

NEW YORK STATE
 DEPARTMENT OF SOCIAL SERVICES
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



CESAR A. PERALES
 Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

ADMINISTRATIVE DIRECTIVE

TRANSMITTAL NO.: 84 ADM-29
 [Family & Children Services]

TO: Commissioners of Social Services
 Executive Directors

SUBJECT: Day Services

DATE: August 23, 1984

SUGGESTED DISTRIBUTION: Directors of Social Services
 Supervisors
 Agency Staff Involved in Day Services
 School Staff

CONTACT PERSON: Any questions regarding this release should be directed to the appropriate Regional Office Director:

Linda Kurtz, Western Regional Office - (716) 454-4272
 Fred Cantlo, Metropolitan Regional Office - (212) 488-3484
 John O'Connor, Eastern Regional Office - 1-800-342-3715, ext. 31095
 Karen Schinke, Buffalo Regional Office - (716) 883-4091

I. Purpose

The purpose of this Directive is to outline requirements for developing and operating day services programs for children and families, and to explain case specific eligibility guidelines under which a social services district may qualify to receive reimbursement for day services using available State funds for preventive services.

II. Background

Sections 430 through 434 of the Social Services Law provide statutory authority for the establishment of day services for a child and his or her family if a social services official determined that such services would:

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
81-ADM-12		404.5 405 425 430.9	430-434 610-611 409-b	Bulletin 195	Part 200

- (a) avert a risk of serious impairment or disruption of a family unit which would result in the placement of a child outside of his or her own home, or,
- (b) enable a child who has been placed in a child care institution or other group care facility to be placed in a foster care setting more closely oriented to community or family life, or,
- (c) enable a child who has been placed in foster care to return to his family at an earlier time than would otherwise be possible.

When a day services program is provided to achieve goals (b) and (c), such services can be authorized as optional preventive services only if the day services program meets the goal of returning the child to his or her home, and, the day services program will accelerate the child's return home.

Previously, day services provided as a preventive service were funded through the Federal Title XX program with local districts funding 50% of the non-federal share. With the enactment of Section 409-b of Social Services Law, a part of the Child Welfare Reform Act of 1979, these funding streams were revised. Section 409-b of the Social Services Law makes a district's expenditures for mandated preventive services provided above the Title XX ceiling eligible for 75% reimbursement by the State provided the district has met all the necessary requirements for such funding. For non-mandated cases, 50% state - 50% local funding is available for those districts which have elected to provide optional preventive services as reflected in their Consolidated Services Plans, if there are State funds appropriated.

III. Program Implications

A. Definitions

Day Services is defined as a program offering a combination of services, including at least social services, psychiatric, psychological, educational and/or vocational services and health supervision, and also including, as appropriate, recreational and transportation services, for at least 3 but less than 24 hours a day, and at least 4 days per week, excluding holidays.

If it can be demonstrated that one or more of these services are not needed by the population served, that service may be waived.

The minimal service requirement for each person in a day services program is three hours per day, at least four days per week, excluding holidays.

A day services program must be under the direction of a qualified psychiatrist, social worker, psychologist, or a specialist in early childhood or special education, who shall have had at least five years experience in either special education or child welfare services, or an equivalent combination of experience and training.

B. Program Eligibility

Cases authorized for mandated preventive services must meet the standard for the provision of mandated preventive services to clients at risk of placement in foster care (18 NYCRR 430.9(c)) and the standard for the provision of mandated preventive services to clients at risk of replacement in foster care (18 NYCRR 430.9(d)). In addition, day services may be provided as a mandated preventive service when the Family Court orders such services to be provided (18 NYCRR 430.9(f)). Further, day services may be recertified as a mandated preventive service if the standards set forth in 19 NYCRR 430.9(g) are met.

It should be noted that day services may not be provided for more than one year without prior approval of the Department according to SSL 430.5 and Department regulation 425.2(c).

C. Provision of Day Services

Day Services may be provided to a child under the age of 18, and his or her family.

A local social services district may provide day services directly or purchase day services from a non-profit corporation or association or private proprietary facility. The purchase of day services from a proprietary facility, however, cannot be made without prior written approval of the Department. Such approval will be granted only if the local district demonstrates the unavailability of a non-profit corporation or association which can provide the required services. Any purchase of day services must be pursuant to a written contract and in accordance with the provisions Part 405 of the Department's regulations and with the contract requirements described in Manual Bulletin 195. A contract to purchase day services can only be made with an agency that has a current operating permit or provisional permit issued by the Department to operate a day services program.

As a preventive service, day services programs should be developed and implemented to achieve the goals of averting placement, reducing the length of foster care placement, or reducing the likelihood of a child returning to foster care.

Current day services programs have been developed to respond to a broad spectrum of service needs, specific to clients and the communities in which they live.

