



RULE-MAKING ORDER PERMANENT RULE ONLY

CR-103P (December 2017) (Implements RCW 34.05.360)

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DATE: August 23, 2018

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WSR 18-18-006

Agency: Department of Social and Health Services, Aging and Long-Term Supports Administration

Effective date of rule:

Permanent Rules

- 31 days after filing.
 Other (specify) (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes No If Yes, explain:

Purpose: The department is amending sections in chapter 388-71 WAC to define person-centered care. Updates include person-centered language, equal access to care and services, client choice in activities and staff, and maintaining dignity, respect, and privacy while attending adult day programs. .

Citation of rules affected by this order:

New: None
Repealed: None
Amended: WAC 388-71-0702, WAC 388-71-0704, WAC 388-71-0710, WAC 388-71-0714, WAC 388-71-0718, WAC 388-71-0720, WAC 388-71-0722, WAC 388-71-0723, WAC 388-71-0724, WAC 388-71-0728, WAC 388-71-0732, WAC 388-71-0736, WAC 388-71-0746, WAC 388-71-0764, WAC 388-71-0766, WAC 388-71-0770
Suspended: None

Statutory authority for adoption: RCW 74.08.090

Other authority:

PERMANENT RULE (Including Expedited Rule Making)

Adopted under notice filed as WSR 18-11-136 on May 23, 2018 (date).
Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Web site:
Other:

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	_____	Amended	_____	Repealed	_____
Federal rules or standards:	New	_____	Amended	16	Repealed	_____
Recently enacted state statutes:	New	_____	Amended	_____	Repealed	_____

The number of sections adopted at the request of a nongovernmental entity:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted on the agency's own initiative:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	_____	Amended	_____	Repealed	_____
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The number of sections adopted using:

Negotiated rule making:	New	_____	Amended	_____	Repealed	_____
Pilot rule making:	New	_____	Amended	_____	Repealed	_____
Other alternative rule making:	New	_____	Amended	16	Repealed	_____

Date Adopted: August 22, 2018

Name: Katherine I. Vasquez

Title: DSHS Rules Coordinator

Signature:



AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

WAC 388-71-0702 What is the purpose of adult day services? (1) WAC 388-71-0702 through 388-71-0776 contains the eligibility requirements for community options program entry system (COPES) waiver, roads to community living (RCL), residential support waiver (RSW), or other agency approved funding for adult day care and adult day health services.

(2) These rules also contain the requirements that apply to adult day care and adult day health centers that contract with the department, area agency on aging, other department designee to provide COPES (~~waiver~~), RSW, and RCL services to department clients, and adult day centers who are owned and operate on a private pay basis. Nothing in these rules may be construed as requiring the department, an area agency on aging, or other designee to contract with an adult day care or adult day health center.

(3) An adult day center is a community-based program designed to meet the needs of adults with impairments through individualized goal specific plans of care. This type of structured, comprehensive, non-residential program provides a variety of health, social, and related support services in a protective setting. Adult day centers support families and caregivers with the following goals:

(a) Provide an opportunity for the client to live in his or her community;

(b) Provide the client with clinical and nonclinical services to meet unmet needs;

(c) Assist the client to maintain maximum independence in his or her activities of daily living (ADL); and

(d) Measure the client's progress through individualized interventions, as outlined in his or her negotiated care plan.

(4) An adult day center evaluates the client's needs and offers services with goal specific interventions to meet those needs and enhance his or her quality of life. The client attends on a scheduled and planned basis. The adult day center evaluates potential clients to determine if center is able to meet their identified needs. Nothing in this generic description may be construed to modify the specific services or eligibility requirements referenced in this chapter of adult day care and adult day health.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0704 What services are provided in adult day care? Adult day care is a supervised nonresidential program providing services as defined in WAC 388-106-0800. Services are appropriate for adults with medical or disabling conditions that do not require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's authorizing practitioner. The adult day care center must offer and provide on-site the following services. These services must meet the level of care needed by the client as assessed by the department case manager

for waiver funded clients and do not exceed the scope of services that the adult day care center is able to provide.

(1) Assistance with activities of daily living:

(a) Locomotion outside of room, locomotion in room, walks in room;

(b) Body care;

(c) Eating;

(d) Repositioning;

(e) Medication management that does not require a licensed nurse;

(f) Transfer;

(g) Toileting;

(h) Personal hygiene at a level that ensures client safety while in attendance at the program; and

(i) Bathing at a level that ensures client safety and comfort while in attendance at the program.

(2) Social services on a consultation basis, which may include:

(a) Referrals to other providers for services not within the scope of COPES waiver or RCL reimbursed adult day care services;

(b) Caregiver support and education; or

(c) Assistance with coping skills.

(3) Routine health monitoring with consultation from a registered nurse that a consulting nurse acting within the scope of practice can provide with or without an authorizing practitioner's order. Examples include:

(a) Obtaining baseline and routine monitoring information on client health status, such as vital signs, weight, and dietary needs;

(b) General health education such as providing information about nutrition, illnesses, and preventative care;

(c) Communicating changes in client health status to the client's caregiver;

(d) Annual and as needed updating of the client's medical record;

or
(e) Assistance as needed with coordination of health services provided outside of the adult day care program.

(4) General therapeutic activities that an unlicensed person can provide or that a licensed person can provide with or without an authorizing practitioner's order. These services are planned for and provided based on the client's abilities, interests, and goals, which are not limited by funding source. Examples include:

(a) Recreational activities;

(b) Diversionary activities;

(c) Relaxation therapy;

(d) Cognitive stimulation; or

(e) Group range of motion or conditioning exercises.

(5) General health education that an unlicensed person can provide or that a licensed person can provide with or without an authorizing practitioner's order, including but not limited to topics such as:

(a) Nutrition;

(b) Stress management;

(c) Disease management skills; or

(d) Preventative care.

