

DELAWARE

Citation Assisted living facilities; Title 16 Health and Safety, Part II, Chapter II, §63.0 et seq.
Rest residential homes; Delaware code, Part II §59.0 et seq.

General Approach and Recent Developments

The State added an assisted living category in 1997. No additional rest residential homes will be licensed and most have converted to assisted living facilities. A Medicaid waiver was implemented in 1999.

Revised rules were adopted in October 2002. A new “purpose” section describes the goal of the regulations to “promote and ensure the health, safety and well-being of all residents of assisted living facilities...to ensure that service providers will be accountable to their residents and the Department and to differentiate assisted living from nursing facilities.” It replaces the purpose statement that directs that the “services are provided based on the social philosophy of care and must include oversight, food, shelter and the provision or coordination of a range of services that promote quality of life of the individual. The social philosophy of care promotes the consumer’s independence, privacy, dignity and is provided in a home-like environment.”

Further revisions were proposed in 2004. The definition of incident and reportable will be refined to include all reportable incidents and the additional occurrences or events listed in the regulations. The proposed changes will require emergency electrical generators in assisted living facilities and revise the prohibition against facilities serving an individual with a central line from an assisted living facility by creating an exception for subcutaneous venous ports.

Category	Supply					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living facilities	29	1,738	27	1,300	18	927
Rest residential homes	3	NR	6	160	4	99

Definition

Assisted living is a special combination of housing, supportive services, supervision, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living and/or instrumental activities of daily living.

Rest residential home is an institution that provides resident beds and personal care services for persons who are normally able to manage activities of daily living. The home should provide friendly understanding to persons living there as well as appropriate care in order that the resident's self-esteem, self-image, and role as a contributing member of the community may be reinforced.

Unit Requirements

Assisted living. The rules require 100 square feet for single bedrooms in new facilities and converted facilities of more than 10 units, and 80 square feet per resident for rooms with two residents. No more than two residents may share a room. Bathrooms are provided in the unit or, if shared, one for every four residents. Consumers must have access to a readily available central kitchen if one is not provided in the unit. Bathing facilities must be provided in the unit or in a readily accessible area.

Rest residential homes provide 100 square feet for single occupancy and 80 square feet per resident for multiple occupancy rooms. No more than four people may share a room. One bathtub or shower and one toilet and wash basin are required for every four residents.

Admission/Retention Policy

Assisted living. The rules do not allow agencies to admit people who require more than intermittent or short-term nursing care; require skilled monitoring, testing, and aggressive adjustment of medications and treatments; require monitoring of a chronic medical condition that is not essentially stabilized; are bedridden more than 14 days; have Stage III or IV pressure sores; require a ventilator; require treatment for a disease or condition which requires more than contact isolation; have an unstable tracheotomy or a stable tracheotomy of less than six months' duration; have an unstable peg tube; require IV or central line; wander to the extent that facilities cannot provide adequate supervision or security arrangements; pose a threat to themselves or others; or are socially inappropriate. Waivers may be granted to allow facilities to temporarily care for people with excluded conditions for up to 90 days so long as services are provided by appropriate health professionals. Pending regulations would allow individuals needing an IV or central line to be served if the facility meets specified documentation and service requirements.

Rest residential homes. No specific requirements are stated other than in the definition of a resident.

Nursing Home Admission Policy

Eligibility for the waiver is based on professional judgment concerning ADLs, and medication and safety supervision. Individuals must have impairments in two ADLs to receive waiver services in the home, and services in assisted living facilities are targeted to people with three ADL impairments.

Services

Assisted living. A medical evaluation and an assessment by an RN must be completed 30 days prior to admission using the Department's uniform assessment instrument and must be reviewed within 30 days after admission. Individual service agreements address all the physical, medical and psychosocial services to be provided: personal care, services by a licensed nurse, food, nutrition and hydration, environmental services (laundry, housekeeping, trash removal, and safety), psychosocial/emotional, banking, transportation, furnishings, assistive technology and durable medical equipment, rehabilitation services, and interpretive services.

Managed or negotiated risk agreements are used to describe mutually agreeable action that balances resident choice and independence with the health and safety of the resident and others. A managed/negotiated risk agreement is negotiated when the risks are tolerable to all parties participating in the development of the managed/negotiated risk agreement and a mutually agreeable action is negotiated to provide the greatest amount of resident autonomy with the least amount of risk. The resident must be capable of making choices and decisions and understanding consequences. The agreement clearly describes the problem, issue or service that is the subject of the managed/negotiated risk agreement; describes the choices available to the resident as well as the risks and benefits associated with each choice, the assisted living facility's recommendations or desired outcome, and the resident's desired preference; indicates the agreed-upon option; describes the agreed upon responsibilities of all parties and is a part of the service agreement.

Rest residential homes provide shelter, housekeeping, board, and personal surveillance or direction in activities of daily living.

Dietary

Food services are covered in the tenant service agreement.

