

# STATE OF NEW YORK

9356

## IN SENATE

May 13, 2024

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, in relation to social model adult day services programs

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 215 of the elder law, paragraph (b) of subdivision  
2 1 as amended by chapter 296 of the laws of 2021 and paragraph (c) of  
3 subdivision 2 as amended by chapter 63 of the laws of 2022, is amended  
4 to read as follows:

5 § 215. Social model adult day services programs. 1. Definitions. As  
6 used in this section:

7 (a) "Advisory committee for the aging" shall mean the advisory commit-  
8 tee for the aging established pursuant to section two hundred ten of  
9 this title.

10 (b) "Social adult day services" shall mean a program providing a vari-  
11 ety of long term care services to functionally impaired individuals,  
12 whether due to physical or cognitive impairments, in a congregate,  
13 community, or home setting and pursuant to a person-centered service  
14 plan.

15 (c) "Designated agency" shall mean any agency which is either a unit  
16 of county government, the city of New York, or the governing body or  
17 council of an Indian tribal reservation, or a private not-for-profit  
18 agency organized or existing pursuant to the not-for-profit corporation  
19 law, which has been designated as an area agency on aging by the state  
20 office for the aging pursuant to the federal older Americans act of  
21 1965, as amended.

22 (d) "Functionally impaired" shall mean a person who needs the assist-  
23 ance of another person in at least one of the following activities of  
24 daily living: toileting, mobility, transferring, or eating; or who needs  
25 supervision due to cognitive and/or psycho-social impairment.

26 (e) "Social adult day care" shall mean a program providing a variety  
27 of comprehensive services to functionally impaired elderly persons as  
28 defined in regulations established by the director.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 2. Duties of the director. (a) The director is authorized and directed  
2 to promulgate rules and regulations, establishing standards and require-  
3 ments with regard to the operation of all social adult day care programs  
4 [~~receiving funding pursuant to this article~~] regardless of whether the  
5 program receives funding pursuant to this article, other public funding,  
6 or private funding. For a program subject to oversight by both the  
7 office pursuant to this section and another state agency, the rules and  
8 regulations of the other state agency shall take precedence if there is  
9 duplication to the rules and regulations promulgated by the director.  
10 The director shall establish a method for a program to notify the office  
11 of such duplication. Such standards and requirements shall include, but  
12 not be limited to:

13 (1) services to be provided;  
14 (2) admission criteria;  
15 (3) participant cost-sharing;  
16 (4) assessment and enrollment;  
17 (5) staffing;  
18 (6) monitoring and evaluation of programs; and  
19 (7) any other standards or requirements which the director determines  
20 to be appropriate.

21 (b) Rules and regulations promulgated by the director pursuant to this  
22 subdivision shall also direct how social adult day care will be included  
23 in the planning currently required of designated agencies.

24 (c) The director shall develop materials for employees and volunteers  
25 of programs providing social adult day services or social adult day care  
26 on the signs and symptoms of elder abuse, which shall include identity  
27 theft. Such materials shall include, but not be limited to, ways to  
28 discuss suspected elder abuse with seniors where abuse is suspected and  
29 resources to which seniors may be referred for counseling, shelter, or  
30 other assistance.

31 (d) The director shall inspect each social adult day care program  
32 prior to operating and no less than once every five years. Such  
33 inspection shall ensure that the program has met the standards and  
34 requirements established by the director, including but not limited to a  
35 determination that the program has the necessary physical capacity to  
36 provide services for the number of people enrolled in such program. Upon  
37 successful completion of such inspection, the program shall be issued a  
38 certificate of inspection by the director. If a program is inspected and  
39 does not meet the standards and requirements established by the direc-  
40 tor, such program shall be given ninety days to correct any deficiencies  
41 as determined by the director.

42 (e) By January first, two thousand thirty, and annually thereafter,  
43 the director shall collect and maintain for inspection by designated  
44 agencies the self-certification submitted by each program pursuant to  
45 subdivision five of this section.

46 3. Funding for social adult day care programs.