(6) A nutritional meal and snacks every four hours, including a modified diet if needed and within the scope of the program, as provided under WAC 388-71-0770;

(7) Supervision and/or protection if needed for client safety;

(8) Assistance with arranging transportation to and from the program; and

(9) First aid and provisions for obtaining or providing care in an emergency. NOTE: If the client requires the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of an authorizing practitioner, consider adult day health services.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0710 What are the eligibility criteria for enrollment in adult day health? Clients are eligible for adult day health services if they meet the criteria outlined in WAC 388-106-0815 which references WAC 388-106-0300 ((and)), 388-106-0305, 388-106-0336(9), and 388-106-0337.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0714 What is considered rehabilitative therapy in adult day health? (1) Skilled rehabilitative therapy services are medically necessary services provided by or under the supervision of a licensed physical, occupational, or speech-language pathology or audiology therapist that the therapist acting within the scope of practice can provide or supervise directly or indirectly. Authorizing practitioner orders must be initially obtained and updated when a significant change occurs or at least ((~~annually~~ {~~annually~~} annually when required by applicable state practice laws for licensed therapists.

(a) Persons that can provide rehabilitative care under the direction and supervision of a licensed therapist include occupational therapy aides, occupational therapy assistants, physical therapy aides, physical therapy assistants, and nurses within their respective scopes of practice. Adult day health program aides, specifically trained in rehabilitative techniques, may also provide care under the direction and supervision of a licensed therapist.

(b) Services, group or individual, must be related to an active written plan of care with time specific measurable treatment goals approved by the authorizing practitioner;

(c) Services, group or individual, must require the assessment, knowledge and skills of a licensed therapist; and

(d) Services, group or individual, must be provided with the reasonable expectation that the services will improve, restore, maintain function, or slow decline. Rehabilitative services are:

(i) Specific to a client diagnosis;

(ii) Individualized to the client with planned, measurable outcomes; and

(iii) Reevaluated every ninety days for effect on improvement of health status or slowing the decline.

(2) Skilled rehabilitative therapy is not a qualifying adult day health service merely because the therapy is ordered by an authorizing

practitioner or is provided by a therapist or under the supervision of a therapist. If, by way of example, the therapy can be performed independently by the client or at the client's direction by a person other than a licensed therapist, it is not a qualifying adult day health service.

Skilled rehabilitative therapy services must be medically necessary as defined under WAC 182-500-0070.

(3) Medically necessary physical therapy services may, but do not necessarily include:

(a) Assessing baseline mobility level, strength, range of motion, endurance, balance, and ability to transfer;

(b) One to one and group treatment to relieve pain, develop, restore, or maintain functioning, with individualized and measurable client treatment goals;

(c) Establishing a maintenance or restorative program with measurable treatment goals, and providing written and oral instruction to the client, caregivers, or program staff as needed to assist the client in implementing the program;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex nonskilled care and skilled therapist oversight to ensure that the nonskilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a physical therapist acting within the therapist's scope of practice.

(4) Medically necessary occupational therapy services may, but do not necessarily include:

(a) Administering a basic evaluation to determine baseline level of functioning, ability to transfer, range of motion, balance, strength, coordination, activities of daily living and cognitive-perceptual functioning;

(b) Teaching and training the client, caregivers, or program staff in the use of therapeutic, creative, and self-care activities to improve or maintain the client's capacity for self-care and independence, and to increase the range of motion, strength and coordination;

(c) One to one and group treatment to develop, restore, or maintain functioning with individualized and measurable client treatment goals;

(d) Training the client or the client's caregivers in the use of supportive, adaptive equipment or assistive devices;

(e) Evaluation and management of the care plan when medical conditions or complications require complex nonskilled care and skilled therapist oversight to ensure that the nonskilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of an occupational therapist acting within the therapist's scope of practice.

(5) Medically necessary speech-language pathology or audiology services may, but do not necessarily include((+)):

(a) Assessing baseline level of speech, swallowing, auditory, or communication disorders;

(b) Establishing a treatment program to improve speech, swallowing, auditory, or communication disorders;

(c) Providing speech therapy procedures that include auditory comprehension tasks, visual and/or reading comprehensive tasks, lan-

guage intelligibility tasks, training involving the use of alternative communication devices, or swallowing treatment;

(d) Training the client or the client's caregivers in methods to assist the client in improving speech, communication, or swallowing disorders;

(e) Evaluation and management of the care plan when medical conditions or complications require complex nonskilled care and skilled therapist oversight to ensure that nonskilled care is achieving its purpose; or

(f) Providing other medically necessary services that can only be provided by or under the direct or indirect supervision of a speech-language pathology or audiology therapist acting with the therapist's scope of practice.

(6) Medically necessary skilled rehabilitative therapy services, by way of example, do **not** include:

(a) Reminding or coaching the client in tasks that are not essential to the skilled therapy or intervention in the client's service plan;

(b) Monitoring of a medical condition that does not require frequent skilled therapist intervention or a change in authorizing practitioner treatment orders, or where there is no reasonable expectation that skilled services will maintain, improve, or slow the effect of a progressive disabling condition on the pain, health or functioning of a client;

(c) Massage therapy;

(d) Evaluation and management of the care plan when the complexity of the care to be provided by nonskilled persons does not require the skills of a licensed therapist for oversight;

(e) Continued training by therapy staff to teach self-care for newly diagnosed, acute, or episodic medical conditions when it is apparent that the training should have achieved its purpose or that the client is unwilling or unable to be trained;

(f) ADC services that can be provided by an adult day care center, such as routine health monitoring, general health education, or general therapeutic activities; or

(g) Group therapy or training where the ratio of licensed therapists and assisting program staff to clients is inadequate to ensure that:

(i) The group activity contributes to the individual client's planned therapy goals; and

(ii) The complexity of the individual client's need can be met.

(7) Skilled therapy services must be documented as provided under WAC 388-71-0746 and 182-502-0020.

