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## NYSBA – Continuum of Care in New York State

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**Continuum of Care in**  
**New York State**

## Continuum of Care in New York State

Below is a summary of programs and services that may be available to New Yorkers who require **long term care**. The availability, quality of and access to services are often dependent on the recipient's ability to pay for said services.

# SOURCES OF PAYORS:

- **Private funds of the recipient of the services.**

- Reverse mortgage. This will allow an individual to use the equity in their residence to provide additional income.
- Assets held at financial institutions.

- **Medicare**

- Part A provides Hospital Insurance and Skilled Nursing Facility coverage.
- Part B covers medical services and supplies with certain limitations and deductibles. Part B covers such services as; physical, occupational and speech therapy, physician services, durable medical equipment, ambulance services and certain out-patient and clinical laboratory services.

- **Private Health Insurance**

- Managed Care – Contract will provide specified services available to plan members provided that they meet the eligibility requirements of the managed care benefit plan.
- Medi-gap policies. Coordinate with Medicare program. Provides coverage for deductibles and co-insurance amounts that Medicare does not provide.

- **Medicaid**

- publicly funded program of assistance that provides benefits for individuals who can demonstrate a medical and financial need.

- **Worker's Compensation**

- benefits are available for an employee's work-related injuries.

- **No-Fault Insurance**

- this type of coverage must be maintained by all automobile owners in New York State.
- allows a driver or passenger who suffers "serious injury" in an automobile accident, regardless of fault, to compensation under the owner's no fault policy for "basic economic loss". Under New York Insurance Law, "serious injury" includes permanent limitation of use of a body part or body function, or a non-permanent injury which prevents an individual from performing "substantially all of the material acts which constitute a person's usual and customary daily activities" for at least 90 days during the 180 days immediately following the accident. By statute, the "basic economic loss" recoverable under a no-fault policy is limited to medical expenses and lost earnings up to \$50,000.

- **Veterans' Benefits**

- Veterans with certain service-related conditions may be eligible for benefits.

- **Long Term Care Insurance Policies and catastrophic health insurance policies**

- Policies will provide benefits when an individual is unable to perform two or more activities of daily living.

- Depending on the policy, home care services, assisted living care and nursing home care are covered.

## **NON-MEDICAL AND PERSONAL CARE SERVICES**

### **Social Model Adult Day Care Program**

Social Model Adult Day Care is a structured, comprehensive program which provides functionally impaired individuals, 18 years of age and older, with social interaction and activity in a supervised congregate setting for less than a 24-hour period.

A Social Model Adult Day Care Program may accept only individuals who are functionally impaired and will benefit from participation in the program.

Approved programs provide a variety of comprehensive services to functionally impaired elderly persons. Required services include socialization and recreation, supervision and monitoring, personal care and nutrition, adapted to the needs of the individual. Additional services may include maintenance and enhancement of daily living skills, transportation, caregiver assistance, case coordination and assistance and other similar services.

Programs that are approved for government funding must comply with the regulations established by the director of the [New York State Office for the Aging](#). Approved programs may be funded from grants available from the Office for the Aging. Other programs may charge fees, sometimes on a sliding scale based on income, or accept donations.

### **Respite Care**

Respite Care provides relief for the caregiver without the worry of caring for his or her loved one by providing short-term care for the individual. This type of care can be provided in an adult home or at home on an as needed short term basis. Adult day service programs also provide respite for care givers. In addition, scheduled short-term care may be provided in an approved nursing home on a temporary basis to an individual who requires this level of care but who is usually cared for in the community.

The applicable regulations for short-term care in a nursing home can be found in sections 410.1 to 410.3 of Title 10 of the New York Codes, Rules and Regulations.

Payment is usually private. Certain long term care insurance policies may provide coverage for Respite Care.

## **Home Care Services**

**(see description for Home Care Services under Skilled Care and Nursing Services)**

### **Adult Care Facility**

Adult Care Facilities are facilities, such as Adult Homes, Residences for Adults, and Family- Type Home for Adults, which provide temporary or long-term residential care and services to adults who do not require continual medical or nursing care but who are unable to live independently because of physical or other limitations associated with age, physical or mental disabilities.

General regulations governing adult care facilities are promulgated in part 485 of Title 18 of the New York Codes, Rules and Regulations.

Residents of Adult Care Facilities usually pay the facilities privately. However, low-income individuals may be eligible for government assistance programs, such as the Supplemental Security Income (SSI) Program administered by the Social Security Administration.

