Department of Health and Human Services
Office of Inspector General
Office of Audit Services

May 2025 | A-03-24-00201

Maryland Did Not Comply With Federal Waiver and State Requirements at 20 Adult Day Care Facilities Audited

REPORT HIGHLIGHTS

May 2025 | A-03-24-00201

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Why OIG Did This Audit

- OIG has conducted health and safety audits of adult day care and foster care homes in various States. Those audits identified multiple health and safety issues that put children and adults at risk.
- This audit examined whether adults participating in Maryland's Home and Community-Based Services waiver program were at risk.
- This audit determined whether Maryland complied with Federal waiver and State requirements in overseeing adult day care facilities that serve adults who receive services through the program.

What OIG Found

Maryland did not fully comply with Federal waiver and State requirements in overseeing providers that serve adults receiving adult day care services through the program. Of the 20 facilities we visited:

- 18 did not comply with 1 or more health and safety requirements, and
- all 20 failed to meet 1 or more administrative requirements.

In total, we found 253 instances of noncompliance with these requirements. Maryland did not detect instances of noncompliance because Maryland's inspections of facilities were insufficient to ensure a continuously safe and nonhazardous environment.

What OIG Recommends

We made three recommendations to the State agency to ensure that providers correct 253 instances of provider noncompliance identified in this report; improve its oversight and monitoring of providers; and collaborate with providers to enhance their facilities, staffing, and training. The full recommendations are in the report.

In written comments on our draft report, the State agency concurred with all three recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Office of Inspector General (OIG) has conducted health and safety audits of adult day care and foster care homes and regulated child care facilities in various States. (Appendix B lists related OIG reports.) Those audits identified multiple health and safety issues, such as unclean conditions and unsecured hazardous objects, that put children and adults at risk. We conducted this audit to determine whether similar issues existed in adult day care facilities that provide services under Maryland's Home and Community-Based Services waiver program (the Program). Maryland's Department of Health (State agency) operates the Program.

OBJECTIVE

Our objective was to determine whether the State agency complied with Federal waiver and State requirements in overseeing adult day care facilities that serve vulnerable adults who receive services through the Program.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, the Centers for Medicare & Medicaid Services (CMS) administers the program. In Maryland, the State agency administers its Medicaid program in accordance with a CMS-approved State plan that establishes which services Medicaid will cover.

Section 1915(c) Waivers

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer services to a State-specified target group of Medicaid enrollees who need a level of institutional care that is provided under the Medicaid State plan. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services that allow them to remain in their households and communities. States may have multiple home and community-based services waivers.

Federal regulations for section 1915(c) waivers require States to provide assurances that they will implement safeguards, including adequate standards for provider participation, to protect the health and welfare of individuals served under the waiver and to assure financial accountability for funds expended for those services (42 CFR § 441.302). Federal regulations for section 1915(c) waivers also require that States provide assurances that State requirements are met for services or for individuals furnishing services that are provided under a waiver (42 CFR § 441.302(a)(2)).

Maryland's Home and Community-Based Services Waiver Program

The State agency administers and operates the Program under a 1915(c) waiver. The Program provides home and community-based services to adults who require the level of care provided in a nursing home but choose to live in the community and who are either at least 65 years old or at least 16 years old and eligible for Maryland Medicaid services by reason of a disability.

Maryland's Adult Day Care Services

Under the Program, Maryland's Medical Day Care Services Waiver provides daytime care and supervision in community-based medical day care facilities (adult day care facilities) for adults eligible for Program services. These adult day care facilities operate 5 to 7 days a week for 4 to 12 hours each day and provide services and supports such as activities, daily living skills training, health care services, meals and snacks, medication management, nutrition services, personal care assistance, skilled nursing services, nursing assessments, social work services, therapies, and transportation to and from the adult day care facility. In 2023, Maryland claimed $106.7 million for services at 141 adult day care facilities.

HOW WE CONDUCTED THIS AUDIT

Of the 141 adult day care facility providers delivering Program services in Maryland as of November 16, 2023, we selected a nonstatistical sample of 20 for review. We selected these providers based on their geographic location, the number of participants, and the amount of Medicaid funding received. To evaluate the State agency's oversight of adult day care facilities, we conducted unannounced site visits at the 20 selected providers between January 9 and June 27, 2024, and we discussed with State agency officials how the State agency monitors its facilities.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology. Appendix C contains Federal regulations and specific State requirements for adult day care facilities related to health and safety and administration.

FINDINGS

The State agency did not fully comply with Federal waiver and State requirements in overseeing providers that serve adults receiving adult day care services through the Program. Of the 20 providers we visited, 2 complied with health and safety requirements. However, 18 providers did not comply with 1 or more health and safety requirements, and all 20 providers did not

comply with 1 or more administrative requirements.[1] In total, we found 253 instances of noncompliance with health and safety and administrative requirements. (See Appendix D for a summary of these instances of noncompliance.)