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

WAC 388-71-0718 What is the adult day care center's responsibility in developing the client's negotiated care plan? (1) Upon the department's or authorized case manager's referral of a (~~community options program entry system (-)~~)COPESES((+)), (~~roads to community living (+)~~) RSW, RCL((+)), or other agency approved client to an ADC center, the ADC center must respond in writing to the department or authorized case manager within two working days, acknowledging receipt of the re-

ferral and the center's ability to process and evaluate the referred client.

(2) The case manager will provide the client's department service plan to the ADC center within five working days after the client or client's representative has signed it.

(3) The ADC center must schedule and conduct an intake and evaluation visit with the referred client or the client and his or her authorized representative to determine the client's ((willingness)) desire to attend the ADC center and evaluate the ADC center's ability to meet the client's assessed needs and specific goals as defined in the client's department service plan. The intake and evaluation must be based on an interview with the client or the client and his or her authorized representative.

(4) Within ten paid service days from the date the client started attending the ADC center, the ADC center must complete and provide a preliminary service plan to the client or the client and his or her representative and the client's case manager that outlines the client's strengths, deficits, and potential needs. The ADC center must determine whether it can meet the client's needs, how it will meet the client's needs, and whether it will accept the client into the program. The ADC center must not accept a client whose needs the center cannot meet. The ADC center must document in the client's file the date it accepted the client into the ADC program. If the client is not accepted into the ADC program, the preliminary service plan must include the reason(s) why the client was not accepted.

(5) Within thirty calendar days of the date the client was accepted into the ADC program, the ADC center must work with the client or the client and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ADC center.

(6) The negotiated care plan must limit the frequency of services to the number of days authorized in the department authorized service plan. The negotiated care plan must include:

(a) A list of the care and services the ADC center will provide the client;

(b) Identification of who will provide the client's care and services;

(c) When and how the ADC center will provide the care and services;

(d) How the ADC center will manage the client's medications and how the client will receive his or her medications when attending the ADC center;

(e) The client's activity preferences and how the ADC center will meet these preferences;

(f) Other preferences and choices about issues important to the client, including, but not limited to:

(i) Food;

(ii) Daily routine;

(iii) Activities;

(iv) Services received and who will provide the services received;

(v) Individuals they interact with;

(vi) Grooming;

((~~(iv)~~)) (vii) How the ADC center will accommodate the client's preferences and choices; and

(g) If needed, a plan to:

- (i) Follow in case of a foreseeable crisis due to the client's assessed needs;
 - (ii) Reduce tension, agitation, and problem behaviors;
 - (iii) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADC center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience and must also ensure clients are free from coercion while attending the ADC center;
 - (iv) Respond to the client's refusal of care or treatment, including when the ADC center should notify the client's physician or practitioner of the client's refusal; and
 - (v) Identify any communication barriers the client may have and how the ADC center will use the client's behaviors and nonverbal gestures to communicate with him or her.
- (7) The ADC center must:
- (a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;
 - (b) Update the negotiated care plan annually and whenever there is a significant change in the client's condition and needs;
 - (c) Share the negotiated care plan with the client's case manager whenever it is updated, annually, and after a significant change;
 - (d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;
 - (e) Keep the current negotiated care plan in the client's file; and
 - (f) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.
- (8) The ADC center must report changes in the client's condition or unanticipated absences more than three consecutive scheduled days of service to the client's case manager within one week.
- (a) Unanticipated absences may include but are not limited to absences due to client illness or change in transportation access.
 - (b) The case manager may follow up with the client or the client and his or her representative and determine if any updates to the assessment, client's department service plan, or service authorizations are needed.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0720 What is the adult day health center's responsibility in working with the department or their designee to obtain, use and update the CARE assessment? (1) The department or an authorized case manager must perform a CARE assessment to determine a client's need for adult day health, per WAC 388-106-0065. Based on the assessment, the case manager determines whether the client should be referred for day health services or whether the client's needs can be met in other ways.

(2) If the client **has** a department or area agency on aging case manager, the adult day health center or other referral source must notify the case manager of the client's potential adult day health service need. The case manager must assess the client's need for skilled

nursing or skilled rehabilitative therapy within the department's normal time frames for client reassessments.

(3) If the client **does not have** a department or area agency on aging case manager, the adult day health center or other referral source must notify the department of the referral and the client's potential adult day health service need, or refer the client to the department for intake. The department's assigned case manager must assess the client's need for adult day health services within the department's normal time frames for initial client eligibility assessments.

(4) The case manager may consult with the client's authorized practitioner, department or area agency on aging nursing services staff, or other pertinent collateral contacts, concerning the client's need for skilled nursing or rehabilitative therapy.

(5) If the department or area agency on aging case manager determines and documents a potential unmet need for day health services, the case manager works with the client and/or the client's representative to develop a service plan that documents the potential unmet needs and the anticipated number of days per week that the services are needed. The case manager refers the client to a department contracted adult day health center for evaluation and the development of a preliminary service plan.

(6) The department or area agency on aging case manager must reassess adult day health clients at least annually. Clients must also be reassessed if they have a break in service of more than thirty days. The adult day health center must inform the case manager of the break in service so payment authorization can be discontinued.

(7) COPEs, RSW, and RCL recipients of adult day health services must be assessed by the department or an authorized case manager for initial or continued eligibility as follows:

(a) Annual reassessment for department clients; or

(b) A new client to the center who potentially could be eligible for state paid ADH services are to be referred to the local department offices for intake and assessment for eligibility.

(8) The department or area agency on aging case manager must review a client's continued eligibility for adult day health services every ninety days, coinciding with the quarterly review completed by the adult day health program. At the case manager's discretion, additional information will be gathered through face to face, collateral or other contact methods to determine continued eligibility. Services will be continued, adjusted, or terminated based upon the case manager's determination during the eligibility review.