## **Residence for Adults**

- A Residence for Adults is an adult care facility which provides long-term residential care, room, board, housekeeping, case management, activities and supervision to five or more adults, unrelated to the operator, who are unable or substantially unable to live independently. A Residence for Adults does not provide personal care.
- Residence is limited to those individuals who do not require services beyond those that the operator is permitted to provide. Persons who are not eligible for a Residence for Adults include any person who:
  - needs continual medical or nursing care or supervision;
  - suffers from a serious and persistent mental disability;
  - requires health, [mental health](#), or other services which cannot be provided by local services agencies;
  - presents a danger to himself/herself or others;
  - repeatedly behaves in a manner which impairs the well-being, care, or safety of any other resident or which substantially interferes with the orderly operation of the program;
  - requires continual skilled observation of symptoms or reactions for the purpose of reporting on a medical condition;
  - refuses or is unable to comply with a prescribed treatment program;
  - requires more than supervision and assistance with the self-administration of medications in order to maintain a prescribed medication regimen;
  - chronically require physical assistance with the personal activities of daily living, including grooming, bathing, dressing, toileting, or eating;
  - is chronically bedfast, or chairfast and unable to transfer or requires the physical assistance of another person to transfer;
  - chronically requires the physical assistance of another person to walk or use stairs (unless assignment can be made on ground level);
  - has chronic unmanaged urinary or bowel incontinence;
  - suffers from a communicable disease of health condition which constitutes a danger to other residents and staff;
  - is dependent on medical equipment, unless certain conditions are met;
  - engages in alcohol or drug use which results in aggressive or destructive behavior; or
  - is under 18 years of age; or under 16 years of age if such person is to be admitted to a residence for adults operated by a social services district.
- Specific regulations concerning Residences for Adults appear in part 490 of Title 18 of the New York Codes, Rules and Regulations.

## **Adult Home**

An Adult Home provides long-term residential care, room, board, housekeeping, personal care and supervision to five or more adults unrelated to the operator. The Adult Home must provide an organized, 24-hour program of supervision, care and services which comply with regulatory standards, assures the protection of resident rights, and promotes the social, physical and mental well-being of the residents.

Admission to an Adult Home is limited to those individuals who do not require services beyond those that the operator is permitted to provide. Eligibility requirements are the same as for a Residence for Adults.

Adult Homes are licensed and supervised by the [New York State Department of Health](#). Specific regulations concerning Adult Homes appear in part 487 of Title 18 of the New York Codes, Rules and Regulations.

## **Enriched Housing**

Enriched Housing is defined as an adult care facility established and operated for the purpose of providing long-term residential care to five or more adults, sixty-five years of age or older. Enriched Housing programs resemble independent housing units and are integrated in community settings. These programs provide or arrange the provision of room, and provide board, housekeeping, supervision, and personal care.

Admissions to Enriched Housing programs are limited to only those individuals who require the services that the operator is certified to provide. In addition to the eligibility requirements listed under Residence for Adults and Adult Homes, an applicant/resident of an Enriched Housing program must be self-directing, i.e., does not require continuous supervision and is capable of making choices about his or her activities, and whose chronic personal needs can be met by the Enriched Housing staff or approved community providers.

Services provided for eligible residents include, at a minimum, supervision, personal care, case management, activities, housekeeping and food service. Personal care services include some assistance with personal hygiene, including dressing, bathing, and grooming and assisting with self-administration of medication.

Specific regulations governing Enriched Housing appear in part 488 of Title 18 of the New York Codes, Rules and Regulations.

## **Family-Type Home for Adults (18 NYCRR 489)**

A Family-type Home for Adults is an adult care facility which provides long-term residential care, room, board and personal care, and/or supervision to four or fewer adult persons unrelated to the operator.

Residence in a Family-type Home for Adults is limited to those individuals who do not require services beyond those that the operator is permitted to provide. In addition to the eligibility requirements provided under Residences for Adults and Adult Homes, applicant/residents for an Family-type Home must be able to communicate with the operator in a common language, provide the operator with the required medical evaluations, and inform the operator of changes in medications or other elements of the medical evaluations as they occur.

Regulations concerning Family-type Home for Adults appear in part 489 of Title 18 of the New York Codes, Rules and Regulations.