Providers frequently did not meet the health and safety needs of program participants or maintain compliance with State requirements, and the State agency's inspections were insufficient to ensure a continuously safe and nonhazardous environment. As a result, the health and safety of adults were put at risk in numerous instances.

EIGHTEEN PROVIDERS DID NOT COMPLY WITH ONE OR MORE HEALTH AND SAFETY REQUIREMENTS

The State agency must monitor or inspect each provider at least once every 2 years to ensure compliance with applicable health and safety requirements.[2] For example, the provider must have sufficient maintenance and housekeeping personnel to assure that the facility is clean, orderly, attractive, and safe at all times.[3] (See Appendix C for the health and safety requirements applicable to our findings.)

Of the 20 providers we reviewed, 18 did not comply with 1 or more State health and safety requirements. In total, we found 55 instances of noncompliance with State health and safety requirements. Some examples follow.

Among other things, we found 17 providers did not ensure that facilities were clean, orderly, attractive and safe. See the photographs below for examples of noncompliance with sanitation requirements.

1. Broken Toilet

2. Ceiling Showing Water Damage

[1] All 20 providers had at least 1 instance of noncompliance with either health and safety or administrative requirements.

[2] Code of Maryland Regulations (COMAR) 10.12.04.08A, Compliance Monitoring.

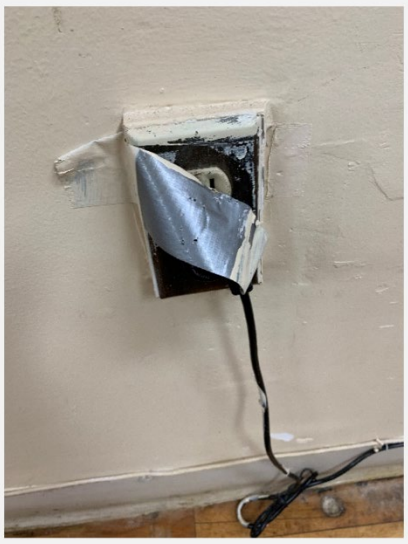
[3] COMAR 10.12.04.40A, Sanitation.

3. Dirty Stove

4. Dirty Vent

5. Exit Door Propped Open

6. Tape Covering Live Outlet



In addition, we found toxic chemicals in unlocked areas accessible to participants at 11 providers (Photograph 7) and accessible alcoholic beverages at one provider (Photograph 8).[4]

7. Unlocked Toxins

8. Kegs of Alcohol in Unlocked Shed

See Appendix E for additional photographs of instances of noncompliance with health and safety requirements.

ALL TWENTY PROVIDERS DID NOT COMPLY WITH ONE OR MORE ADMINISTRATIVE REQUIREMENTS

The State agency must monitor or inspect providers to ensure compliance with applicable State administrative requirements.[5] Provider staffing must at all times be sufficient to meet the needs of the participants.[6] For example, before employees are hired, provider must ensure that employees are free from tuberculosis, and employees who will have direct contact with participants must satisfactorily complete a background check.[7]

[4] COMAR 10.12.04.41E, Safety.

[5] COMAR 10.12.04.08A, Compliance Monitoring.

[6] COMAR 10.12.04.14A(1)(C), Staffing Pattern.

[7] COMAR 10.12.04.26D(2)(f) and (i), Personnel Records.

All 20 providers we reviewed did not comply with 1 or more State administrative requirements. In total, we found 198 instances of noncompliance. Among other things, we found that providers did not:

- have completed background checks for all staff (13 providers),[8, 9]
- ensure that staff were free from tuberculosis (15 providers),[10]
- ensure that the required credentials and qualifications were met or that supporting documentation was maintained for their employees (15 providers),[11]
- maintain an official driving record and a copy of a valid driver's licenses for their staff for whom driving was a condition of employment (10 providers), and[12]
- have documentation to support employee training (13 providers).[13]

NONCOMPLIANCE WITH FEDERAL WAIVER AND STATE REQUIREMENTS

The State agency did not fully comply with Federal waiver and State requirements for overseeing and monitoring the health and welfare of Medicaid recipients receiving adult day care because its inspections of facilities were insufficient to identify providers that failed to ensure a continuously safe and nonhazardous environment and identify providers that failed to uphold the staff employment and participant administrative requirements.

Although the State agency inspected each of the 20 selected providers between February 16, 2022, and March 8, 2024, we identified many health and safety and administrative compliance violations that the State agency did not. For example, the State agency's inspections did not identify unlocked exterior doors, water damage, unclean conditions, exposed electrical wiring, or toxic chemicals in unlocked areas. Additionally, the inspections did not reveal that some providers did not perform required criminal background checks or ensure that staff were free from tuberculosis.