47 (a) Beginning with amounts appropriated in the two thousand five  
48 fiscal year, the director shall, within amounts appropriated therefor,  
49 make grants available on a competitive basis to not-for-profit or local  
50 government operated social adult day care programs for functionally  
51 impaired elderly persons, with consideration of regional needs and a  
52 broad array of models. Such grants shall equal seventy-five percent of  
53 allowable expenditures for approved services pursuant to this section;  
54 provided however that the director may accept certain in-kind equiv-  
55 alents to comprise the required twenty-five percent match; and provided  
56 further, in the case of providers which can demonstrate financial need,

1 the director may make grants of up to one hundred percent of allowable  
2 expenditures pursuant to this section.

3 (b) Beginning with the first year that the annual increase in amounts  
4 appropriated for the purposes of this section shall equal at least five  
5 million dollars, for that increase and all increases thereafter, the  
6 director shall distribute such increases to designated agencies for the  
7 provision of social adult day care programs for functionally impaired  
8 elderly persons based on a formula developed by the office which shall  
9 consider at least the following: the number of elderly persons in the  
10 area; and the number of functionally impaired elderly persons in the  
11 area as determined by the office. Base funding established under para-  
12 graph (a) of this subdivision shall continue to be distributed as  
13 provided in paragraph (a) of this subdivision. Within the amounts appro-  
14 priated therefor, designated agencies authorized to provide social adult  
15 day care under this section shall be eligible for reimbursement from the  
16 state for seventy-five percent of allowable expenditures for approved  
17 social adult day care services pursuant to this section up to a level  
18 authorized by the director; provided however, that certain in-kind  
19 equivalents may comprise the twenty-five percent match.

20 (c) The office may use up to three percent of the total of any funding  
21 appropriated pursuant to this section for administration.

22 (d) The designated agency may use up to three percent of the total of  
23 any funds provided to the designated agency pursuant to this section for  
24 administration.

25 4. Funding eligibility. (a) Funding pursuant to this section shall not  
26 be available to social adult day care programs for services provided to  
27 elderly persons who are eligible for or receiving comparable services to  
28 those defined in this section pursuant to title eighteen, nineteen or  
29 twenty of the federal social security act, or any other government  
30 program. In addition, funding pursuant to this section shall not  
31 supplant any existing public or private funding for social adult day  
32 care programs.

33 (b) No social adult day care program shall be eligible to receive  
34 funding pursuant to this section or any other public funding for social  
35 adult day care programs until they have received a certification of  
36 inspection, as defined in paragraph (d) of subdivision two of this  
37 section, by the director.

38 (c) Notwithstanding paragraph (b) of this subdivision, any existing  
39 social adult day care program receiving funding pursuant to this section  
40 or any other public funding prior to December thirty-first, two thousand  
41 twenty-four shall be inspected pursuant to paragraph (d) of subdivision  
42 two of this section on or before December thirty-first, two thousand  
43 twenty-nine. Until an initial inspection is conducted, an existing  
44 social adult day care program receiving funding pursuant to this section  
45 or any other public funding shall not require a certificate of  
46 inspection to be eligible to receive such funding.

47 (d) A social adult day care program that does not correct deficiencies  
48 as required by paragraph (d) of subdivision two of this section may no  
49 longer be eligible for funding as determined by the director.

50 5. Self-Certification. Beginning January first, two thousand thirty,  
51 each social adult day care program shall conduct an annual self-certifi-  
52 cation of its administrative, fiscal, and programmatic operations,  
53 including feedback from participants and caregivers and submit such  
54 self-certification to the director. Failure to submit such self-certifi-  
55 cation shall result in the program being ineligible to receive public  
56 funding.

1 6. Program identification and marketing. No person or entity shall  
2 identify or market themselves as providing a social adult day care  
3 program unless they meet the requirements of this section.

4 7. Report of director. The director, after consultation with [~~his or~~  
5 ~~her~~] such director's advisory committee, affected state agencies, any  
6 affected municipal agencies and persons involved in providing social  
7 adult day care services, shall make a report, on or before December  
8 thirty-first, two thousand five, to the governor, the temporary presi-  
9 dent of the senate, the speaker of the assembly, the chair of the senate  
10 standing committee on aging and the chair of the assembly standing  
11 committee on aging on the projected costs and benefits of establishing  
12 uniform standards and requirements with regard to operation of social  
13 adult day care services in the state. The report shall include the  
14 director's findings, recommendations and estimate of the fiscal impli-  
15 cations of regulating social adult day care services in the state.

16 § 2. This act shall take effect immediately.