## **Adult Foster Home**

Adult Foster Homes provide limited personal care services in a family setting to elderly individuals who are unable to live independently, but do not want to live with other seniors. The Adult Foster Home program primarily benefits elderly persons with mental impairments.

Regulations have been promulgated for foster family care demonstration programs under section 505.29 of Title 18 of the New York Codes, Rules and Regulations.

Depending on income and assets, financial assistance may be available through government assistance programs, such as the Supplemental Security Income (SSI) Program administered by the Social Security Administration. Otherwise, the source of payment for Adult Foster Homes is private funds.

## **Congregate Care Facility**

Congregate Care Facilities are independent living complexes that may provide room and board, transportation services and special programs. However, they do not provide personal or medical services.

Depending on income and assets, financial assistance may be available through government assistance programs, such as the Supplemental Security Income (SSI) Program administered by the Social Security Administration. Otherwise, the source of payment for Congregate Care Facilities is private funds.

# **SKILLED CARE AND NURSING SERVICES**

## **Adult Day Health Care**

Adult Day Health Care is defined as the health care services and activities provided to a group of registrants with functional impairment to maintain their health status and enable them to remain in the community. An Adult Day Health Care program is licensed in connection with the operating certificate of a nursing facility and operates as a program provided by the nursing facility.

A person who is functionally impaired and not homebound, and requires supervision, monitoring, preventive, diagnostic, therapeutic, rehabilitative or palliative care or services but does not require continuous 24-hour-a-day inpatient care and services may qualify for Adult Day Health Care services.

At a minimum, the Adult Day Health Care program must provide nutritional services in the form of at least one meal and necessary supplemental nourishment, planned activities, ongoing assessment of each registrant's health status in order to provide coordinated care planning, case management and other health care services as determined by the registrant's needs. The program must also provide or arrange for interdisciplinary care planning, nursing services, nutrition, social services, assistance with activities of daily living, planned individualized therapeutic or recreational activities, pharmaceutical services and referrals for dental services and sub-specialty care. In addition, Adult Day Health Care programs may provide specialized services for registrants with HIV or AIDS and religious and pastoral counseling.

Adult Day Health Care programs are regulated by part 425 of Title 10 of the New York Codes, Rules and Regulations.

If a person is eligible for Medicaid, Medicaid will pay for qualified registrants of an approved Adult Health Care Program. Otherwise, registrants pay the Adult Day Health Care program privately. However, some of the ancillary services provided or arranged for by the Adult Day Health Care program may be covered

by Medicare or other third party payors, such as long term care insurance.

## **Home Care Services**

Home Care Services are services provided in an individual's home, which includes an Adult Home, Enriched Housing program or other Adult Care Facility. Home Care Services include medical home health services, personal care services, and nonmedical services at home.

Medical Home Care Services include physical therapy, occupational therapy, speech therapy, respiratory therapy, speech pathology, and audiology. These services may also include nursing care with home health aide supporting services for individuals who require specific tasks that may only be performed by a nurse or who have unstable medical conditions and require monitoring by a nurse and/or home health aide.

Personal care services are services that assist the individual with activities of daily living such as bathing, dressing, grooming, transferring, walking, feeding, toileting, and turning and positioning for the bedfast individual. Personal care services are for persons who are medically stable.

Nonmedical services at home include social work services, housekeeping, transportation, preparation or delivery of meals, payment of bills, nutrition counseling, home maintenance chores, and personal emergency response systems.

The source of funding depends on the types of home care services provided. Medical home care services are covered under Medicare and Medicaid and certain health insurance policies. Personal care services are funded by Medicare only when they are "incidental" to the medical home health services. For eligible individuals, Medicaid will cover personal care services and housekeeping services through the personal care program and certain specified nonmedical services through the [Long Term Home Health Care Program \(LTHHCP\)](#). Otherwise, these services must be paid for privately. For persons not eligible for Medicaid, personal care services may be covered by Expanded In-home Services for the Elderly Program (EISEP) (in limited amounts). In addition, private health insurance plans and long term care insurance may pay for some home health services.

In New York State, providers of home care services include:

### **Licensed Home Care Services Agencies (LHCSA)**

A Licensed Home Care Services Agency provides personal care services, nursing services and other skilled care at the individual's home. LHCSAs are licensed and regulated by the Department of Health to provide services directly or under contract with local departments of social services, CHHAs, and LTHHCPs for private pay individuals.