D. The Local Social Services District and the Local School District

When a child is being considered for placement in a day services program, and the child is thought to require special educational services due to a handicapping condition, a referral should be made by the social services district to the Committee on the Handicapped of the school district of residence, pursuant to 8 NYCRR 200.4.

This Section of Part 200 of the Regulations of the Department of Education allows for referrals by the social services commissioner, or designee of a public agency with responsibility for the welfare, health or education of children.

Based on a referral by the local social services district, the Committee on the Handicapped is required to evaluate the child within 30 days of receipt of referral and provide a recommendation to the local Board of Education regarding appropriate educational services. If the Committee on the Handicapped determines the child is educationally handicapped and eligible for special educational programs and/or related services, the Committee will develop a Phase I IEP (Individual Education Program) that will list the individualized goals and services considered appropriate, and indicate the recommended placement. The local Board of Education will be responsible for making the appropriate educational placement within 30 days of the Committee's recommendation.

When the local Board of Education provides an educational placement, appropriate related services may be provided to a child in addition to the instructional services. These services can include speech pathology, audiology, psychological services, physical therapy, occupational therapy, counseling services, medical services and other appropriate support services, including parent counseling and training, school health services, school social work, other appropriate developmental or corrective support services and appropriate access to recreation. Payment for special education services resulting from a placement by the local Board of Education, which may include related services as required by the IEP, and transportation, will be the responsibility of the local school district with reimbursement provided by the State Education Department in accordance with the formulas specified in Article 89 of Education Law.

In addition to a referral to the Committee on the Handicapped, the local social services district should explore other educational alternatives through the principal of the local school. There may be other educational programs that the school district can provide through an adjoining school district, or a Board of Cooperative Educational Services. A local social services district or a day services provider could develop a preventive services component to an educational program that meets the specific needs of a child and his or her family; or, an after school model of preventive services could be developed consisting of an educational component that compliments the educational program provided by the local school district. Many current day services programs are jointly funded through the State Department of Social Services and the State Education Department.

If the Committee on the Handicapped determines that a child is not educationally handicapped, and therefore not eligible for special education programs or related services, the district must decide whether or not to assume the full costs of the day services program. The district should make every effort to involve parents in securing appropriate educational services for their children. Information and advocacy should be provided to parents regarding referrals to the Committee on the Handicapped, alternative educational programs, and the appeal procedures regarding review and decision making.

E. Qualifications for Receiving an Operating Permit

The State Department of Social Services may issue a day services operating permit to a local social services district, a non-profit corporation or association or a private proprietary facility. A request for a permit to operate a day services program will not be considered until the applicant has received the appropriate licenses for any portion of the day services program for which a license is required by any State agency or official. For example, if a day services program includes a school program, appropriate authorization must be secured from the State Education Department prior to receiving a permit from this Department to operate a day services program. In addition, the applicant must demonstrate that:

- (1) the day services program is operated by an authorized child care agency which holds a current operating permit for 24 hours residential care, issued by the Department, and the day services program is to be confined to structures which have been inspected for the residential care permit, or, if other structures are used for the day services program, structures are inspected and meet the same standards; or
- (2) the program and structures have been licensed by the Department of Mental Hygiene as a day treatment program and the State agency certifies to the Department that the program and structures meet all regulations promulgated by that agency concerning the physical safety, health, protection and nutrition of the children to be served in the day services program; or
- (3) the program and structures meet the requirements set forth in the regulations covering the granting of permits to operate a day care center in respect to physical plant, sanitation, safety requirements, nutrition, health services, retention of records and procedures for renewal of permits.

An operating permit for a day services program is valid up to one year, renewable upon Departmental review and recertification. The Department may issue a provisional permit pending issuance of an operating permit, authorizing the facility to operate a day services program when it has been determined that the program is in substantial compliance with all of the requirements for receiving an operating permit, and the health and safety of children are not in jeopardy.

The Department, for good cause, may revoke or suspend any operating or provisional permit by notice in writing, informing the agency of the reasons for revocation or suspension, and the right to request a fair hearing.

The applicant's request for a hearing before the Department must be made within 30 days of receipt of the written notice of denial.

A decision on the application shall be made within 30 days of the hearing, and shall be communicated to the applicant in writing within five working days of the date of decision.

