NEW YORK

Citation Adult care facilities: NY Social Service Law (SSL) Article 7, Title 2

Adult homes: 18 NY Codes Rules & Regulations Part 487

Enriched housing programs: 18 NYCRR Part 488

Residences for adults: 18 NYCRR Part 490

Assisted living program: NY SSL §461-1.; 18 NYCRR Part 494

Assisted living residence: 18 NYCRR Part 1001

General Approach and Recent Developments

Regulations implementing the law establishing ALRs are expected to be final in 2007. The regulations will license ALRs, special needs ALRs and enhanced ALRs. All three new categories must have an adult home license. No facility will be able to use the term assisted living unless they have a new license.

Adult homes and EHPs are both certified under the state's adult care facility regulations. Both models serve five or more people and provide long-term residential care, room, board, housekeeping, personal care, and supervision. Adult homes represent the state's board and care model while EHPs operate in community integrated settings resembling independent housing units. State statute authorizes the Medicaid program to contract for 4,200 ALP beds, most of which have been allocated. ALPs receive Medicaid reimbursement and must be dually-certified as an adult home or EHP (the housing component) and either a home care services agency, a certified home health agency, or a long-term home health care agency (the service component).

Adult Foster Care

The Office of Children and Family Services certifies and monitors family-type homes which provide long-term residential care, room, board, housekeeping, supervision and/or personal care to four or fewer adults unrelated to the operator.

Web Address	Content
http://www.health.state.ny.us/facilities/assisted_living/index.htm	Provider
http://www.health.state.ny.us/facilities/adult_care/index.htm	List, survey
http://www.health.state.ny.us/nysdoh/phforum/nycrr18.htm	Rules (see parts 485-488)

Supply							
C-4	20	07	20	04	2002		
Category	Facilities Units		Facilities	Units	Facilities	Units	
Adult care homes	389		431	32,859	449	34,805	
Enriched housing program	105	39,170	90	7,227	83	5,308	
Residences for adults	6		6	200	8	345	

Definition

Assisted living and assisted living residence means an entity which provides or arranges for housing, on-site monitoring, and personal care services and/or home care services in a home-like setting to five or more adults residents unrelated to the assisted living provider. An applicant ... must also provide daily food service, 24-hour on-site monitoring, case management services, and the development of an ISP for each resident. An operator shall provide each resident with considerate and respectful care, and promote the resident's dignity, autonomy, independence and privacy in the least restrictive and most home-like setting commensurate with the resident's preferences and physical and mental status.

Enhanced assisted living certificate means a certificate ... which authorizes a residence to provide aging-in-place by retaining residents who are chronically chairfast and unable to transfer without the physical assistance of another person; chronically require physical assistance to walk, climb or descend stairs; are dependent on medical equipment and require more than intermittent or occasional assistance from medical personnel; or have chronic unmanaged urinary or bowel incontinence.

Special needs assisted living certificate means a certificate issued by the Department which authorizes an ALR to serve persons with special needs in accordance with a special needs plan approved by the Department.

An *adult home* is established and operated for the purpose of providing long-term residential care, room, board (three meals and a nutritious snack per day), housekeeping, personal care, and supervision to five or more adults unrelated to the operator. While adult homes serve persons at least 18 years of age, most residents are much older than 18. These are congregate settings in that they can accommodate large numbers of residents in one building -- up to 200 residents in one facility (some "grandfathered" facilities accommodate more), typically with one or two residents to a bedroom. Adult homes may be proprietary, public, or non-profit.

An *enriched housing program* means an adult care facility established and operated for the purpose of providing long-term residential care to five or more adults, primarily persons 65 years of age or older (no more than 25% under 65 and all are 55 or older), in community integrated settings resembling independent housing units. Most programs are located in individual apartment settings that have kitchens and private bathrooms. Services provided are the same as those in adult homes, with the exception of supervision and personal care. An enriched housing operator is required to provide only one meal a day, which must be a hot congregate meal, and the operator must assure that there is sufficient food available in each resident's apartment for the other two meals.