The State agency may not have identified all administrative compliance violations during its inspections partially because the State agency was not required to review 100 percent of

[8] COMAR 10.12.04.26D(2)(i), Personnel Records.

[9] We provided the list of missing background checks from the 13 providers to the State agency, which determined that 1 of the providers is now in compliance.

[10] COMAR 10.12.04.26D(2)(f), Personnel Records.

[11] COMAR 10.12.04.26D(2)(b) and (c), Personnel Records.

[12] COMAR 10.12.04.26D(2)(j), Personnel Records.

[13] COMAR 10.12.04.14E(3), Staff Training.

employee records. Instead, the State agency selected and reviewed a judgmental sample of employee records based on previous inspection reports, whereas we reviewed 100 percent of the employee records.

Providers did not always meet the health and safety needs of program participants or comply with State requirements, and the State agency's oversight and monitoring did not detect these instances of noncompliance. As a result, adults were placed at risk in numerous instances.

RECOMMENDATIONS

We recommend that Maryland's Department of Health:

- verify that providers correct the 253 instances of provider noncompliance identified in this report;
- improve its oversight and monitoring of providers; and
- collaborate with providers to enhance their facilities, staffing, and training.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency concurred with all of our recommendations and detailed steps it has taken and plans to take in response to our recommendations.

In response to our first recommendation, the State agency stated it developed a plan to correct all 253 instances of provider noncompliance identified. The plan includes assigning two Adult Medical Day Care surveyors to conduct on-site followup surveys and using a centralized dashboard to track status updates. The State agency noted that these surveys began the week of February 23, 2025, and are estimated to be completed by June 2025.

In response to our second recommendation, the State agency stated that it will strengthen oversight and monitoring by implementing enhanced inspection protocols, including transitioning from judgmental sampling to a 50-percent review of staff personnel records during inspections. The State agency estimated that implementation would be completed by May 2025.

In response to our third recommendation, the State agency stated that it will collaborate with providers to enhance their facilities, staffing, and training and develop new compliance-based checklists along with frequently asked questions scheduled to be available in June 2025 on the Office of Health Care Quality website.

The State agency's comments are included in their entirety as Appendix F.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Of the 141 adult day care providers in Maryland as of November 16, 2023, we selected a nonstatistical sample of 20 for review. We selected these providers based on their geographic location, the number of participants, and the amount of Medicaid funding received. In 2023, Maryland claimed $106,705,616 for services at these 141 adult day care providers, and these 20 providers were reimbursed $20,732,903.

To evaluate the State agency's oversight of facilities, we conducted unannounced site visits at the 20 selected providers between January 9 and June 27, 2024. We conducted fieldwork in 14 of Maryland's 24 counties: Allegany, Anne Arundel, Baltimore, Baltimore City, Caroline, Dorchester, Frederick, Harford, Howard, Kent, Montgomery, Prince George's, Washington, and Wicomico.

During our audit, we did not review the overall internal control structure of the State agency or the Medicaid program. Instead, we focused solely on the internal controls directly related to our objective. We specifically examined the State agency's provider requirements and how it monitored these providers to ensure compliance. However, our audit may not have identified all material weaknesses in the State agency's internal controls.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, State statutes, and regulations for facilities;
- discussed with State officials how the State agency monitors its facilities;
- developed a health, safety, and administrative requirement checklist, from State requirements contained in the Code of Maryland Regulations (COMAR), as a guide for conducting site visits;
- selected for review a nonstatistical sample of 20 providers from the 141 adult day care providers in Maryland, based on their geographic location, the number of participants, and the amount of Medicaid funding received;
- conducted unannounced site visits at the 20 providers selected for review;
- evaluated provider compliance using the health, safety, and administrative checklist;
- reviewed State agency inspection reports for the 20 providers selected for review;
- compared our findings with the findings of the most recent State agency inspection for each provider; and

