MASSACHUSETTS

Citation Assisted living: 651 CMR 12.00 et seq.
Residential care facility Level IV (rest homes): 105 CMS 150.000 et. seq.

General Approach and Recent Developments

Further revisions to the regulations were issued in 2006. A consumer guide was prepared and is available at http://www.mass.gov/Eelders/docs/assisted_consumer_guide.pdf.

The revised rules include a purpose section that describes the state's philosophy: "The purpose of these regulations is to promote the availability of services for elderly or disabled persons in a residential environment; to promote the dignity, individuality, privacy and decision making ability of such persons and to provide for their health, safety, and welfare; and to promote continued improvement of ALRs." To be certified, residences must submit information such as the number of units and number of residents per unit, location of units, common spaces, and egress by floor; base fees to be charged; services to be offered and arrangement for delivering care; number of staff to be employed; and other information required by the Executive Office of Elder Affairs. The buildings are considered residential use for applying appropriate building codes.

Adult Foster Care

AFC is a covered as a Medicaid state plan service and is regulated by the MassHealth (Medicaid) program. Regulations are available at: http://www.mass.gov/Eeohhs2/docs/masshealth/regs_provider/regs_adultfostercare.txt.

Web Address	Content
http://www.mass.gov/?pageID=eldersterminal&L=3&L0=Home&L1=Regulations+and+Statistics&L2=Housing+%2f+Assisted+Living&sid=Eelders&b=terminalcontent&f=reg_651cmr12_final&csid=Eelders	Rules, Q&A, incident report
http://170.63.97.68/portal/site/massgovportal/menuitem.db805ceae7e631c14db4a11030468a0c/?pageID=elderssubtopic&L=3&L0=Home&L1=Housing&L2=Assisted+Living&sid=Eelders	Consumer, list, guide

Supply						
Category	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Assisted living programs	190	11,900	171	10,585	139	9,796
Residential care facilities (rest homes)	95	2,969	NR	NR	NR	NR

Definition

Assisted living residence is any entity, however organized, whether conducted for profit or not for profit, which meets all of the following criteria:

Provides room and board; provides, directly by its employees or through arrangements with another organization which the entity may or may not control or own, personal care services for three or more adult residents who are not related by consanguinity of affinity to their care provider; and collects payments or third-party reimbursements from or on behalf of residents to pay for the provision of assistance with the ADLs.

Unit Requirements

Units must be single or double occupancy with lockable doors. New construction must provide for private baths. Existing buildings may qualify if they provide private half baths and one bathing facility for every three persons. All facilities must provide, at a minimum, either a kitchenette or access to cooking capacity for all living units. Cooking capacity is defined as each resident having access to a refrigerator, sink, and heating element. Facilities must comply with all federal and state laws and regulations regarding sanitation, fire safety, and access by persons with disabilities. The Secretary of Elder Affairs is authorized to waive the requirements for bathrooms and bathing facilities when determined to meet public necessity and to prevent undue economic hardship as long as the residence provides a home-like environment and promotes privacy, dignity, choice, individuality, and independence.

Admission/Retention Policy

The statute does not allow people needing 24-hour skilled nursing supervision to be admitted or retained in an ALR. Facilities may admit and retain residents in need of skilled nursing care *only if* the care will be provided by a certified provider of ancillary health services or by a licensed hospice, *and* the provider does not train the residence staff to provide skilled nursing care.

To qualify for reimbursement under the Medicaid GAFC program, tenants must require daily assistance with at least one ADL and assistance with managing medications as documented by a physician and a nursing assistant; be at risk of requiring nursing home placement; be chronically disabled; and require 24-hour supervision.