Residences for adults serve a population that is younger than that served by adult homes and EHPs and generally needs a different array of services, including mental health services provided under the auspices of the Office of Mental Health (OMH). Services that must be provided by the operator of the residence include room, meals, housekeeping, case management and 24-hours-a-day supervision. Operators are not required to provide personal care. While

most resident rooms are single, some are double-occupancy. Bathrooms may be shared and there is a communal dining room for meals.

Assisted Living Program (Medicaid program) is available in some adult home and EHPs, and combines residential and home care services. It is designed for individuals who may otherwise require nursing home placement for what are primarily social rather than medical reasons. The operator of the ALP is responsible for providing or arranging for resident services that must include room, board, housekeeping, supervision, personal care, case management, and home health services. While the ALP is primarily a Medicaid-funded program, some non-Medicaid ALP beds do exist.

Unit Requirements

Adult homes provide single or double occupancy bedrooms, and have one toilet and lavatory for every six residents and one tub/shower for every ten residents.

Enriched housing programs must provide single occupancy units, unless shared by agreement, and each unit must include a full bathroom, living and dining space, sleeping area, and equipment for storing and preparing food. Shared units must provide for toilets, lavatory, shower, or tub shared by not more than three residents.

Residences for adults provide single or double occupancy bedrooms, with shared bathrooms and communal dining rooms.

Assisted living programs comply with the relevant requirements under which the contracting facility is licensed (i.e., adult home or EHP).

Admission/Retention Policy

Adult care facility operators may not accept or retain anyone who: requires intermittent or on-going skilled nursing that cannot be met by a home care services agency; suffers from a serious and persistent mental disability sufficient to warrant placement in an acute care or RTF; require health or mental health services which are not available or cannot be provided; repeatedly behaves in a manner which directly impairs the well-being, care or safety of residents; has a medical condition which is unstable and which requires continual skilled observation; refuses or is unable to comply with a prescribed treatment program including but not limited to prescribed medications; is chronically bedfast; is a danger to self or others; requires continual skilled observation; refuses or is unable to comply with treatment; is chronically bedfast or chairfast and requires assistance from another person to transfer; regularly needs assistance from another person to walk or climb and descend stairs; has chronic un-managed urinary or bowel incontinence; has a communicable disease; is dependent on medical equipment (with exceptions); has chronic personal care needs which cannot be met by the staff; is not self-directing; and engages in drug or alcohol use which results in aggressive or destructive behavior.

Assisted Living Program. ALPs may care only for a person who: is medically eligible for, and would otherwise require placement in, a residential health care facility due to the lack of a home or a suitable home environment in which to live and safely receive services; requires more care and services to meet daily health or functional needs than can be provided directly by an adult care facility; exhibits a stable medical condition as categorized by the long-term care patient classification system; is able, with direction, to take action sufficient to assure self-preservation in an emergency; and voluntarily chooses to participate in an ALP after being provided with sufficient information to make an informed choice. An operator must not accept nor retain any person who: requires continual nursing or medical care; is chronically bedfast and requires lifting equipment to transfer or the assistance of two persons to transfer; or is cognitively, physically or medically impaired to a degree which endangers the safety of the resident or other residents.

To receive Medicaid reimbursement for home care services provided in an ALP, applicants must be determined by a physician to be appropriate for this LOC. Following a review of the assessments, prior authorization must be completed by the fiscally responsible social services district. The social service district may, at their discretion, choose to conduct their own assessment prior to authorizing Medicaid payment. The applicant must then be assessed by the ALP to determine the care required and the program's ability to meet those needs. Participants must have stable medical conditions and be able to assure self-preservation in an emergency.

Pending rules allow facilities to apply for an "enhanced assisted living certificate" to support aging-in-place for residents who are chronically chairfast, unable to walk or climb stairs without physical assistance; depend on medical equipment and require more than intermittent or occasional assistance; or have chronic unmanaged urinary or bowel incontinence.

Nursing Home Admission Policy

Not reported.

Services

ALP operators are responsible for providing or arranging for resident services which must include, at a minimum: room, board, housekeeping, supervision, personal care, case management activities and home health services.