- discussed the results of our review with State agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Ohio Did Not Comply With Federal Waiver and State Requirements at 18 of the 19 Adult Day Health Care Facilities Audited	A-05-23-00006	4/10/2025
Texas Did Not Fully Comply With Federal Waiver and State Health, Safety, and Administrative Requirements at All 20 Adult Day Activity Health and Service Facilities Audited	A-06-23-05000	3/7/2025
Florida Did Not Comply With Federal Waiver and State Requirements at 18 of 20 Adult Day Care Facilities Reviewed	A-04-23-00135	12/26/2024
Washington State's Oversight Could Better Ensure That Adult Family Homes Comply With Health and Safety and Administrative Requirements	A-09-23-02002	11/13/2024
Georgia Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Health Care Facilities Reviewed	A-04-22-00134	3/14/2023
New York's Oversight of Medicaid Managed Care Organizations Did Not Ensure Providers Complied With Health and Safety Requirements at 18 of 20 Adult Day Care Facilities Reviewed	A-02-18-01027	3/26/2020
California Needs To Improve Oversight of Community-Based Adult Services Providers' Compliance With Health and Safety and Administrative Requirements	A-09-18-02002	9/30/2019
Kentucky Did Not Comply With Federal Waiver and State Requirements at 14 of 20 Adult Day Health Care Facilities Reviewed	A-04-18-00123	7/9/2019
Four States Did Not Comply With Federal Waiver and State Requirements in Overseeing Adult Day Care Centers and Foster Care Homes	A-05-19-00005	5/16/2019
Wisconsin Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Service Centers Reviewed	A-05-17-00030	10/15/2018
Mississippi Did Not Comply With Federal Waiver and State Requirements at All 20 Adult Day Care Facilities Reviewed	A-04-17-00116	8/20/2018
Illinois Did Not Comply With Federal Waiver and State Requirements at 18 of 20 Adult Day Service Centers Reviewed	A-05-17-00028	7/24/2018
Minnesota Did Not Comply With Federal Waiver and State Requirements for All 20 Adult Day Care Centers Reviewed	A-05-17-00009	5/30/2018
Minnesota Did Not Comply With Federal Waiver and State Requirements for 18 of 20 Family Adult Foster Care Homes Reviewed	A-05-16-00044	10/31/2017

APPENDIX C: FEDERAL REGULATIONS AND STATE REQUIREMENTS

FEDERAL REGULATIONS

Section 1915(c) of the Social Security Act authorizes the Secretary of Health and Human Services to waive certain Medicaid statutory requirements so that a State may offer home and community-based services to a State-specified target group of Medicaid recipients who need a level of institutional care that is provided under the Medicaid State plan.

Before the enactment of section 1915(c), the Medicaid program provided limited coverage for long-term services and support in noninstitutional settings but offered full or partial coverage of institutional care. Section 1915(c) was enacted to enable States to address the needs of individuals who would otherwise receive costly institutional care by furnishing cost-effective services while the individuals remain in their households and communities.

Federal regulations for section 1915(c) waivers require States to provide assurance that necessary safeguards will be taken, including adequate standards for provider participation, to protect the health and welfare of individuals serviced under the waiver and to assure financial accountability for funds expended for those services (42 CFR § 441.302).

As part of the waiver, the State agency is required to ensure the health and welfare of participants through oversight and monitoring of providers (42 CFR § 441.302(a)(2); 1915(c) waiver, Appendix C).

STATE REQUIREMENTS

The State identifies provider licensure requirements for the operation of adult day care facilities in its Code of Maryland Regulations (COMAR). The State rules for licensing and operation of adult day care facilities are located at COMAR Title 10, Subtitle 12, Chapter 4, *Day Care for the Elderly and Adults With a Medical Disability*.

Administrative Code

COMAR Title 10 Maryland Department of Health Subtitle 12 Adult Health Chapter 04 Day Care for the Elderly and Adults with a Medical Disability.

Personnel Records

State Tag 12S-0225; COMAR 10.12.04.04A

(1) A person desiring to obtain initial licensure for an adult day care center shall submit a letter of interest to the Office of Health Care Quality that contains the following:

   (a) Policies and procedures that address medical record completion and retention, the administration and storage of medications, nutrition services, social work support,

employee criminal background checks, transportation of participants and participant activities . . .

State Tag 12S-0540; COMAR 10.12.04.14E(3)

(3) The center shall maintain records that demonstrate proof of employee attendance and training content of orientation and in-service programs.

State Tag 12S-0650; COMAR 10.12.04.19

First-Aid and Cardiopulmonary Resuscitation.

A. At least one staff member who is trained in first aid and in cardiopulmonary resuscitation (CPR) shall be on-site at the center when participants are in attendance, during outings, medical appointments or during transportation of participants.

B. At least one staff member who is trained in CPR and first aid shall accompany participants taken outside of the center for outings and other activities.