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

WAC 388-71-0722 What is the adult day health center's responsibility in developing the client's negotiated care plan? (1) Upon the department's or authorized case manager's referral of a (~~community options program entry system (+)~~) COPEs(~~(+)~~), (~~roads to community living (+)~~) RSW, RCL(~~(+)~~), or other agency approved client to an ADH center, the ADH center must respond in writing to the department or authorized case manager within two working days, acknowledging receipt

of the referral and the center's ability to process and evaluate the referred client.

(2) The case manager must provide the client's department service plan to the ADH center within five working days after obtaining the client or client's authorized representative's signature on the service plan.

(3) The ADH center must schedule and conduct an intake and evaluation visit with the referred client or the client and his or her authorized representative to determine the client's ((willingness)) desire to attend the ADH center and evaluate the ADH center's ability to meet the client's needs as defined in the client's department service plan.

(4) Within ten paid service days from the date the client started attending the ADH center, the center must complete an intake and evaluation and provide a preliminary service plan to the client or the client and his or her authorized representative and the client's case manager.

(a) The ADH center's intake and evaluation must include multidisciplinary assessments based on interviews and evaluations of the client's strengths and limitations with the client or the client and his or her authorized representative.

(b) If the department service plan indicates a nursing or rehabilitative need during the intake and evaluation period, licensed professionals must conduct evaluations and assessments of the client's clinical or rehabilitative needs.

(c) The preliminary service plan must include:

(i) Client specific problems or needs as identified in the intake and evaluation;

(ii) The needs for which the client chooses not to accept services or refuse care or services;

(iii) What the center will do to ensure health and safety of the client related to the refusal of any care or service;

(iv) Client specific and agreed upon goals;

(v) Client preferences; and

(vi) How the center will meet the client's needs and preferences.

(d) Based on the ADH center intake and evaluation, the ADH center must determine whether it can meet the client's needs, how it will meet the client's needs, and whether it will accept the client into the ADH program.

(i) The ADH center must not accept a client whose needs the center cannot meet.

(ii) If the client is accepted into the ADH program, the ADH center must document the date of acceptance in the client file.

(iii) If the client is not accepted into the ADH program, the preliminary service plan must include the reason(s) why the client was not accepted.

(e) The ADH center must provide the client, or the client's authorized representative, and the client's case manager, a copy of the evaluation and preliminary service plan within ten paid days of service.

(5) The ADH center will be reimbursed under WAC 388-71-0724 for any service days provided from the state of the intake and evaluation, if the case manager has authorized services.

(6) Upon the department's or authorized case manager's approval of the ADH center's preliminary service plan, the ADH center must obtain and provide to the case manager any required practitioner's orders for skilled nursing, rehabilitative therapy services, and medical

devices that pertain to those services and interventions the ADH center is providing to the client under WAC 388-71-0712 through 388-71-0714. Orders from authorizing practitioners are not necessary for medical devices that are within the professional scope of practice of occupational or physical therapists working within the day center.

(a) The authorizing practitioner orders must:

(i) Include the frequency of authorized service;

(ii) Include use of and parameters for the authorized medical devices;

(iii) Include how often the client is to be seen by the authorizing practitioner;

(iv) Include the client's consent to follow up with the authorizing practitioner; and

(v) Be reviewed, updated, or revised when a significant change occurs, at least annually, or sooner if required by the prescriber.

(b) The case manager or nursing services staff may follow up with the practitioner, or other pertinent collateral contacts, concerning the client's need for skilled services.

(c) Services must not be authorized for payment without current practitioner orders.

(d) The authorizing practitioner must only authorize services, supports, and interventions that are within the practitioner's professional scope of practice.

(7) Within thirty calendar days of acceptance into the program, the ADH center's multidisciplinary team must work with either the client or the client and his or her authorized representative to develop and complete a negotiated care plan signed by the client or the client's authorized representative and the ADH center. The negotiated care plan may be developed initially in lieu of the preliminary service plan.

(8) The negotiated care plan must be consistent with the department-authorized service plan, include all authorized ADC and ADH services, limit the frequency of services to the number of days in the department authorized service plan, and must include:

(a) A list of the care and services the ADH center will provide the client;

(b) Time specific, measurable, and individualized client goals;

(c) Who will provide the client's care and services;

(d) When and how the ADH center will provide the care and services;

(e) How the ADH center will manage the client's medications, including how the client will receive his or her medications when attending the ADH center;

(f) The client's activity preferences and how the ADH center will meet these preferences;

(g) Other preferences and choices about issues important to the client including, but not limited to:

(i) Food;

(ii) Daily routine;

(iii) Activities;

(iv) Services received and who will provide the services received;

(v) Individuals they interact with;

(vi) Grooming; and

~~((iv))~~ (vii) How the ADH center will accommodate the preferences and choices;

(h) Individualized discharging or transition goals;

- (i) If needed, a plan to:
 - (i) Address potential behavioral issues identified in the assessment, service plan, or through the intake and evaluation;
 - (ii) Follow in case of a foreseeable crisis due to a client's assessed needs;
 - (iii) Reduce tension, agitation, and problem behaviors;
 - (iv) Respond to the client's special needs, including, but not limited to medical devices and related safety plans, and if medical devices are used, ADH center staff must ensure the medical device will not be used as a physical restraint for discipline or staff convenience, while attending the ADH center;
 - (v) Respond to the client's refusal of care or treatment, including when the ADH center should notify the client's physician or practitioner of the client's refusal; and
 - (vi) Identify any communication barriers the client may have and how the ADH center will use the client's behaviors and nonverbal gestures to communicate with him or her.
- (9) The ADH center must:
 - (a) Ensure medical devices will never be used as a physical restraint for discipline or staff convenience;
 - (b) Review and update each service in the negotiated care plan every ninety days or more often if the client's condition changes;
 - (c) Share the negotiated care plan with the client's case manager whenever it is updated, annually, or after significant change;
 - (d) Ensure the client's case manager reviews the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included;
 - (e) Obtain the case manager's approval whenever it is updated, annually, or after a significant change;
 - (f) Keep the current negotiated care plan in the client's file(~~(7 provide)~~); and
 - (g) Offer a copy of the negotiated care plan to the client or the client and his or her authorized representative.
- (10) The client's case manager must review the negotiated care plan to ensure all services are appropriate and all authorized care needs have been included.
- (11) The ADH center must report changes in the client's condition or unanticipated absences of more than three consecutive scheduled days of service to the client's case manager within one week.
 - (a) Unanticipated absences may include, but are limited to absences due to client illness or a change in transportation access.
 - (b) The case manager may follow up with the client or the client and his or her authorized representative and determine if any updates to the assessment, client's department service plan, or service authorizations are needed.