Enhanced ALRs may offer health care services provided by staff directly employed by the residence. An enhanced ALR shall provide or arrange for nursing services for its residents as necessary. Such services shall include but not be limited to assessment and evaluations; monitoring and supervision; nursing care and treatments; and medication administration and management.

Adult care facilities can provide supervision, personal care, housekeeping, case management, activities, food service, assistance with medication, and activities under their certificate of operation. To operate as an ALP, additional services and licenses are needed. The facility may seek a license to provide nursing care and therapies, or it may contract with a home health agency or a long-term home health care program. A care plan is jointly developed by the ALP and the certified home health agency/long-term home health care program which is based on the physician's orders and the assessment process.

The Medicaid ALP capitation rate covers personal care, home health aide, personal emergency response services, nursing services, physical therapy, occupational therapy, speech therapy, medical supplies that do not require prior authorization, and adult day health care, if needed. A Medicaid recipient's ALP services must not be discontinued solely because the costs of the recipient's care exceed the amount of the capitated payment rate. The ALP must provide case management services to Medicaid recipients who are receiving ALP services. The ALP must comply with the case management requirements which include receiving referrals for ALP services and providing information about such services; referring an ALP applicant who the program reasonably expects may be eligible for Medicaid to the social services district in which the program is located for a Medicaid eligibility determination; establishing linkages to services provided by other community agencies, providing information about these services to Medicaid recipients; and establishing criteria for referring Medicaid recipients to these services, to the maximum extent possible; achieving economic efficiencies, including, but not limited to using, shared aides consistent with the ALP's staffing standards, and arranging for the reduction or discontinuance of a Medicaid recipient's services when the ALP reassesses the recipient and determines that the recipient's ALP services must be reduced or discontinued.

All services must be provided in accordance with the recipient's plan of care based upon the recipient's initial assessment and periodic reassessments. When a reassessment indicates that ALP services are no longer appropriate, services must continue to be provided in accordance with the recipient's plan of care based upon the recipient's prior assessment until alternative placement arrangements can be made.

Dietary

Adult homes and residences for adults must provide, at a minimum, three meals a day, served at regularly scheduled times, and a nutritious evening snack. The operator shall provide meals which are balanced, nutritious and adequate in amount and content to meet the daily dietary needs of residents.

EHPs must serve, at a minimum, one hot mid-day or evening meal a day that meets one-third of the recommended dietary allowances of the Food and Nutrition Board. EHPs must also assure that residents receive sufficient food for all non-congregate meals and snacks.

Agreements

Adult care facility admission agreements cover the due dates for payment; list of services, material, equipment, and food required by law or regulation to be provided; the basic monthly, weekly, or daily payment; a detailed schedule of other services, materials, equipment, or food the operator agrees to make available; a guarantee that charges for supplemental services that are made at the resident's request; conditions for adjusting the rate; the actual rate charged by the operator and accepted by the resident; an offer to manage funds received by SSI or Home Relief residents; a statement that the operator will comply with SSI/Home Relief requirements; charges for temporary absences; conditions of termination; refund policy; statement that the resident will provide a signed medical statement and inform the operator of changes in health conditions, status, or medications; and a statement that the resident will comply with all reasonable rules.

ALR agreements include the name, address, phone number of the residence, the owner and operator; the licensing status of the residence; the period of the agreement; services covered and any limitations and the base rate; additional services available for a fee; a rate or fee schedule; the process for modifying, amending, or terminating the agreement; the complaint resolution process; admission/retention criteria; procedures and standards for termination of contract, discharges and transfers; billing and payment procedures; procedures in payment is no longer made by or on behalf of the resident; and refund policy.

In addition to the agreement, the residence must provide a consumer information guide developed by the Department; a statement about the residence's license and additional certificates; ownership interest in excess of 10% of any entity that provides equipment or services; a statement that the resident is able to obtain services from providers with whom the operator does not have an agreement and their right to choose health care providers; a statement about the availability of public funds; and the availability of the ombudsman.