State Tag 12S-0795; COMAR 10.12.04.26D(2)

Personnel Records. The center shall maintain the following information for each staff member:

(a) Name, age, sex, address, and telephone number;

(b) Educational background;

(c) Employment history and notes on references;

(d) Performance evaluations and attendance;

(e) Individual to be notified in case of emergency;

(f) Documentation that the individual is free from tuberculosis, measles, mumps, rubella, and varicella as evidenced by:

(i) Physician's statement;

(ii) Positive disease histories affirmed by employee's signature;

(iii) Antibody serology's of titer;

(iv) Skin tests; or

(v) Statement of vaccinations, affirmed by the employee signature;

(g) Evidence that the annual influenza vaccine has been advised;

(h) Any impairment which would hinder the performance of assigned responsibilities;

(i) Documentation of a criminal history records check in accordance with Health-General Article, §19-1901, Annotated Code of Maryland;

(j) The official driving record and a copy of a valid driver's license if driving is a condition of employment; and

(k) Copies of written agreements with consultants, including services to be provided.

Participant Records

State Tag 12S-0790; COMAR 10.12.04.26D(1)

Participant Records. The center shall maintain at least the following information for each participant:

(a) Name, age, sex, address, and telephone number;

(b) Name and telephone number of the individual to be notified in case of emergency;

(c) Next of kin;

(d) Medicare, Medicaid, or private insurance member enrollment numbers related to health care benefits;

(e) Name and address of primary care provider, with changes noted and dated when change occurs;

(f) Functional assessment with original and revised versions noting participant progress;

(g) Assessment of the home environment at the time of intake and as needed, or at change of home address;

(h) Individual plan of care;

(i) Admission physical and subsequent additional information;

(j) Medications and adverse drug reactions; and

(k) Accidents.

State Tag 12S-0705; COMAR 10.12.04.22A

Individualized Plan of Care.

(1) There shall be an individualized plan of care completed for each participant within 30 days following admission.

(2) The participant shall participate in the development of the plan of care, along with the multidisciplinary team, unless the center documents the reasons why the participant is unable or unwilling to participate.

Staffing and Policies

State Tag 12S-0370; COMAR 10.12.04.08A

A. The Department shall monitor or inspect a center at least once every 2 years to ensure compliance with the requirements of this chapter.

State Tag 12S-0485; COMAR 10.12.04.14A(1)

(a) The staff to participant ratio at each center be a minimum of one staff to seven participants (1:7) for a period of 2 years after the final adoption of COMAR 10.12.04.14A(1)(a).

(b) Two years after the final adoption of COMAR 10.12.04.14A(1)(a), the staffing ratio at each center shall be determined by the needs of each program participant as determined in the ADCAPS.

(c) Staffing shall at all times be sufficient to meet the needs of the participants.

State Tag 12S-0500; COMAR 10.12.04.14B(1)

(a) The center shall have a director who is responsible for the overall conduct of the center and for compliance with applicable laws and regulations.

(b) The director shall have a bachelor's degree, preferably in a health and human services field, from an accredited college or university, or the individual shall be a registered nurse.

State Tag 12S-0115; COMAR 10.12.04.02B(22)

"Licensed social worker" means an individual who is licensed to practice social work as defined in Health Occupations Article, Annotated Code of Maryland.

State Tag 12S-0600; COMAR 10.12.04.16A

(1) The center shall provide or make arrangements for the services listed in §A(2)—(8) of this regulation when the center admits participants that require these services.

(2) Diet Modifications.

(3) Rehabilitative Services.

(4) Social Services.

(5) Mental Health Services.

State Tag 12S-0025; COMAR 10.12.04.02B(4)

"Adult Day Care Assessment and Planning System (ADCAPS)" means a system that is comprised of a comprehensive assessment completed by the Registered Nurse, that is designed to evaluate the participant's strengths and needs, which facilitates the development of a problem list, service plans, and personal goals that make up the individualized plan of care.

State Tag 12S-0950; COMAR 10.12.04.33C

All food service areas shall include, at a minimum:

(1) At least one hand-washing sink;

(2) At least one three-compartment sink or one commercial grade dishwashing machine;

(3) Surfaces, floors, walls, cabinets, and counters, that is easily cleanable;

(4) Adequate and separate storage for dry food goods;

(5) Adequate refrigerated storage for perishable and frozen foods;

(6) Adequate and separate storage for cleaning products and chemical agents;

(7) Adequate and separate facilities for housekeeping of the food service area or areas;

(8) A minimum of one Class ABC fire extinguisher, in or adjacent to all food service area or areas;

(9) A minimum of one telephone, with posted emergency telephone numbers, close to all food service area or areas; and

(10) For new construction, a separate entrance for deliveries and removal of refuse, with exterior storage of refuse near the food service area or areas.

State Tag 12S-0655; COMAR 10.12.04.20A

The center shall ensure that each participant who is present for 4 or more hours is provided with a meal that meets 1/3 of the recommended dietary allowance of the Food and Nutrition Board of the National Research Council.

State Tag 12S-0700; COMAR 10.12.04.21B

Regardless of the schedule in §A of this regulation, the licensed or certified professional health care provider shall complete a reassessment by the end of the participant's next day of attendance when any significant change in the participant's condition occurs. The practitioner shall perform a follow-up evaluation of any significant change and document the evaluation in the participant's medical record.