Regulations concerning LHCSAs appear in article 7 of Title 10 of the New York Codes, Rules and Regulations.

### **Certified Home Health Agencies (CHHA)**

Certified Home Health Agencies are certified by the Department of Health to serve persons who are eligible for Medicare and/or Medicaid. CHHAs provide nursing and home health aide services and medical supplies. In addition, these agencies provide physical and occupational therapy, speech pathology, nutritional services and social work services. CHHAs provide more comprehensive services

and are more strictly regulated than LHCSAs.

Regulations concerning CHHAs appear in parts 760 to 763 of Title 10 of the New York Codes, Rules and Regulations.

### **Long Term Home Health Care Program (LTHHCP)**

LTHHCP (“Lombardi”) providers are also certified by the [Department of Health](#) to serve Medicaid eligible individuals. LTHHCPs provide nursing services and home health aide services. In addition, these programs provide physical, occupational, and respiratory therapy, speech language pathology, audiology, social work, nutritional, personal care and homemaker services.

Applicable regulations concerning the LTHHCP can be found in section 505.21 of Title 18 and parts 761 to 763 of Title 10 of the New York Codes, Rules and Regulations.

### **AIDS home care programs (AHCP)**

AHCPs are established to provide discrete home care programs for persons who are diagnosed with AIDS or an HIV-related illness. Services include those provided by the LTHHCPs.

Applicable regulations concerning AHCPs can be found in section 505.21 of Title 18 and parts 761 to 763 of Title 10 of the New York Codes, Rules and Regulations.

### **Private duty nurses**

Private duty nursing services are provided by registered professional nurses or licensed practical nurses. Private duty nurses may be paid by Medicaid or private funds.

### **Assisted Living Programs (ALP)**

[Assisted Living](#) programs are adult homes and enriched housing programs which have become, or contract with, a CHHA to provide home care.

### **Limited Licensed Home Care Agencies (LLHCSA)**

Limited licensed home care agencies are Adult Homes and Enriched Housing programs which are licensed to offer personal care services and nursing services for administration of medication and dressing changes. These services are covered under Medicaid.

### **Personal care providers exempt from licensure**

Personal care providers are agencies which provide personal care or home care exclusively under contract with the local department of social services, nurse registries, and licensed sole practitioners and are not required to be licensed as home health agencies by the state. Personal care services may be funded by Medicaid or in limited amounts by EISEP for those persons not eligible for Medicaid.

### **Consumer Directed Personal Assistance Programs (CDPAP)**

CDPAPs, or patient managed care programs, are personal care programs which permit individuals or their surrogate to control the hiring, firing and supervision of their personal care workers. Eligible individuals, including recipients of personal care services, CHHA services, LTHHCP services AIDS home

care services, and private duty nursing, who have capacity to make decisions or who have designated an adult to make decisions for them must be informed of the availability of such programs and given the opportunity to apply.

## **Hospice programs**

Hospice programs provide coordinated interdisciplinary inpatient and home care services for terminally ill individuals. Home services provided by hospice include medical home health services, personal care, and nonmedical services such as bereavement counseling and pastoral care. Sources of payment include Medicaid, Medicare and private funds.

Applicable regulations concerning Hospice programs can be found in part 793 of Title 10 of the New York Codes, Rules and Regulations.

## **Managed long term care demonstration projects**

The Centers for Medicare and Medicaid Systems (CMS) are encouraging the development of financing mechanisms for Medicaid/Medicare funded long-term care. Some demonstration projects which include home care services for Medicare and/or medicaid eligible individuals are: Social Health Maintenance Organizations (SHMOs), Programs for All-Inclusive Care for the Elderly (PACE), Continuing Care Networks (CCNs), Evaluated Medicaid Long Term Care Capitation Program, Independence Care Systems (ICSs), and the Long Term Care Finance Act of 1997 (LTCFA).

## **Expanded In-Home Services for the Elderly Program (EISEP)**

The EISEP provides limited amounts of personal care and non medical services to persons over sixty who are not eligible for Medicaid. EISEP is administered by the local Office for the Aging. Since the local Office for the Aging, together with the local DSS and public health agency, determines which services to offer, the services provided in any particular county may vary.

Applicable regulations concerning EISEP can be found in chapter II of Title 9 of the New York Codes, Rules and Regulations.

## **Assisted Living Program**

An assisted living program is a supportive housing environment which provides long-term residential care, room, board, housekeeping, personal care, supervision, and providing or arranging for home health services to five or more eligible adults unrelated to the operator.