AMENDATORY SECTION (Amending WSR 17-19-098, filed 9/19/17, effective 10/20/17)

WAC 388-71-0723 What is the adult day center's responsibility in the use of medical devices, restraints, and prevention of abuse? (1) Medical devices. When the adult day center staff use a medical device, it must not be used as a physical restraint for discipline or staff convenience.

(2) **Physical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client has a right to be free from physical restraints used for discipline or staff convenience.

(3) **Chemical restraints.** When the adult day center staff provide services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client is free from chemical restraints used for discipline or staff convenience.

(4) **Involuntary seclusion.** When the adult day center staff provides services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must ensure the client's right to be free from involuntary seclusion or isolation used for discipline or staff convenience.

(5) **Prevention of abuse.** When the adult day center staff provides services for a client, which may include but are not limited to transportation, outings, and services at the facility, the adult day center must:

(a) Ensure the client's right to be free from abandonment, verbal, sexual, physical, and mental abuse, personal exploitation, financial exploitation, neglect, coercion, and involuntary seclusion;

(b) Protect the client who is an alleged victim of abandonment, verbal, sexual, physical, and mental abuse, personal exploitation, financial exploitation, neglect, and involuntary seclusion; and

(c) Meet the requirements of chapter 74.34 RCW regarding mandatory reporting.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0724 How do I apply for an adult day program state contract? (1) The department, or an area agency on aging (or other department designee) as authorized by the department, must determine that the adult day care or day health center meets the applicable adult day care or day health requirements and any additional requirements for contracting with the area agency on aging, according to each AAA's procurement procedure, through a state contract.

(2) All ADH centers must also have a core provider agreement with the health care authority in order to bill for providing care and services to the COPES (~~(\emptyset)~~), RSW, and RCL participants.

(3) If a center is contracting for both day care and day health, requirements of both adult day services must be met.

(4) A prospective provider desiring to provide adult day services shall be provided an application form from the department or the area agency on aging. A prospective provider convicted of abuse or neglect of a vulnerable adult is not eligible to provide adult day services in any capacity within the organization per chapter 74.34 RCW.

(5) The prospective provider will provide the area agency on aging with evidence of compliance with, or administrative procedures to comply with, the adult day service rules under this chapter.

(6) The area agency on aging will conduct a site inspection of the adult day center and review of the requirements for contracting.

(7) Within thirty days of completing the site visit, the area agency on aging will advise the prospective provider in writing of any deficiencies in meeting contracting requirements.

(8) The area agency on aging will verify correction of any deficiencies within thirty days of receiving notice from the prospective provider that deficiencies have been corrected, before contracting can take place.

(9) The area agency on aging will provide the department with a written recommendation as to whether or not the center meets contracting requirements.

(10) Minimum application information required to apply for contract(s) with the department, or an area agency on aging includes:

(a) Mission statement, business structure, bylaws, articles of organization or articles of incorporation if applicable and current business license;

(b) Names and addresses of the center's owners, officers, and directors as applicable;

(c) Organizational chart;

(d) Fiscal policies and procedures;

(e) A business plan to address the future financial needs of the center. This plan must include projected program growth, capital purchases, projected revenue, projected expenses, and plans for fund raising, if applicable. Also include an annual program operating budget including all anticipated revenue sources and expenditures and any fees generated;

(f) The most current financial statement prepared in accordance with generally accepted account principles (GAAP) or the latest audit report of the organization by a certified public accountant;

(g) Program policies and operating procedure manual;

(h) Personnel policies and job descriptions and qualifications of each paid staff position and volunteer position functioning as staff;

(i) Policies and procedures meeting the requirements of mandatory reporting procedures as described in chapter 74.34 RCW to adult protective services for vulnerable adults and local law enforcement for other participants;

(j) Floor plan of the facility;

(k) Local building inspection, fire department, and health department reports with food handler permits if applicable;

(l) Updated TB test results for each staff member according to WAC 388-71-0750;

(m) Sample client case file including all forms that will be used;

(n) Activities calendar with alternative choice activities, for the month prior to application, or a sample calendar if the day service provider is new((-));

(o) Role and function of the board of directors ((if applicable)) and advisory committee, if applicable;

(p) Monthly menu or sample if center is new, which accommodates each resident's:

(i) Preferences;

(ii) Food allergies and sensitivities;

(iii) Caloric needs;

(iv) Cultural and ethnic background; and

(v) Physical condition that may make food intake difficult such as being hard for the resident to chew or swallow; and

(q) Certificates of insurance per WAC 388-71-0736.

~~((10))~~ (11) The area agency on aging or other department designee monitors the adult day center at least annually to determine continued compliance with adult day care and/or adult day health requirements and the requirements for contracting with the department or the area agency on aging.

(a) The area agency on aging will send a written notice to the provider indicating either compliance with contracting requirements or any deficiencies based on the annual monitoring visit and request a corrective action plan. The area agency on aging will determine the date by which the corrective action must be completed.

(b) The area agency on aging will notify the department of the adult day center's compliance with contracting requirements or corrected deficiencies and approval of the corrective action plan for continued contracting.