Provisions for Serving People with Dementia

The proposed regulations provide that no adult home, EHP or ALR may advertise or market itself as providing specialized services to individuals with special needs unless and until the residence has been licensed as an ALR and issued a special needs assisted living certificate. This approval will be based in part on the submission of a special needs plan which sets forth how the special needs of such residents will be safely and appropriately met at the residence. The plan must include, but need not be limited to, a written description of specialized services, staffing levels, staff education and training, work experience, professional affiliations or special considerations relevant to serving persons with special needs, as well as any environmental modifications that have been made or will be made to protect the health, safety, and welfare of such persons in residence.

Services are provided according to ISPs. The operator shall provide a comprehensive and coordinated program to regularly observe and assess the need for services in a professional, respectful, competent, and timely manner.

Case management services are available to assist residents to maintain family ties by assisting residents' family members and representatives to: adjust to and remain involved with the resident; establish, operate, and maintain individual and collective methods or recommendations for change or improvement in residence operations and programs, regarding both individual and congregate resident-related issues; and remain active in the care planning process for the resident.

Medication Administration

Assistance with self-administration of medication is allowed, including prompting, identifying the medication for the resident, bringing the medication to the resident, opening containers, positioning the resident, disposing of used supplies, and storing the medication.

Public Financing

Many adult care facility residents pay for room and board through a state supplement to the federal SSI program. Adult care facility rates for SSI recipients are established in state statute and cover room, board and other required services. Additional support services for SSI-eligible residents, such as personal and home health care, and mental health and medical care, are reimbursed through Medicaid.

Services in ALPs are covered under the Medicaid state plan and the SSI state supplement. The Medicaid program will not make payments for ALP services provided to a Medicaid recipient while the recipient is receiving residential health care facility services or in-patient hospital services.

The home care service reimbursement (see attached chart) is based on 50% of the resident's RUG which would have been paid in a nursing home. The state has created 16 RUG categories for ten geographic areas of the state. Facilities must comply with the adult home retention criteria. However, the full array of rates is shown since facilities receive a higher rate when a resident deteriorates and is retained until a nursing home placement can be made.

The reimbursement category is determined through a joint assessment by the ALP and the designated home health agency or long-term home health care program. The assessment and the RUG category are reviewed by the Department of Social Services district office which grants prior authorization of the Medicaid home care payment.

The Medicaid rates do not include room and board. For residents who qualify, residential services (room, board, and some personal care) are covered by SSI which also varies by region. In 2007, the SSI and state supplement standard was \$1,264 and the PNA was \$200.

Medicaid Participation						
	2007		2004	2002		
Facilities	Participants	Facilities	Participants	Facilities	Participants	
62	3,335	57	3,315	53	3,034	

Staffing

Adult care facilities must have a case manager and staffing that is sufficient to provide the care needed by residents.

An enhanced ALR or a special needs ALR shall provide, either directly or through contract, sufficient nursing staff to meet the health care needs of the residents. Nursing coverage requirements, at a minimum, include: a licensed nurse (registered professional nurse or LPN) on duty and on-site at the residence 16 hours a day, seven days a week; a registered professional nurse on duty and on-site at the residence, for eight of the 16 hours per day, five days a week; a registered professional nurse on call and available for consultation 24-hours-a-day, seven days a week, if not available on-site; and additional nursing coverage, as determined necessary and documented by the resident's medical evaluation or otherwise by the resident's attending physician and/or the ISP.

Training

Administrators. Program coordinators must be 21 years or older, have a master's degree in social work and one year's experience, or a bachelor's degree and three years of acceptable experience.

Staff providing personal care must complete a PCA or home health aide training course or other examination approved by the state Department of Health. Adult care facilities must provide an orientation and in-service training in the characteristics and needs of the population served, resident rights, program rules and regulations, duties and responsibilities of all staff, general and specific responsibilities of the individual being trained, and emergency procedures.

All ALR personnel must receive orientation to the policies and procedures related to the provision of ALR, enhanced ALR and/or special needs ALR services as applicable, to include, but not be limited to general duties of staff, applicable facility and service delivery procedures, emergency evacuation and disaster plan, and personal appearance of the employee. ALR aides must have 40 hours of initial training as specified in the Department's training requirements and curriculum or an approved equivalent program and 12 hours of on-going, in-service education in topics applicable to their responsibilities. An annual assessment of the performance and effectiveness of all resident aides must be conducted including at least on direct observation of performance.