Nursing Home Admission Policy

Individuals must need one skilled service daily from a specified list or have a medical or mental condition requiring a combination of at least three services including at least one nursing service. The nursing services that must be performed at least three days a week include: specified physician ordered skilled services; positioning while in bed or chair; measurement of intake or output based on medical necessity; administration of oral or injectable medications that require a RN to monitor the dosage, frequency, or adverse reactions; staff intervention requirements for selected types of behavior considered dependent or disruptive, unable to avoid

simple dangers, wandering; physician ordered occupational, speech, or physical therapy; nursing observation and/or vital signs monitoring; or treatment involving prescription medication for uninfected post-operative or chronic conditions or routine dressing changes that require nursing care and monitoring. Two services may be required for assistance with bathing (i.e., direct care, attendance or constant supervision), dressing (i.e., direct care, attendance or constant supervision), toileting, bladder or bowel control for incontinence, scheduled assistance, or routine catheter/ostomy care, transfers, mobility/ambulation or eating.

Services

The regulations require that residences provide or arrange for opportunities for socialization and access to community resources; supervision or assistance with ADLs identified in a service plan (at a minimum residences must offer support for bathing, dressing, ambulation and similar tasks); IADLs; self-administered medication management (SAMM); timely assistance to urgent or emergency needs by 24-hour per day on-site staff, personal emergency response systems, or any additional response systems required by the Executive Office of Elder Affairs; up to three regularly scheduled meals per day (minimum of one meal per day). The administrator may arrange for the provision of ancillary health services in the residence but may not use residence staff for these services unless the staff is an employee of a certified provider of ancillary health services and/or an employee of a licensed hospice. Nursing services provided by a certified provider of ancillary health services such as injection of insulin or other drugs used routinely for maintenance therapy of a disease may be provided to residents. Optional services include local transportation, barber or beauty services, money management and limited medication administration (LMA).

Twenty-four hour nursing services are not allowed. Skilled services may only be provided by a certified home health agency on a part-time or intermittent basis. Medical conditions requiring services on a periodic, scheduled basis are also allowed. In addition, residents may "engage or contract with any licensed health care professional and providers to obtain necessary health care services … to the same extent available to persons residing in private homes."

All residents must have an individual services plan that is developed prior to admission and reviewed/reassessed at least every six months or when health status or family circumstances change. The plan is based on information from the resident, family members and the physician, including diagnosis, medications, allergies and dietary needs. It includes the services needed, the resident's goals and the frequency and duration of services to meet the resident's physical, cognitive, psychological and social needs and behavioral concerns as well as how the residence will provide for 24-hour staffing. If provided by the residence, the plan describes the type of assistance with medication that will be provided.

Dietary

A minimum of one meal a day must be provided (facilities may provide three meals a day). Menus for ALRs should meet the current DRI established by the Food and Nutrition Board,

Institute of Medicine, NAS, and the Dietary Guidelines for Americans published by the Secretaries of HHS and USDA. At a minimum, these dietary plans must allow a resident to adhere to sodium-restricted, sugar-restricted, and low-fat diets. The residence's menus or meal plans shall be evaluated at least every six months by a qualified dietician. Residences must disclose to residents and prospective residents the types of special diets they can accommodate and any additional costs associated with providing this service as well as limitations on addressing food allergies. Dietary needs must be reviewed every six months and included in the resident service plan. The residence is not responsible for ensuring that the resident follows the diet plan but must provide enough food choices and information so that the resident can adhere to the diet if he or she chooses.

Staff managing dietary services must complete a food service sanitation certification course. Therapeutic diets must be reviewed by a qualified dietician and evaluated every six months unless otherwise specified by a physician.

Agreements

Resident agreements include: charges, expenses, and other assessments for resident services; personal care services; lodging and meals; resident's agreement to make payment; arrangements for payment; grievance procedure and the right to contact the ombudsman; sponsor's covenant to comply with applicable federal and state laws; provisions for terminating the agreement; reasonable rules for staff, management, and resident behavior; a copy of the residents rights; services in the base fee and all other bundled services and those available at additional charge; refund policy; and an explanation of any limitations on the services the residence will provide, specifically including any limitations on services to address specific ADLs and behavioral management. Additionally, it must include the specific unit number in which the resident will reside; a signature of parties, term of agreement; liability (the residence may not require a resident to maintain liability insurance); a right to privacy; and a right to contract with outside providers.