~~((11))~~ (12) Adult day care services are reimbursed on an hourly basis up to four hours per day. Service provided four or more hours per day will be reimbursed at the daily rate.

~~((12))~~ (13) Adult day center reimbursements are adopted by rule with adjustments determined by the state legislature. Providers seeking current reimbursement rates can refer to the billing instructions.

~~((13))~~ (14) A one-time only initial intake evaluation provided by an adult day health center, including development of a negotiated care plan, is reimbursed at an established rate as may be adopted in rule. Rate adjustments are determined by the state legislature. Separate reimbursement is not available for subsequent evaluations.

~~((14))~~ (15) Transportation to and from the program site is not reimbursed under the adult day care rate. Transportation arrangements are made with locally available transportation companies or informal resources.

~~((15))~~ (16) Transportation to and from the program site is reimbursed under the adult day health daily rate. Adult day health is required to assist clients in arranging or providing transportation to and from the program sites.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0728 Can a client receive both adult day care and adult day health? (1) A COPES, RSW, or RCL((-))eligible client may receive adult day care services on some days and adult day health services on different days if the service plan documents which level of service are to be provided on which days. However, ADC services must be provided on all days that adult day health skilled services are provided, and reimbursement is limited to the day health rate on days that day health services are provided.

(2) Clients receiving services from the department in an adult family home, assisted living, or other licensed community residential facility may not receive COPES, RSW, or RCL((-))funded adult day care, but may receive COPES funded adult day health services when the skilled nursing or rehabilitative services are approved by the client's case manager as part of the client's service plan.

(3) A licensed assisted living facility providing department-approved day care under chapter 388-78A WAC is subject to any applicable provisions of that chapter and is also subject to the rules under this

chapter if the facility contracts with an area agency on aging or the department to provide COPES waiver or RCL funded adult day services.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0732 What are the client's hearing rights? (1) If the department or area agency on aging denies, terminates, or reduces a COPES, RSW, or RCL individual client's adult day care or day health services, the client has the right to an administrative hearing as provided under chapter 388-02 WAC. If a client funded with Senior Citizen Services Act or respite care has a complaint, grievance or dispute, the resolution process is a hearing as outlined in the department's area agency on aging (~~(policy)~~) policy and procedure manual chapter 6. The area agency on aging would work with the client through this process.

(2) An adult day care or day health center has those hearing or dispute resolution rights that are afforded under RCW 43.20B.675 and the center's contract with the area agency on aging or the department. An adult day health center has any other applicable hearing or dispute resolution rights under WAC 182-502-0220.

(3) Adult day health centers are subject to all applicable provisions of chapter 182-502 WAC, and the department's aging and long term support administration may exercise the department's authority under that chapter to the same extent as the health care authority.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0736 What business and administrative documentation does the center need? (1) Adult day centers must have written documentation of the organizational structure and administration of the program.

(2) Organizational and administrative documentation must include but are not limited to:

(a) Core values and mission (~~(statement-[statement])~~) statement of the organization;

(b) Ethical standards of the center and professional standards of conduct;

(c) Short and long-range program goals;

(d) Definition of the target population, including number, age, and needs of participants;

(e) Geographical definition of the service area;

(f) Hours and days of operation (~~(Centers)~~) of the center or a combination of centers under single ownership must operate at least three days a week for four consecutive hours, with each center providing at least four hours of programming a day(~~(-)~~);

(g) Description of basic services and any optional services;

(h) Description of service delivery;

(i) Business structure, articles of organization or bylaws, as applicable;

- (j) Current business license;
- (k) Names and addresses of the center's owners, officers, and directors, as applicable;
- (l) Certificates of insurance, including but not limited to property and general liability insurance; business auto if the center uses vehicles to transport clients; professional liability; workers' compensation; employers' liability if applicable; coverage for acts and omissions of employees and volunteers; and certificates of insurance for any subcontractors;
- (m) Minutes of last three meetings of the board of directors, if applicable, and the advisory committee;
- (n) Role and functions of an advisory committee((7)) which must:
 - (i) Meet at least twice a year; and ((which must))
 - (ii) Be representative of the community and include family members of current or past clients and nonvoting staff representatives((-+));
- (A) When an adult day center is a subdivision of a multifunction organization, a committee or subcommittee of the governing body of the multifunction organization may serve as the advisory committee((-));
or
- (B) A single purpose agency may utilize its governing board as an advisory committee((-));
- (o) An organizational chart illustrating the lines of authority and communication channels of the center, which must be available to all staff and clients;
- (p) A calendar of programming (or sample calendar if the center is new), including alternative programming options;
- (q) A monthly menu ((+))or sample menu if the center is new((+)), which accommodates each resident's:
 - (i) Preferences;
 - (ii) Food allergies and sensitivities;
 - (iii) Caloric needs;
 - (iv) Cultural and ethnic background; and
 - (v) Physical condition that may make food intake difficult such as being hard for the resident to chew or swallow;
- (r) Current building, health, food service and fire safety inspection reports, and food handler permits, as applicable; and
- (s) Quality improvement plans and results.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0746 What are the adult day center's client records requirements? (1) If the client's record is hand-written it must be legibly written in ink, dated, and signed by the recording person with his/her title. Identification of the author may be a signature, initials, or other unique identifier within the requirements of applicable licensing standards and center policy. All hand-written documentation must be legible to someone other than the author. If signature is a unique identifier, such as initials, there must be a key readily available for use by the department ((of)) or their designee. The negotiated care plan must have the center's author's full name and title on the signature line.

(2) If the client's record is an automated electronic record then it must be within a secured client record system to ensure confidentiality for all records, in accordance with state and federal laws, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA). If electronic signature is a unique identifier then there must be a key readily available for use by the department or their designee. The negotiated care plan must have the center's author's full name and title on the signature line.

(3) Progress notes must be entered into the file chronologically and timely. Adult day health centers' professional interventions must be charted directly after providing the service. Adult day care centers must have progress summary notes at least monthly. Client dates and hours of attendance are to be kept daily.

