



Testimony on Social Adult Day Care Programs

Provided by

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My name is Ann Marie Selfridge, and I am the President of the New York State Adult Day Services Association (NYSADSA) and owner and operator of the ACT Care Group Social Adult Day Program in Staten Island. For the duration of my career, I have worked in long term care services and have had the privilege to help take care of people and ensure that they receive quality care.

NYSADSA was established in 1978. We have many goals as a unified organization, and we aim to provide resources, information, and support to the public and the adult day services industry.

NYSADSA is committed to the development and promotion of adult day services. We work to ensure the highest standards of quality and responsiveness to the individuals we serve, and our communities' needs.

We are an "active provider" organization: We are adult day providers from across New York State, working with and for our adult day service colleagues. It is estimated that there are 400+ day programs across New York State.

The Social Adult Day Service program for the social model is a structured, comprehensive program providing functionally impaired individuals with socialization, supervision and monitoring, personal care, and nutrition in a protective setting during any part of the day, but for less than a 24-hour period. Additional services may include transportation and case coordination. Programs must meet the New York State Office for the Aging (NYSOFA) Regulations 6654.20; the administrative code of the City of New York Local Law 9 of 2015 (Section 21, Chapter 2, Title 21).

Some of the other services provided are social and recreational activities and essential training for sustaining activities of daily living. However, legal advocates for the elderly have become concerned about social adult day care programs. Given that there is no requirement of a license to open them and there is no government agency responsible for visiting or inspecting them even though they are eligible for government funds, these centers may be susceptible to fraud and abuse.

In New York, the state agency administers the Medicaid program. Under New York's Medicaid managed care program, contracted Managed Care Organizations (MCOs) are paid monthly fees to ensure that enrolled beneficiaries have access to a comprehensive range of medical services, including social adult day care services from providers contracted by MCOs.

The primary payor source for Social Adult Day Programs is Managed Long Term Care (MLTC) Medicaid, which now works so that private insurance companies receive a set reimbursement for every Medicaid recipient they enroll. Previously, in order for an elderly person to be eligible for adult day care, they needed to be helped with a minimum of one daily living activity, such as toileting or feeding themselves. At this time, the Managed Care Plan representatives are responsible for auditing the Social Adult Day Programs to ensure that they are in compliance with operating the basic minimum standards issued by NYSOFA. The New York State Department of Health (DOH) recently implemented a new survey tool to ensure that programs are in compliance with Home and Community-Based Services (HCBS) rules. The state agency,

working in conjunction with the Office of the Medicaid Inspector General (OMIG), requires adult day care services providers contracted by MCOs to certify, on an annual basis, that their facilities comply with health and safety requirements. If a program is operating in New York City, they are required to also register with the New York City Aging Department.

At this time, there is no licensure or set standard of auditing criteria that Social Adult Day Programs must follow in order to operate and bill the MCOs. This lack of direct oversight opens the ability for people to engage in Medicaid fraud.

In 2017, the federal Office of Inspector General (OIG) reviewed New York social adult day care providers contracted by Medicaid MCOs to determine whether they complied with selected federal and state requirements. In the [OIG report](#), it was stated:

“The State agency’s oversight of Medicaid MCOs did not ensure that 18 of the 20 adult day care services providers we reviewed complied with Federal and State health and safety requirements. Specifically, we found 476 instances of noncompliance with requirements for staff training, physical environment and safety, emergency preparedness, and staff health status.⁹ The instances of noncompliance occurred because the MCOs did not adequately monitor their contracted providers to ensure compliance with adult day care health and safety requirements found in the State agency’s CMS-approved MCO contract and detailed in New York’s regulations on adult day care programs. These deficiencies could have significantly impacted the health and safety of vulnerable Medicaid beneficiaries.

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Of the 20 adult day care services providers we visited, 13 had 1 or more deficiencies related to physical environment and safety requirements. In total, we found 51 instances of noncompliance. Specifically, we found 48 instances of participant health and safety hazards (e.g., a locked emergency exit door, tripping hazards, slip and fall hazards, black mold, and evidence of vermin), 2 instances in which providers had not documented that they notified the local fire jurisdiction of their presence and hours of operation, and 1 instance in which a facility’s maximum occupancy was exceeded by 21 persons.

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We acknowledge the State agency’s efforts to expand its oversight of adult day care services providers; however, we continue to maintain that during our audit period, the survey tools and procedures used during MCOs’ required annual site visits to providers were not adequate and to recommend that these procedures be improved.”

It has always been the position of NYSADSA to establish a more effective oversight system for Social Adult Day Programs. In addition to the quality of care being jeopardized for clients, it has been said that there is a culture of kickbacks and monetary bribes to solicit people to sign up with Social Adult Day Programs, and then in turn, with large numbers, a Social Adult Day Program will present more of an incentive for the MCOs to offer contracts, since larger numbers drive

larger revenue. Awarding contracts based on financial gain, as opposed to quality, has deeply affected the way the industry is operating and is affecting the ability for the industry to build and thrive with success in achieving positive health outcomes for people on a larger scale.

For many years, NYSADSA has lobbied our government to pass into law a mandate to put in place a more stringent oversight and monitoring system for Social Adult Day Programs, and most recently we have had drafted and passed by both the Assembly and the Senate a bill that would prohibit anyone from using the terms “social adult day services” and “social adult day care” unless the programs meet the definitions under the law. However, the bill was vetoed by the Governor, and the opportunity for fraud and neglect still presents itself throughout New York State. It is estimated that there are 400 programs operating in New York State. NYSADSA also requests a single statewide registry of all social adult day care programs that meet the NYSOFA/DOH standards and regulations.

Recently, NYSADSA has been working with Assembly Member Ron Kim to implement an accreditation system and to ensure that Social Adult Day Programs are working at the highest levels of quality and efficiency. NYSADSA is grateful for the support of the Assembly Member and his colleagues who are working to bring attention to Social Adult Day Programs and to help advance our industry forward to grow stronger in our ability to serve our frail and elderly population in New York State.