Background Check

Criminal background checks are not currently required of operators of adult care facilities, nor of the staff within those facilities.

Monitoring

Adult Homes. In October 2002, the state implemented new policies regarding the oversight of adult homes. These new policies include: reinforcement of mandatory death reporting by homes and immediate investigations of such reports; multi-agency created profile of deaths at the homes to identify patterns; and increased surveillance, including multi-agency teams comprised of inspectors from Department of Health, OMH and Commission on Quality of Care to complete focused surveys. These strong actions serve to further protect adult home residents and serve to make homes more accountable for the care they provide.

Adult care facilities. Inspection and supervision of adult care facilities shall be undertaken by the Department to ascertain whether all applicable provisions of law and regulations are being complied with. The Department may undertake enforcement action against any operator of an adult care facility who fails to operate the facility in compliance with applicable provisions of law and regulation.

Survey reports have to specify corrective action, and surveyors sometimes get into discussions with operators regarding ideas for corrective action. The state does offer training to operators and select staff, and offered training in 2004 regarding medication management in adult care facilities.

Fees

The assisted living statute sets a biennial fee of \$500 plus \$50 per residents whose annual income is above 400% of the federal poverty level. The maximum fee is \$5,000. An additional fee of \$2,000 is assessed for facilities seeking certification as an enhanced ALR or a special needs ALR. Facilities seeking both certificates pay \$3,000.

2006 Medicaid Regional RUG Rates for Assisted Living Programs in New York																
RUG II						Long		West-		Pough-	Bing-		Central	Western	Glens	Northern
CAT.	Albany	NYC	Syracuse	Rochester	Orange	Island	Erie	chester	Utica	keepsie	hampton	Elimira	Rural	Rural	Falls	Rural
CA	\$58.40	\$83.54	\$62.56	\$59.01	\$63.61	\$77.51	\$54.53	\$72.98	\$54.51	\$59.45	\$55.53	\$58.36	\$54.16	\$50.68	\$55.04	\$50.25
BA	\$57.96	\$83.02	\$62.12	\$58.48	\$63.13	\$77.01	\$54.12	\$72.41	\$54.16	\$58.96	\$55.12	\$58.04	\$53.75	\$50.31	\$54.67	\$49.96
PA	\$49.40	\$69.62	\$53.24	\$50.13	\$53.56	\$64.46	\$46.27	\$61.32	\$46.41	\$50.42	\$47.36	\$49.47	\$46.49	\$43.18	\$46.71	\$42.48
PB	\$62.72	\$90.76	\$67.18	\$63.10	\$68.39	\$84.28	\$58.42	\$78.74	\$58.40	\$63.82	\$59.52	\$62.69	\$57.88	\$54.17	\$59.18	\$54.04
RA	\$88.37	\$130.91	\$93.95	\$88.36	\$96.93	\$121.90	\$81.83	\$112.20	\$81.41	\$89.71	\$82.93	\$87.91	\$79.87	\$75.39	\$83.04	\$76.08
RB	\$95.92	\$143.06	\$101.96	\$95.77	\$105.25	\$133.29	\$88.66	\$122.21	\$88.14	\$97.43	\$89.90	\$95.23	\$86.44	\$81.54	\$90.16	\$82.51
SA	\$86.34	\$127.75	\$91.88	\$86.44	\$94.63	\$118.94	\$79.96	\$109.65	\$79.53	\$87.77	\$81.12	\$85.77	\$78.22	\$73.69	\$81.16	\$74.23
SB	\$94.65	\$139.90	\$100.35	\$94.90	\$103.92	\$130.32	\$87.63	\$120.29	\$86.94	\$96.16	\$88.62	\$93.77	\$85.31	\$80.73	\$88.67	\$81.22
CB	\$74.79	\$109.89	\$79.88	\$74.98	\$81.78	\$102.21	\$69.40	\$94.61	\$69.21	\$76.06	\$70.59	\$74.51	\$68.30	\$64.10	\$70.47	\$64.39
CC	\$79.59	\$117.48	\$84.88	\$79.64	\$87.13	\$109.33	\$73.79	\$100.84	\$73.55	\$80.87	\$74.95	\$79.31	\$72.37	\$68.07	\$74.97	\$68.58
CD	\$90.74	\$134.89	\$96.55	\$90.68	\$99.51	\$125.64	\$83.94	\$115.45	\$83.50	\$92.20	\$85.16	\$90.14	\$81.99	\$77.28	\$85.32	\$78.06
BB	\$69.53	\$101.72	\$74.37	\$69.71	\$75.94	\$94.56	\$64.60	\$87.69	\$64.53	\$70.68	\$65.76	\$69.45	\$63.73	\$59.75	\$65.59	\$59.95
BC	\$77.13	\$113.82	\$82.37	\$77.19	\$84.34	\$105.89	\$71.49	\$97.72	\$71.30	\$78.42	\$72.75	\$76.82	\$70.31	\$65.95	\$72.71	\$66.42
PC	\$69.53	\$101.72	\$74.37	\$69.71	\$75.94	\$94.56	\$64.60	\$87.69	\$64.53	\$70.68	\$65.76	\$69.45	\$63.73	\$59.75	\$65.59	\$59.95
PD	\$74.36	\$109.40	\$79.46	\$74.47	\$81.30	\$101.75	\$68.99	\$94.04	\$68.85	\$75.60	\$70.20	\$74.16	\$67.91	\$63.70	\$70.12	\$64.08
PE	\$82.58	\$122.70	\$88.19	\$82.52	\$90.34	\$114.22	\$76.41	\$104.97	\$76.16	\$84.01	\$77.80	\$82.12	\$75.06	\$70.36	\$77.87	\$71.07
NOTE: The rates above are based on 50% of the nursing home rate.																
CA = Clinically Complex A					SA = Special Care A						BB = Severe Behavioral B					
BA = Severe Behavioral A					SB = Special Care B						BC = Severe Behavioral C					
PA = Reduced Physical Functioning A				CB = Clinically Complex B						PC = Reduced Physical Functioning C						
PB = Reduced Physical Functioning B				CC = Clinically Complex C						PD = Reduced Physical Functioning D						
RA = Heavy Rehabilitation A			CD	CD = Clinically Complex D					PE =	PE = Reduced Physical Functioning E						
RB = Heavy Rehabilitation B																