A Disclosure of Rights and Services (disclosure statement) is delivered to prospective residents at the time of or prior to the execution of the residency agreement, or at the time of or prior to the transfer of any money to a sponsor by or on behalf of a prospective resident. The disclosure statement is required to be issued only once, and is delivered as an independent document. Included in the disclosure is the grievance procedure; an explanation of any limitations on services; a description of the role of the nurse; policy concerning self-administration and limited administration of medications; rules of conduct for staff, management and residents; provisions of the resident agreements; and nursing and personal care worker staffing levels by shift.

Provisions for Serving People with Dementia

An ALR must prepare a plan to operate a special care residence. The plan includes a description of the physical design of the structure and the units, physical environment,

specialized safety features, enrichment activities, and trained staff. In addition, entry and exit doors in the common use areas must be secured, staff must be trained; the ALR must have a 24-hour preparedness plan by assessing the needs of each occupant of the Special care residence for emergency assistance, and devise an appropriate method to provide the necessary assistance; and other requirements. Special care residences must also have a planned activity program that includes daily activities, to address resident needs and cover gross motor activities, self-care activities, social activities; and sensory and memory enhancement activities.

Special care residences must have sufficient staff qualified by training and experience awake and on duty at all times to meet the 24-hour per day scheduled and reasonably foreseeable unscheduled needs of all residents. Managers must be at least 21 years of age, must have a minimum of two years experience working with elders or disabled individuals, knowledge of aging and disability issues, demonstrated experience in administration, and demonstrated supervisory and management skills.

Orientation. All new employees who work within a Special Care Residence and have direct contact with residents must receive seven hours of additional training on topics related to the specialized care needs of residents (e.g., communication skills, creating a therapeutic environment, dealing with difficult behaviors, competency, sexuality, and family issues).

Medication Administration

When assisting a resident to self-administer medication the individual performing SAMM *must*:

- Remind resident to take medication;
- Check the package to ensure that the name on the package is that of the resident;
- Observe the resident while they take the medication; and
- Document in writing the observation of the resident's actions regarding the medication.

The individual performing SAMM may open prepackaged medications and/or opened bottles, read the name of the medications and directions to the resident and respond to questions the resident may have concerning the directions on the label. The residence may assist a resident with SAMM from a medication container that has been removed from its original pharmacy-labeled packaging or container by another person, however if this service is performed, full written disclosure of the risks involved and consent by the resident or legal representative shall be provided. SAMM shall only be performed by an individual who has completed personal care service training. Central storage of resident medications (the storage of medication in an area outside of the resident's unit) is prohibited in an ALR.

LMA is an optional service. ALRs must disclose the availability of this service and the cost in the residency agreement and/or Disclosure of Rights and Services. LMA may only be provided in ALRs by a family member or by a practitioner or a nurse registered or licensed under state law. Nurses may administer non-injectible medications to residents. LMA requires

detailed documentation including the resident's service plan. All medication must be kept in the resident's unit.

Public Financing

Services for eligible low income tenants in residences that contract with Medicaid are subsidized through the GAFC program. GAFC is a service available under the "state plan" rather than a Medicaid waiver. The program serves adults over age 22 who have a physician's authorization confirming they are at risk of entering an institution. Participants must have at least one ADL impairment. GAFC is available in ALRs and conventional elderly housing.

GAFC provides an average of $37.75 per day for services and administrative costs. Participants receive assistance with ADLs and IADL; a multidisciplinary care team; access to 24-hour scheduled and unscheduled care; and minimum professional staffing of 3.5 hours per week per resident. The rate assumes participants receive one hour of personal care a day. In addition to GAFC services, participants may also receive up to two days of adult day health services or eight hours of home health aide services with prior approval.

To support low income residents who do not have sufficient income to pay for room and board, the state has created a special SSI living arrangement for ALRs. The SSI payment standard is $1,077 a month for a single individual. In 2007, the program contracted with 147 GAFC providers and served 5,161 individuals. Of this number, 112 providers were ALRs. The number of participants living in ALRs was not available.

Medicaid Participation					
2007		2004		2002	
Facilities	Participation	Facilities	Participation	Facilities	Participation
112	NR	101	1,120	44	922

Staffing

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

Training

Administrators. The manager of an ALR must be at least 21 years old and have demonstrated administrative, supervisory and management experience. The manager must have a Bachelor's degree or equivalent experience in human services management, housing management, and/or nursing home management. The service coordinator of a residence must have a minimum of two years of experience working with elders or disabled individuals and a Bachelor's degree or equivalent experience.

