire inspecting authority under § 21.27(12) (relating to domiciliary care home certification and recertification standards). The provider and each staff person shall be trained to use the fire extinguishers.
- (4) A written plan is available for evacuation of the building in case of a fire or other emergency, and the clients and residents of the home are made aware of the plan.
- (5) Fire drills are conducted at least quarterly in accordance with the plan established under paragraph (4). A written record listing the time and date of the drills shall be kept by the provider. Annually, at least one fire drill shall be conducted without prior notice to clients.

(6) Proper safeguards are taken against the fire hazards involved in smoking. For example, ashtrays and special smoking areas and nonsmoking areas shall be provided.

(7) Firearms kept on the premises are stored in a locked area which is inaccessible to clients.

(8) Containers of poisonous, caustic, toxic, flammable or other dangerous materials kept in the home are prominently and distinctly marked or labeled as hazardous and stored in an area that is inaccessible to clients. The use and storage of these materials may not constitute a hazard to the clients.

(9) Combustible trash is stored in fire resistant containers.

(10) Fireplaces are securely screened when in use.

(11) Portable space heaters are not used. If nonportable electric baseboard space heaters are used, they shall be installed with permanent connectors and protectors.

Cross References

This section cited in 6 Pa. Code § 21.27 (relating to domiciliary care home certification and recertification standards); 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.80. Domiciliary care home maintenance activities.

The provider shall assure that:

(1) The atmosphere and routine of the domiciliary care home enables clients to spend the majority of their hours outside of their bedrooms.

(2) Furnishings and housekeeping standards are of a standard that the domiciliary care home is comfortable and clean. Closets, attics, basements, cellars and furnace rooms shall be kept free from accumulation of extraneous material, such as discarded furniture, clothing, newspapers or magazines. Garbage and rubbish shall be removed from the premises at least once per week, and shall be stored in containers that have tight fitting covers.

(3) A minimum temperature of 68°F during waking hours and 65°F during sleeping hours is maintained in rooms used by clients. If the clients are 65 years of age or older, a minimum temperature of 70°F is maintained during waking hours and 65°F during sleeping hours in rooms used by those clients. If the temperature in rooms used by clients exceeds 85°F, a fan or air conditioner shall be provided.

(4) A client's bedroom is not used for other purposes by the provider.

(5) Doors into rooms used by clients are not locked from the outside when a client is in the room.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.74 (relating to basic furnishings); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.81. Provider financial accountability.

(a) The provider shall maintain accurate financial records regarding the operation of the domiciliary care home. The records shall include, but not be limited to, records of payments made to utilities and mortgage-holders, and records of purchases made and costs incurred to meet the provider responsibilities as outlined in this section and §§ 21.71—21.80 and 21.82.

(b) The provider may not manage the client's finances unless prior approval is received from the client and the AAA and the activity is specified in the care plan developed by the AAA.

(c) If the care plan requires that the provider manage the client's finances, the provider shall:

(1) Maintain detailed and accurate financial records of each individual client's assets, expenditures and payments received. These records shall include the client's banking statements, receipts for client deposits to accounts and expenditures exceeding \$25, records of payments from the client to the provider for home provider services and the client's current fund balance. The provider may not commingle his money with that of the client's.

(2) Notify the client and offer assistance with establishing an interest-bearing account in the client's name at a local financial institution protected by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, if the client's excess funds exceed \$200 at the end of 2 consecutive months.

(3) Surrender to the administrator or executor of the client's estate the assets of that client which have been entrusted to the provider, upon the death of the client. If there is no administrator or executor appointed within 1 week, the provider shall surrender the assets to the AAA pending probate. An itemized written account of the client's fund balance and an inventory of the assets shall be furnished by the provider.

(4) Immediately provide the client with an itemized written account of the funds and pay to the client the remaining balance in funds, upon termination of domiciliary care home provider service.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); and 6 Pa. Code § 21.55 (relating to AAA placement activities).

§ 21.82. Other provider responsibilities.

(a) The provider shall pay a client for work performed which is of a consequential economic benefit to the provider. This work shall be paid for under 29

CFR Part 529 (relating to employment of patient workers in hospitals and institutions at subminimum wages) and the Fair Labor Standards Act of 1938 (29 U.S.C.A. §§ 201—219).

(b) The provider may not enter into a contract to keep or care for a client for the remainder of the client's life.

(c) The provider shall assure that clients in the home are informed of, and afforded, the rights delineated in § 21.91 (relating to client rights).

(d) The provider may not accept a power of attorney, a designation as representative to receive Social Security payments or the legal guardianship from a client, unless prior written approval is received from the AAA.

(e) The provider shall permit members of a client's family, community service organizations and representatives of community legal service programs and the Department to have access to the domiciliary care home during the home's visitation hours or by appointment for the purpose of visiting or rendering assistance to a client or informing clients of the availability of services and assistance. The visitation hours shall be at a reasonable time of day and a reasonable amount of time shall be allowed for visitation.

(f) The provider shall permit access to the home for the AAA to conduct follow-up interviews, inspections and emergency visits under §§ 21.29(1)(i) and (ii) (relating to redetermination of provider eligibility and recertification of domiciliary care homes).