(4) Consultation, care plan reviews and updating orders, hardcopy or electronic records, must be dated and initialed by the center's reviewer(s) or authorizing practitioner. The authorizing practitioner must update the skilled clinical orders at least annually or when a significant change occurs warranting a change in the skilled clinical intervention. The authorizing practitioner does not need to review the care plan but does need to update skilled clinical orders as outlined above.

(5) Documentation of medication use must include the name of the medication, dosage, frequency of administration, route of administration, site of injection if applicable, date and time and signature or initials of the person administering the medication, title, and date.

(6) If the client records are thinned or (~~achieved~~) archived, per your policy and procedure, all records must be readily available to the federal, state, or (~~their~~) agency designee for monitoring purposes.

(7) Department-contracted adult day health centers must comply with all other applicable documentation requirements under WAC 182-502-0020.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0764 How will medications be provided in an adult day center? (1) The center must develop written medication policies that support and promote safe medication storage and administration for each participant and meet the requirements of chapters 69.41 RCW and 246-88 WAC and other applicable statutes. These policies must be explained and accessible to all staff, contractors, volunteers, and participants that have responsibility in this area.

(2) Participants who need to take medications while at the center, and who are able to self-medicate, must be encouraged and expected to bring and take their own medications as prescribed. Some participants may need assistance with their medications, and some may need to have their medications administered by qualified program staff.

(3) In order for the center staff to administer any prescribed medication, there must be a written authorization from the participant's authorizing practitioner stating that the medication is to be administered at the program site.

(4) Staff must be trained to observe medication usage and effects, and to document and report any concerns or difficulties with medications.

(5) At a minimum, medication policies must include the following:

(a) How medications will be labeled and stored. Medications must be:

(i) Labeled according to your policy including prescribed and over the counter medications;

(ii) Kept in a locked storage area organized so client's medications are not mixed together; and

(iii) If refrigeration is necessary, medications should be in a locked box, if not in a separate refrigerator dedicated to medication refrigeration.

(b) Procedures for administration of medications, including:

(i) What program staff are allowed and able to administer medications and under what circumstances;

(ii) How nonprescription medications such as aspirin or laxatives are to be used; and

(iii) How the administration of medications will be entered in participant case records as described in WAC 388-71-0744.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0766 What are the adult day centers' facility requirements? (1) Selection of a location for a center must be based on information about potential participants in the service area and be made in consultation with other agencies, organizations, and institutions serving older individuals and those with functional impairments, as well as considering the availability of a suitable location.

(2) Centers must have available a current floor plan of the facility indicating usage of space with interior measurements, building inspection report from the local, city or county, building department, if applicable, fire department inspection report, and the local health department kitchen inspection report and permit if operating an on-site kitchen.

(3) When possible, the facility should be located at street level. If the facility is not located at street level, it is essential to have a ramp and/or elevators. All new adult day service centers contracted with the department after February 1, 2014 must have a ramp, at least a 1:12 slope, for emergency evacuation if the center has any ~~((step))~~ steps or stairs to be navigated during an emergency evacuation. An evacuation plan for relocation of participants to another building must also be in place in the event of an emergency. The center must post a floor plan of the center and indicate the evacuation route from each room to the outside meeting place.

~~((+5))~~ (4) Each adult day center co-located in a facility housing other services must have its own separate identifiable space for main activity areas during operational hours. Certain space can be shared, such as the kitchen and therapy rooms.

~~((+6))~~ (5) Each center must provide appropriate hardware on doors of storage rooms, closets, bathrooms, and other rooms to prevent participants from being accidentally locked in.

~~((7))~~ (6) When possible, the location should be within a transit authority's core service area.

~~((8))~~ (7) The facility must have:

(a) Sufficient space to accommodate ~~((the))~~ a full range of ~~((program activities))~~ programs and ~~((services. The facility must))~~ activities necessary for participant needs;

(b) Be adaptable to accommodate variations of activities ~~((+))~~ for group ~~((and/or))~~ and individual ~~((-and))~~ services ~~((The program must provide and));~~

(c) Maintain essential space ~~((necessary to provide))~~ when providing services ~~((and))~~ to protect the privacy and dignity of ~~((the participants receiving services. There must be))~~ each participant in a respectful manner;

(d) Sufficient ~~((private))~~ space ~~((to permit staff to work effectively and without interruption. There must be sufficient space))~~ available for private discussions; and

(e) Private and designated space allowing staff to work without interruption.

~~((9))~~ (8) The facility must provide at least sixty square feet of program space for multipurpose use for each day center participant. In determining adequate square footage, only those activity areas commonly used by participants are to be included. Hallways, dining and kitchen areas are to be included only if these areas are used by clients for activities other than meals. Reception or lobby areas, storage areas, offices, restrooms, passageways, treatment rooms, service areas, or specialized spaces used only for therapies are not to be included when calculating square footage.

~~((10))~~ (9) Storage space.

(a) There must be adequate storage space for program and operating supplies.

(b) Toxic substances, whether for activities or cleaning, must be stored in an area not accessible to participants. Substances must be clearly marked, the contents identified, and stored in original containers.

~~((11))~~ (10) Restrooms.

(a) The facility's restrooms must be located as near the activity area as possible, preferably no more than forty feet away. The facility must include at least one toilet for every ten participants. The facility must provide privacy for the participant when using the restroom facilities.

(b) Programs that have a large number of participants who require more scheduled toileting or assistance with toileting must have at least one toilet for every eight participants.

(c) The toilets shall be equipped for use by mobility-limited persons and easily accessible from all program areas. One toilet area should be designed to allow assistance from one or two staff. More accessible units may be required based upon the needs of the participants.

(d) Each restroom must contain an adequate supply of soap, toilet tissues, and paper towels.