Health and Safety

State Tag 12S-0615; COMAR 10.12.04.17B

(1) Medicine or drugs shall be restricted to those prescribed for the participant by the authorized prescriber.

(2) All medications shall be accurately and plainly labeled and kept in the original container issued by the prescriber or pharmacist except as provided in §F(3) of this regulation.

(3) Containers shall be labeled with the:

(a) Participant's full name;

(b) Authorized prescriber;

(c) Prescription number;

(d) Name of the medication and dosage;

(e) Date of issuance;

(f) Expiration date;

(g) Refill limits;

(h) Directions for use; and

(i) Name, address, and telephone number of the pharmacy issuing the drug.

State Tag 12S-0910; COMAR 10.12.04.29G

(1) The licensee shall:

(a) Orient staff to the emergency and disaster plan and to their individual responsibilities within 24 hours of the commencement of job duties; and

(b) Document completion of the orientation in the staff member's personnel file through the signature of the employee.

(2) Fire Drills.

(a) The center shall conduct fire drills at least quarterly on all shifts.

(b) Documentation. The center shall:

(i) Document completion of each drill; and

(ii) Maintain the documentation on file for a minimum of 2 years.

Physical Environment

State Tag 12S-0975; COMAR 10.12.04.35A

Laundry facilities shall be available on-site for use if a participant's clothing becomes soiled while he or she is at the center.

State Tag 12S-0980; COMAR 10.12.04.35B

The area or areas where laundry facilities are located shall be equipped with exhaust ventilation, secure chemical storage, and dryer lint exhaust and control.

State Tag 12S-0985; COMAR 10.12.04.35C

The center shall maintain laundry facilities in a safe and sanitary manner.

State Tag 12S-0430; COMAR 10.12.04.10

A. The center shall be open to participants for at least 6 hours per day 5 days a week, exclusive of holidays and other planned closings.

B. The center's hours of operation shall be posted in a prominent place accessible to and easily seen by participants.

C. The public and participants shall be notified of planned closings.

State Tag 12S-0915; COMAR 10.12.04.30A

(1) The furniture in a center shall be:

(a) Appropriate for use by individuals with disabilities;

(b) Sturdy and secure so that it cannot easily tip when used for support while walking or seated;

(c) Designed so that it is used easily by individuals with limited agility, permitting feet to rest on the floor and having armrests; and

(d) Clean, safe, and in good repair.

State Tag 12S-1085; COMAR 10.12.04.41D

The center shall have at least two well-identified exits. Stairs, ramps, and interior floors shall have nonslip surfaces. Handrails shall be installed on all interior and exterior stairs and ramps. Stairways and hallways shall be well lit and kept free of obstructions.

State Tag 12S-1040; COMAR 10.12.04.40A

The center shall have sufficient maintenance and housekeeping personnel to assure that the center is clean, orderly, attractive, and safe at all times.

State Tag 12S-1045; COMAR 10.12.04.40B

The center shall ensure that maintenance and housekeeping activities are completed on a regular basis and according to generally accepted sanitation standards. Maintenance and housekeeping functions may not interfere with the provision of care or the activities program of the center.

State Tag 12S-1050; COMAR 10.12.04.40C

The center shall develop and implement a written plan for preventive maintenance and repair of the center.

State Tag 12S-1050; COMAR 10.12.04.41E

The center shall ensure that drugs, cleaning agents, chemicals, pesticides, and other poisonous products are secured for the safety of the participants, staff, and visitors.

APPENDIX D: INSTANCES OF NONCOMPLIANCE AT EACH PROVIDER

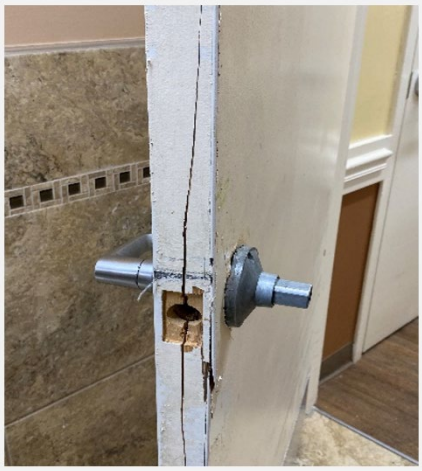
	Health and Safety		Administrative			
Provider	**Physical Environment**	**Participant Welfare**	**Staffing and Policies**	**Personnel Records**	**Participant Records**	**Total**
1	4	1	2	10	3	**20**
2	6	0	3	8	4	**21**
3	1	0	2	10	2	**15**
4	2	1	0	10	0	**13**
5	1	0	0	2	0	**3**
6	3	1	0	4	2	**10**
7	3	1	0	2	1	**7**
8	1	0	1	9	1	**12**
9	1	1	4	7	1	**14**
10	0	1	0	10	2	**13**
11	0	0	0	5	1	**6**
12	2	0	1	9	1	**13**
13	4	1	4	9	3	**21**
14	1	2	3	5	5	**16**
15	3	0	0	9	5	**17**
16	2	1	0	8	0	**11**
17	1	2	1	5	3	**12**
18	3	1	0	2	7	**13**
19	0	0	1	3	0	**4**
20	2	2	1	5	2	**12**
Total	**40**	**15**	**23**	**132**	**43**	**253**