(g) The provider shall have a physical examination at least every 2 years to demonstrate that the provider continues to meet the criteria and responsibilities in §§ 21.26(3) and 21.28(2)(vi) (relating to domiciliary care home provider eligibility; and provider application and home certification process).

(h) The provider shall maintain in force an insurance policy in accordance with the specifications in § 21.28(2)(viii) (relating to provider application and home certification process).

(i) By July 6, 1990, a current provider shall successfully complete a training program offered under § 21.52(5) (relating to AAA service responsibilities) and a basic life support course in Cardiopulmonary Resuscitation (CPR) and Basic First Aid offered through a local Red Cross Chapter or other similar resource. Failure to complete these training programs may lead to the removal of provider certification by the AAA.

(j) A provider determined to be eligible after January 6, 1990 shall meet the requirements of subsection (i) within 6 months of the date their eligibility determination was made by the AAA.

(k) After-receiving initial training, a provider shall maintain certification in CPR and Basic First Aid by completing requisite course updates at intervals prescribed by the training resources—for example, the Red Cross.

Cross References

This section cited in 6 Pa. Code § 21.52 (relating to AAA service responsibilities); 6 Pa. Code § 21.55 (relating to AAA placement activities); and 6 Pa. Code § 21.81 (relating to provider financial accountability).

§ 21.83. Provider rights.

A domiciliary care provider shall be afforded the following rights:

- (1) The right to appeal an adverse action by the Department or the AAA and receive a fair hearing under Chapter 3 (relating to fair hearings and appeals).
- (2) The right to prompt action on reasonable requests made to the AAA with regard to problems encountered with the provision of domiciliary care provider services.
- (3) The right to timely payments from clients for domiciliary care provider services.
- (4) The right to receive training and technical assistance from the AAA regarding domiciliary care provider services.
- (5) The right to assistance and support from the AAA when serving special needs or during emergency situations.

Cross References

This section cited in 6 Pa. Code § 21.55 (relating to AAA placement activities).

CLIENT RIGHTS AND RESPONSIBILITIES**§ 21.91. Client rights.**

A client residing in a domiciliary care home shall be afforded the following basic rights:

- (1) The client may not be restricted in the right to leave and return to the domiciliary care home at reasonable times consistent with the house rules developed under § 21.55(m) (relating to AAA placement activities).
- (2) The client shall have the right to attend and participate in the religious activities of the client's choice or to abstain from religious practice, and shall have the right to be free from the imposition of the religious practices of others.
- (3) The client shall be free to receive visitors at times mutually-agreed upon by the client and provider.
- (4) The client shall have access to a telephone in the domiciliary care home and may make local calls, in reasonable privacy, without charge. The client shall be allowed to make arrangements for payment of toll calls.
- (5) The client shall have access to the United States mails, may write and send uncensored mail at the client's own expense, and receive, unopened, mail addressed to the client.

(6) The client shall be free to voice grievances and recommend changes in the policies and services of the domiciliary care provider during periodic updates of the house rules.

(7) The client shall be allowed to keep in the client's room personal possessions including, but not limited to, radios, pictures, plants, cards, photographs, rockers, footstools and chairs.

(8) The client shall have the right to privacy in all aspects of daily living, including visual privacy in the bathroom and in intimate personal hygiene.

(9) The client shall have the right to a diet consistent with religious or health restrictions.

(10) The client shall have the right to be treated in a courteous manner by the provider and staff of the domiciliary care home.

Cross References

This section cited in 6 Pa. Code § 21.55 (relating to AAA placement activities); 6 Pa. Code § 21.82 (relating to other provider responsibilities); and 6 Pa. Code § 21.92 (relating to client responsibilities).

§ 21.92. Client responsibilities.

A client residing in a domiciliary care home is responsible for the following:

(1) Paying the monthly domiciliary care provider fee as established by the Department under § 21.41(6) (relating to Departmental responsibilities) to the provider in a timely manner.

(2) Paying for personal expenses not specified in § 21.74 (relating to basic furnishings).

(3) Treating the provider, the staff and other residents of the home in a courteous manner.

(4) Respecting the rights of the other clients in the home as specified in § 21.91 (relating to client rights).

(5) Complying with the house rules of the agreement entered into with the domiciliary care home provider established under § 21.75 (relating to client and provider agreement), as long as the provisions of that agreement do not conflict with § 21.91.

FAIR HEARINGS AND APPEALS

§ 21.101. Fair hearings and appeals.

(a) All parties have the right to express grievances and complaints and to appeal and receive a fair hearing on adverse actions regarding services or activities funded by the Department under Chapter 3 (relating to fair hearings and appeals).

(b) The AAA shall utilize the domiciliary care review team to handle complaints or appeals from domiciliary care providers and applicants for or recipients of domiciliary care services.

Cross References

This section cited in 6 Pa. Code § 21.23 (relating to application process for domiciliary care service and domiciliary care supplement); and 6 Pa. Code § 21.25 (relating to termination of eligibility for domiciliary care service or the domiciliary care supplement).

OTHER ADMINISTRATIVE PROVISIONS

§ 21.111. Forms, documents and other written materials.

The Department may supplement or interpret this chapter by developing and issuing forms, documents or other written materials necessary for the effective administration of the program.

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