(e) After month/day/year all newly contracted adult day service facilities or contracted adult day service ~~((provider))~~ providers opening another site must have at least one roll in shower for participant use. Showers are to be accessible to those who require bathing as an ADC service.

~~((12))~~ (11) Rest area.

(a) In addition to space for program activities, the facility must have a designated rest area (~~(and designated areas to permit)~~) which provides privacy and ((to isolate)) maintains dignity for participants who become ill ((or)) disruptive, or who may require rest. The designated space must not be used for discipline or staff convenience.

(b) The rest area must be located away from activity areas and near a restroom and the nurse's office. There must be at least one bed, couch, or recliner for every ten participants that can be used for resting or the isolation of a participant who is ill or suspected of coming down with a communicable disease.

(c) If beds are used, the mattresses and pillow must be protected, cleaned and disinfected after each participant use. The bed linens must be clean and changed after each use by different participants to prevent the spread of infection.

~~((13))~~ (12) Loading zones/parking/entrances/exits.

(a) A loading zone with sufficient space for getting in and out of a vehicle must be available for the safe arrival and departure of participants and the use of emergency personnel.

(b) There must be sufficient parking available to accommodate family caregivers, visitors, and staff.

(c) When necessary, arrangements must be made with local authorities to provide safety zones for those arriving by motor vehicle and adequate traffic signals for people entering and exiting the facility.

(d) Adequate lighting must be provided in all loading and parking zones, entrances, and exits.

(e) An adult day center must be visible and recognizable as a part of the community. The entrance to the facility must be clearly identified. The center must also be appealing and protective to participants and others.

(f) At least two well-identified exits must be accessible from the building.

~~((14))~~ (13) Atmosphere and design.

(a) The center's design must facilitate the participants' movement throughout the facility and encourage involvement in activities and services.

(b) The environment must reinforce orientation and awareness of the surroundings by providing cues and information about specific rooms, locations, and functions that help the participant to get his/her orientation to time and space.

(c) A facility must be architecturally designed in conformance with the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act to accommodate individuals with a disability and meet any state and local barrier-free requirements.

(d) Illumination levels in all areas must be adequate, and careful attention must be given to avoiding glare. Attention must be paid to lighting in transitional areas, such as outside to inside and between different areas of the facility.

(e) Sound transmission must be controlled. Excessive noise, such as fan noise, must be avoided.

(f) Comfortable conditions must be maintained within a comfortable temperature range. Excessive drafts must be avoided uniformly throughout the facility.

(g) Sufficient furniture must be available for the entire population present. Furnishings must accommodate the needs of participants

and be attractive, comfortable, sturdy, clean and safe. Straight-backed chairs with arms must be used during activities and meals.

(h) A telephone must be available for participant use. Local calls are to be available at no cost to the participant.

~~((15))~~ (14) Safety and sanitation.

(a) The facility and grounds must be safe, clean, and accessible to all participants, and must be designed, constructed, and maintained in compliance with all applicable local, state, and federal health and safety regulations.

(b) Nonslip surfaces must be provided on stairs, ramps, and interior floors.

(c) Alarm/warning systems are necessary to ensure the safety of the participants in the facility in order to alert staff to potentially dangerous situations. This system needs to be activated when the center's staff have determined a ~~((participant/s have the))~~ participant has a potential safety ~~((issues with))~~ issue of wandering. It is recommended that call bells be installed or placed in the rest areas, restroom stalls, and showers.

(d) An emergency evacuation plan with outside meeting location at a safe distance from the building must be strategically posted in each facility so that all participants, staff, and visitors can view it. If the center provides services to primarily non-English speaking clients the evacuation plan must also contain instructions in the primary language used by clients of the center. The center's emergency disaster plan must be readily available to all staff and reviewed routinely to ensure a safe and secure environment during a disaster.

(e) The facility must be free of hazards, such as high steps, steep grades, and exposed electrical cords. Steps and curbs must be painted and the edges of stairs marked appropriately to highlight them. All ~~((step))~~ steps, stairs, ramps, and bathrooms accessible to those with disabilities must be equipped with securely anchored handrails on both sides.

(f) Emergency first-aid kits and manuals must be visible and accessible to staff. Contents of the kits must be replenished after use and reviewed as needed.

(g) Maintenance and housekeeping must be carried out on a regular schedule and in conformity with generally accepted sanitation standards, without interfering with the program.

(h) If smoking is permitted, the center must follow chapter 70.160 RCW, Smoking in public places.

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0770 What are the adult day centers' food and nutrition service requirements? Centers must provide meal service to all participants as outlined in WAC 388-71-0704 and 388-71-0706.

(1) All meals provided are to meet one-third of the minimum required daily allowance or dietary reference intake as determined by the Food and Nutrition Board of the Institute of Medicine.

(2) The center must ensure that food served meets nutritional needs, takes into consideration individual and ethnic preferences to the extent reasonably possible, caloric need, special dietary requirements, and any physical condition making food intake difficult.

(3) The center must provide a variety of foods and not repeat menus for a minimum of three weeks.

(4) Participant input must be gathered when planning meals.

(5) Menus must be posted at least one week in advance; indicate the month, year, date, day of the week(~~(, month and year)~~); and include ~~((all))~~ food and ~~((snacks))~~ snack choices served that contribute to nutritional requirements.

(6) Nutrient concentrates, supplements, and dysphagia-modified diets related to a choking or aspiration risk, are to be served only with the written approval of the participant's authorizing practitioner.

(7) Safe and sanitary handling, storage, preparation, and serving of food must be assured. If meals are prepared on the premises, kitchen appliances, food preparation area, and equipment must meet state and local requirements and pass inspections annually.

(8) All staff and volunteers handling or serving meals must have the appropriate food handler's permits, if applicable.

(9) In the event meals are prepared at a separate kitchen facility, the adult day center must ensure that persons preparing food have a food handler's permit and that the food is transported in airtight containers to prevent contamination.

(10) The center must ensure that the food is transported and served at the appropriate and safe temperature.