A person may be eligible for an assisted living program if the person:

is medically eligible for, and would otherwise require placement in, a nursing home due to the lack of a home or 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 directly provided by an adult care facility; exhibits a stable medical condition as categorized by the long-term care patient classification system as defined in Appendix 13-A of Title 10 of the New York Codes, Rules and Regulations; is able, with direction, to take action sufficient to assure self-preservation in an emergency; and makes an informed choice to participate in an Assisted Living Program.

Assisted Living Programs may not accept or retain any person who requires continual nursing or medical care, is chronically bedfast or chairfast and requires lifting equipment 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.

An Assisted Living Program is responsible for providing or arranging for resident services which must include, at a minimum: room, meals, laundry, housekeeping, supervision, personal care, case management activities and home health services.

Assisted Living Programs can receive a Medicaid capitated rate for eligible residents which covers the following services:

1. personal care services which are reimbursable under title XIX of the Federal Social Security Act;
  2. home health aide services;
  3. personal emergency response services;
  4. nursing services;
  5. physical therapy;
  6. occupational therapy;
  7. speech therapy;
  8. medical supplies and equipment not requiring prior authorization; and
  9. adult day health care in a program approved by the Commissioner of Health.
10. Applicable regulations concerning Assisted Living Programs appear in part 494 of Title 18 of the New York Codes, Rules and Regulations.
11. Sources of funding include Medicaid, long-term care insurance, and private funds. In addition, low-income individuals may be eligible for government assistance programs, such as Supplemental Security Income (SSI) Program administered by the Social Security Administration.

## **Assisted Living Facility**

Assisted Living Facilities are residences which provide assisted living services to privately paying individuals and are not licensed by the state. These facilities may range in size from family-style, fewer than five residents, to apartment-style complexes which house hundreds of residents. Residents in assisted living facilities are not able to live independently but do not require constant care.

Unlike the licensed Assisted Living Programs, these facilities operate without uniform state standards. Most facilities provide laundry, transportation, housekeeping, medication assistance and medical dietary services and offer help with ADLs such as eating, bathing, and dressing. Most facilities contract with home care agencies to provide services to residents in the facility. Residents may also arrange privately to have home care services provided in addition to those offered by the facility.

Sources of payment are essentially private funds.

## **Nursing Home**

Nursing homes, which may be referred to as skilled nursing facilities, health related facilities, nursing facilities, or residential health care facilities, provide comprehensive health care services, to residents who are not able to care for themselves and have numerous health care requirements.

The categories of services provided include sub-acute care, nursing care, and custodial care. Sub-acute care provides medical and skilled services to persons who are not in an acute phase of illness but who require a higher level of care, such as intensive rehabilitation, post-stroke care, temporary ventilators, tracheotomy care, and antibiotic IVs. Sub-acute care residents are usually short term residents in the nursing home. Comprehensive nursing care is provided to individuals who require ongoing nursing care for their medical conditions which cannot be provided safely in the home environment. Custodial care is provided to individuals who cannot live independently because of chronic health conditions or disabilities. Applicable regulations concerning Nursing Homes appear in part 415 of Title 10 of the New York Codes, Rules and Regulations.

The major sources of payment for nursing home care include Medicare, Medicaid, private health insurance, long-term care insurance, and private funds.

### **Continuing Care Retirement Community (CCRC) a/k/a Life Care Community**

A Continuing Care Retirement Community or Life Care Community is a residential facility which provides a comprehensive, cohesive living arrangement for the elderly pursuant to a life care contract. At a minimum, the facility must provide independent living units, board, a range of health care and social services, access to specialized rehabilitative services, physician services and prescriptions medications. A CCRC will provide services ranging from housing to skilled nursing care for as long as the person lives in the facility.

Applicable regulations concerning CCRCs or Life Care Communities appear in part 900 of Title 10 of the New York Codes, Rules and Regulations.

Payment for services under the life care contract can be made fully through the entrance fee and monthly fees, or through the entrance fee, monthly fees and under an arrangement in which the costs of the resident's nursing facility and/or home health care services are paid for in whole or in part by long term care insurance or medical assistance payments. Fee arrangements can be made as follows:

1. Unlimited long term nursing care for little or no additional charge.
2. Specified amount of care after which the residence is responsible for payment.
3. Resident can pay for additional services as needed.