Note: We provided to the State agency under a separate cover the specific facilities reviewed and their specific violations.

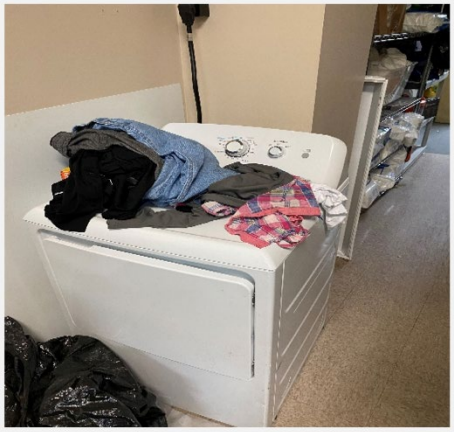
APPENDIX E: ADDITIONAL PHOTOGRAPHS OF NONCOMPLIANCE

9. Needles in an Unlocked Cabinet

10. Broken Bathroom Door



11. Dryer With No Vent



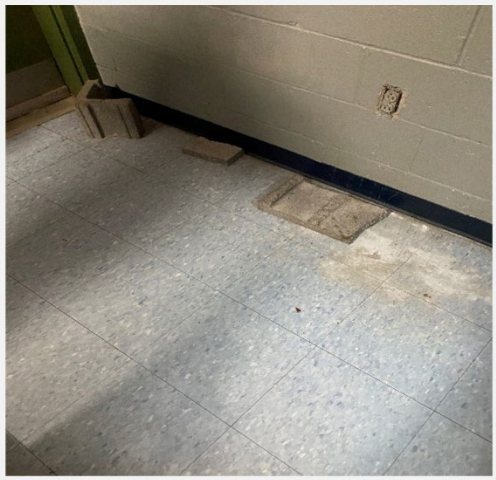
12. Missing Ceiling Tile

13. Hole in Locker

14. Missing Floor Tile

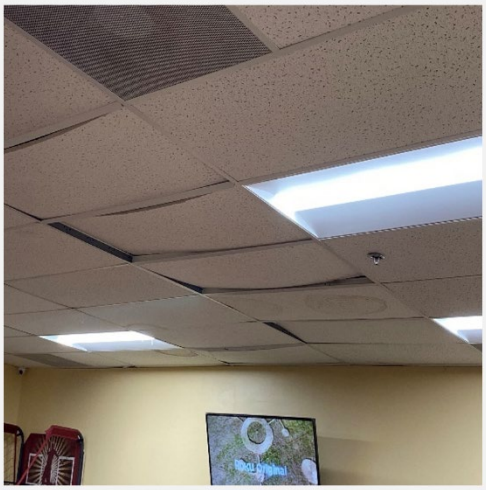
15. No Cover on Active Outlet

16. Bricks and Missing Outlet Cover

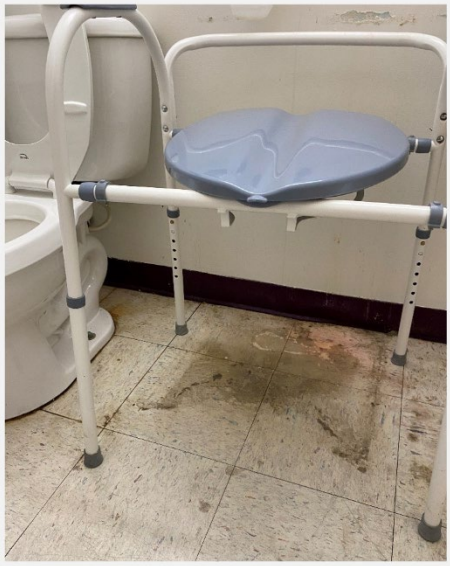


17. Dirty Drain Under Sink

18. Loose Ceiling Tile



19. Dirty Bathroom Floor



APPENDIX F: STATE AGENCY COMMENTS

Maryland
DEPARTMENT OF HEALTH

Wes Moore, Governor · Aruna Miller, Lt. Governor · Meena Seshamani, M.D., Ph.D., Secretary