F. Fiscal Implications

Reimbursement for Day Services

The cost of day services provided pursuant to the conditions and limitations of Sections 430 through 434 of the Social Services Law and Part 425 of the Department's regulations is eligible for reimbursement by the Department in accordance with the general reimbursement provisions for preventive services established by Section 409-b of the Social Services Law. The reimbursement formula set forth in Section 432.1(a) (2) of the Social Services Law applies only in cases where day services are not provided as part of preventive services. State reimbursement for mandated preventive service clients is 75%, once all the requirements of Section 409-b of the Social Services Law are met. The day services goal which would enable a child who has been placed in a child care institution or other group care facility to be placed in a foster care setting more oriented to community or family life, is an optional preventive service subject to 50% State reimbursement, up to the amount of any appropriation made by the legislature. Title XX funds can also be utilized for optional preventive services up to the district's ceiling. (Please refer to 81-ADM-12 for a more extensive explanation of the above).

In addition to meeting a maintenance of effort requirement for preventive service expenditures, as specified in Department regulations Section 423.5(b), the district must also meet the following Department requirements in order to qualify for 75% reimbursement for day services:

- the case specific eligibility guidelines for mandated preventive services for children;
- the approval of the district's Consolidated Services Plan;
- Title XX expenditures in excess of a district's ceiling.

Payment by a local social services district for day services is eligible for reimbursement only when the following requirements are met:

- payments do not exceed the actual cost of such services;
- payments for day services for eligible children and their families do not exceed the amount charged to the general public.

A local social services official shall collect fees from the parents or legal guardians of children receiving day services, providing such parents or legal guardians receive income in excess of the eligibility standards established under Section 404.5 of Department regulations. Fees for day services will be computed according to Department regulation 425.5(c) (2).

Social service districts must demonstrate that other funding sources are not available prior to assuming the educational or any other costs of a day services program.

IV. Required Action

The following should be documented in the Uniform Case Record:

- client eligibility for preventive services;
- referrals to a Committee on the Handicapped and alternative educational placements;
- efforts on behalf of parents in the educational referral process.

The instructions for applying for a permit to operate a day services program are as follows:

- (1) Complete a DSS Form 3075, Application for a Permit to Operate a Day Services Program.
- (2) Forward application to appropriate Regional Office Director:

John O'Connor
Eastern Regional Office
NYS Department of Social Services
40 North Pearl Street - Arcade Annex - 488 Broadway
Albany, New York 12243

Karen Schimke
Buffalo Regional Office
570 Delaware Avenue
Buffalo, New York 14202

Fred Cantlo
Metropolitan Regional Office
NYS Department of Social Services
2 World Trade Center
New York, New York 10047

Linda Kurtz
Western Regional Office
NYS Department of Social Services
36 West Main Street - Room 798
Rochester, New York 14614

Within 75 days of receipt of a completed DSS 3075 Form and all supporting documentation, the Department will investigate the applicant's compliance with the Department's regulations regarding day services.

Notice of approval or denial of an application to obtain a permit to operate a day services program will be issued within 30 days of the completion of the investigation. The Department will make every effort to insure that applications for operating permits for day services programs are handled in a timely manner.

V. Claiming Instructions

Local social services districts should claim reimbursement for the cost of day services provided as preventive services for children in accordance with Department procedures for the claiming of reimbursement for preventive services.

VI. Additional Information

Official Department forms referred to in this Directive can be obtained by writing:

New York State Department of Social Services
Forms and Publications
40 North Pearl Street
Albany, New York 12243

VII. System Implications

A. The authorization and processing of Day Services in the WMS/Services system will be accomplished in the following manner:

1. Case Opening

- a. The individual for whom Day Services will be provided as part of the Preventive Services Plan must have Preventive Services (Mandated Preventive - code 25, or Non-Mandated Preventive - code 26) and Day Services (code 60W) authorized as direct services.
- b. A purchase of service should be authorized utilizing 60W-Day Services. A "C" for contracted amount may be encoded for the rate amount or a designated rate amount may be encoded.

NOTE: If the rate amount and maximum time unit fields are encoded, the authorization must be at minimum for 3 hours per day, at least four days per week per program requirements.

2. Undercare Maintenance/Recertification

- a. Undercare Maintenance/Recertification processing will be accomplished on the Services authorization change form in the prescribed manner.

3. SSRR/RMS Reporting

- a. For upstate districts SSRR time for Day Services will be

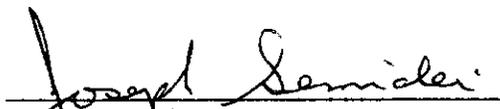
reported under Day Services - 60W, in the prescribed manner. In NYC, Day Services should be reported in RMS according to current guidelines.

B. Required Action

1. New or initial case openings processed from the effective date of this ADM for which Day Services will be authorized shall be processed in accordance with the above referenced procedures.
2. For those undercare cases for which Day Services have been authorized as a Purchase of Service (Service Type 25 or 26), at the next recertification, authorize service type 60W for the POS.
3. New York City cases to which this process applies will be initiated with the WMS conversion of their Preventive population.

VIII. Effective Date

This Administrative Directive will take effect April 1, 1984.



Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services

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