Agreements

Prior to executing a contract, residents must receive a statement of all charges. The contract includes nonfinancial and financial components. The nonfinancial issues include a listing of basic and optional services; optional services that may be provided by third parties; a statement of resident's rights and an explanation of the grievance procedure; occupancy provisions such as policies concerning modifications to the resident's living area, procedures for changing the resident's accommodations (relocation, roommate, number of occupants in the room), transfer procedures, security, staff's right to enter a resident's room, resident rights and obligations, temporary absence policy, interim service arrangement during an emergency, discharge policies and procedures, obligations of the facility, and a listing of the resident's personal belongings. The financial areas include the party responsible for handling finances, obtaining equipment and supplies, arranging services not covered by the contract, disposing of belongings, and the rate structure and payment provisions.

Provisions for Serving People with Dementia

Facilities offering special care must disclose the philosophy of care; the population served; admission and discharge process and criteria; the assessment, care planning and implementation process; staffing plan and training policies; physical environment and design features; resident activities; family role; psychosocial services; nutrition and hydration services; policies on wandering, safe storage of medications and costs.

Medication Administration

Aides who have passed an examination are allowed to assist with self-administration of medications. Rules governing assistance with medications are covered by regulations issued by the Board of Nursing. An RN must review medications within 30 days of admission for people who self-administer to assess the resident's cognitive and physical ability and need for assistance. Reviews are also conducted for residents who self-administer to ensure proper labeling and storage, that medications have been received, and to determine their effects and the presence of adverse side effects.

Public Financing

The State provides waiver services to elders and adults with disabilities in assisted living facilities with income below 250 percent of the federal SSI level. The SSI payment and state supplement is \$704 a month. The room-and-board payment for SSI beneficiaries is \$598 and residents retain a personal needs allowance of \$106 a month. Residents with higher incomes may be charged a higher room-and-board amount.

Three levels of payment for services are available. Facilities receive a 10 percent additional payment for residents with cognitive impairments. The payment levels are based on spending for HCBS waiver clients living in their own homes and participants in the adult foster care program. Family members are allowed to supplement room and board payments.

The Medicaid waiver program coverage began late in 1999.

Medicaid Participation					
2004		2002		2000	
Facilities	Participation	Facilities	Participation	Facilities	Participation
29	14	11	NR	7	20

Reimbursement Levels			
	Level I	Level II	Level III
Room and board	\$598	\$598	\$598
Services	\$940	\$1,180	\$1,460
Total	\$1,538	\$1,778	\$2,058

Staffing

Assisted living facilities must employ a sufficient number of trained staff to meet the needs of residents. They must also have a director of nursing who is a registered nurse who is full time in facilities over 25 beds, 20 hours a week in facilities with 5 to 24 beds, and 8 hours a week in facilities under 5 beds.

Training

Assisted living--Administrators. Requirements for administrators vary with the size of the facility. Facilities over 25 units must have a full-time nursing home administrator; 5 to 24 beds, a half-time nursing home administrator. Facilities with four or fewer beds must have an administrator with a baccalaureate degree or associates degree with 2 years experience, an RN with 4 years experience or an LPN with 4 years experience or 5 years experience in a related health or social service field.

Staff. Resident assistant orientation covers fire and life safety and emergency disaster plans; infection control; basic food service; first aid and the Heimlich maneuver; job responsibilities; health and psychosocial needs of the residents served; the assessment process; use of service agreements; resident rights and reporting of abuse, neglect, and mistreatment; and hospice services. A minimum of 12 hours of annual training must be provided. Orientation is required for temporary staff.

Rest residential homes. Nurse aide/nurse assistant staff must complete a training course approved by the State Board of Nursing and the Board of Health. Aides/assistants must be certified prior to employment. Section 609 describes the curriculum and the competencies that must be measured in the following areas: nurse aide role and function; environmental needs; psychosocial needs; and physical needs. Section 59.610 describes the qualifications of instructors and the training instructors must receive.

Background Check

Facilities must obtain a report of each employee's entire criminal history record from the State Bureau of Identification and a report from DHSS regarding its review of a report of the person's entire federal criminal history. The State also has a mandatory drug testing law. Civil money penalties of \$1,000 to \$5,000 per occurrence for violations of the criminal background check and drug testing law may be imposed by the licensing agency.

Monitoring

Assisted living. Facilities must develop and implement an ongoing quality assurance program that includes internal monitoring of performance and resident satisfaction. Satisfaction surveys of all residents must be conducted twice a year. Pending regulations will require reporting of falls without injury and falls with injuries that do not require transfer to an acute care facility or do not require reassessment of the resident; errors or omissions in treatment or medication; injuries of unknown source and lost items, in accordance with facility policy.

Fees

Fees are set by statute. The fee for an initial application and background examination is \$500. Annual fees are \$400 for facilities under 100 beds and \$550 for facilities over 100 beds.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

PDF Files Available for This Report

Cover, Table of Contents, and Acknowledgments

<http://aspe.hhs.gov/daltcp/reports/04alcom.pdf>

SECTION 1: Overview of Residential Care and Assisted Living Policy

<http://aspe.hhs.gov/daltcp/reports/04alcom1.pdf>

SECTION 2: Comparison of State Policies <http://aspe.hhs.gov/daltcp/reports/04alcom2.pdf>

SECTION 3: State Summaries <http://aspe.hhs.gov/daltcp/reports/04alcom3.pdf>

Also available: A complete list of sections and tables, with HTML and PDF links to each, is available at <http://aspe.hhs.gov/daltcp/reports/04alcom.htm>. This table of contents also includes links to Section 3 summaries, broken down by state.