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

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.htm
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SECTION 2. Comparison of State Policies

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

SECTION 3. State Summaries

HTML: http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.htm
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
Arkansas http://aspe.hhs.gov/daltcp/reports/2007/07alcomAR.pdf
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Nevada
North Carolina
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http://aspe.hhs.gov/daltcp/reports/2007/07alcomNC.pdf

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Oklahoma http://aspe.hhs.gov/daltcp/reports/2007/07alcomOK.pdf
Oregon http://aspe.hhs.gov/daltcp/reports/2007/07alcomPA.pdf
Pennsylvania http://aspe.hhs.gov/daltcp/reports/2007/07alcomPA.pdf
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http://aspe.hhs.gov/daltcp/reports/2007/07alcomPA.pdf
http://aspe.hhs.gov/daltcp/reports/2007/07alcomRI.pdf

South Carolina
South Dakota

http://aspe.hhs.gov/daltcp/reports/2007/07alcomSC.pdf

http://aspe.hhs.gov/daltcp/reports/2007/07alcomSD.pdf

Tennessee

http://aspe.hhs.gov/daltcp/reports/2007/07alcomTN.pdf

Texas

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Utah

http://aspe.hhs.gov/daltcp/reports/2007/07alcomUT.pdf

Vermont	http://aspe.hhs.gov/daltcp/reports/2007/07alcomVT.pdf
Virginia	http://aspe.hhs.gov/daltcp/reports/2007/07alcomVA.pdf
Washington	http://aspe.hhs.gov/daltcp/reports/2007/07alcomWA.pdf
West Virginia	http://aspe.hhs.gov/daltcp/reports/2007/07alcomWV.pdf
Wisconsin	http://aspe.hhs.gov/daltcp/reports/2007/07alcomWI.pdf
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