Staff. Employees receive an initial seven hour orientation and on-going in-service training. The orientation covers:

- Philosophy of independent living in an ALR;
- Resident bill of rights;
- Elder abuse, neglect, and financial exploitation;
- Communicable diseases;
- Policies and procedures concerning disaster and emergency preparedness;
- Communication skills;
- Review of the aging process;
- Dementia/cognitive impairment including a basic overview of the disease process, communication skills, and behavior management;
- Resident health and related problems;
- Job requirements;
- SAMM; and
- Sanitation and food safety.

On-going training. A minimum of ten hours per year of on-going education and training is required for all employees, with at least two hours on the specialized needs of residents with Alzheimer's disease. Employees working in a Special Care Residence must receive an additional four hours of training per year related to the residents' specialized needs.

All staff providing assistance with personal care services shall be trained in the residence's policy on emergency response to acute health issues and first aid, and must also complete at least one hour of on-going education and training per year on the topic of SAMM. All employees and providers shall receive on-going in-service education and on-the-job training aimed at reinforcing the initial from among the following topics:

- Communication and teamwork;
- The aging process, including physical and cognitive changes;
- The causes and prevention of falls, and related injuries;
- The effects of dehydration;
- Alzheimer's disease and cognitive impairments;
- Behavior management, including prevention of aggressive behavior and de-escalation techniques;
- Conflict resolution;
- Resident rights;
- Defining, recognizing and reporting elder abuse;
- SAMM;
- Death and dying;
- Maintaining skin integrity;
- Nutrition;
- Emergency procedures; and
- Training which addresses topics required in the general orientation.

ALR staff and contracted providers of personal care services must complete an additional 54 hours of training prior to providing personal care services to a resident, 20 hours of which must be specific to the provision of personal care services. The 20 hours of personal care training must be conducted by a qualified RN with a valid Massachusetts license. The 54 hours of training must include, but not be limited to, the following topics:

- Personal hygiene;
- SAMM;
- The effects of dehydration;
- Elimination;
- Maintaining skin integrity;
- Nutrition;
- Human growth, development and aging;
- Family dynamics;
- Grief, loss, death and dying;
- Mobility;
- Maintenance of a clean, safe and healthy environment;
- Home safety; and
- Assistance with appliances.

Background Check

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

No person working in an ALR may have been convicted of a felony.

Monitoring

The Executive Office of Elder Affairs conducts compliance reviews of ALRs at least every two years. The reviews include inspections of the common areas, living quarters (by consent of the resident), inspection of the service plans, and a review of the resident satisfaction survey. Compliance reviews may be initiated at any time with probable cause.

The following sanctions may be imposed if an ALR is not in compliance with the regulations: ban on new enrollments; reduction in the number of residents served; changing the staffing patterns, levels of qualifications; requiring additional training of the manager or staff; and state may also modify, suspend, revoke or refuse to renew a certification. The type of sanction is based on past non-compliance; risk to resident health, safety and welfare; nature, scope, severity, number and frequency of the instances of non-compliance; failure to correct

violations; on-going patterns of non-compliance; previous enforcement actions and the result of past corrective action plans or order.

Fees

Fees are set by the Secretary of Administration and Finance based on the number of units. The current application fee is $200. Residences pay a certification of $125 per unit every two years.

RESIDENTIAL CARE AND ASSISTED LIVING COMPENDIUM: 2007

Files Available for This Report

REPORT INTRODUCTION (*including Cover, Table of Contents, Acknowledgments, and Acronyms*)

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.pdf

SECTION 2. Comparison of State Policies

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.pdf

SECTION 3. State Summaries

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.htm
PDF: http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.pdf

Each state's summary can also be viewed separately at:

Alabama	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf
Alaska	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAK.pdf
Arizona	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAZ.pdf
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Wyoming	http://aspe.hhs.gov/daltcp/reports/2007/07alcomWY.pdf