April 29, 2025

Ms. Nicole Freda
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of Inspector General
Office of Audit Services, Region III
801 Market Street, Suite 8500
Philadelphia, PA 19107

Re: Report No.: A-03-24-00201 | March 2025

Dear Ms. Freda,

The Maryland Department of Health (MDH) respectfully submits this response to the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), draft report titled *"Maryland Did Not Comply With Federal Waiver and State Requirements at 20 Adult Day Care Facilities Audited."*

MDH concurs with the findings outlined in the draft report and has developed comprehensive corrective action plans to address each of the recommendations. MDH remains firmly committed to ensuring that all Adult Medical Day Care (AMDC) providers achieve and sustain compliance with applicable federal waiver requirements and the Maryland Code of Regulations (COMAR). Through strengthened oversight, enhanced accountability, and a continued focus on quality improvement, MDH is dedicated to safeguarding all program participants' health, safety, and well-being.

MDH appreciates the work performed by OIG and the opportunity to respond to the draft report. If you have additional questions, please contact OHCQ Executive Director, Tia Witherspoon-Udocox at tia.witherspoon@maryland.gov, (410) 402-8055 or MDH Chief Auditor, Carlean Rhames-Jowers at carlean.rhames-jowers@maryland.gov.

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The Maryland Department of Health (MDH) response to the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), draft report titled *"Maryland Did Not Comply With Federal Waiver and State Requirements at 20 Adult Day Care Facilities Audited."* Report No.: A-03-24-00201 | March 2025

OIG Recommendation No.1: Verify that providers correct the 253 instances of provider noncompliance identified in this report.

MDH Response to Recommendation No.1: MDH concurs with this recommendation and is committed to taking corrective actions to ensure that all Adult Medical Day Care (AMDC) providers meet and maintain compliance with applicable federal waiver standards and Maryland's Code of Regulations (COMAR).

Current Status: Not Fully Implemented

Estimated Implementation Date: June 2025

Implementation Plan:

MDH is committed to taking corrective actions to ensure that all Adult Medical Day Care (AMDC) providers meet and maintain compliance with applicable federal waiver standards and Maryland's Code of Regulations (COMAR). This implementation plan outlines the actions MDH will take over a 15-week period to ensure that 20 audited Adult Medical Day Care (AMDC) providers address and correct all 253 deficiencies identified by the U.S. Department of Health and Human Services (HHS). To support this effort, two AMDC surveyors have been assigned to conduct on-site follow-up surveys. Surveys will be conducted at a pace of two per week, beginning the week of February 23, 2025.

The follow-up process includes:

- Comprehensive on-site surveys to assess corrective actions (Feb 23 – May 2, 2025).
- Timely report writing and documentation of findings (Through June 30, 2025).
- MDH supervisory review of all survey reports (Continuous).
- Utilization of a centralized dashboard (e.g., Smartsheet) tracker for real-time status updates and audit trail documentation (Continuous).
- Oversight and enforcement of corrective actions (as needed).

This structured approach ensures accountability, supports compliance with federal and state requirements, and promotes the health and safety of Maryland's AMDC program participants.

The Maryland Department of Health (MDH) response to the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), draft report titled *"Maryland Did Not Comply With Federal Waiver and State Requirements at 20 Adult Day Care Facilities Audited."* Report No.: A-03-24-00201 | March 2025

OIG Recommendation No. 2: Improve oversight and monitoring of providers

MDH Response to Recommendation No. 2: MDH concurs with this recommendation and will continue its efforts to ensure sufficient and timely inspections. MDH remains committed to prioritizing all Level One complaints and incidents involving allegations of abuse or neglect, with investigations initiated within 24 hours of receipt.

Current Status: Not Fully Implemented

Estimated Implementation Date: May 2025

Implementation Plan:

To strengthen oversight and monitoring, MDH will implement enhanced inspection protocols, including transitioning from judgmental sampling to a 50% review of staff personnel records during inspections. This change will help ensure full compliance with key regulatory requirements, such as tuberculosis screening, background checks, verification of valid driver's licenses and MVA records (where applicable), and documentation of training and credentials. Additionally, MDH will continue to include comprehensive walkthroughs of high-risk physical environment areas, such as medication storage, laundry and kitchen facilities, maintenance and housekeeping conditions, emergency exits and lighting, and the secure storage of toxic materials and chemicals. The increased sampling and the continuation of the comprehensive survey activities will promote consistency, thoroughness, and accountability in assessing administrative and environmental compliance. To further support this effort, MDH will incorporate an enhanced inspection checklist aligned with COMAR 10.12.04 to ensure uniform application of standards across all surveyors.

The Maryland Department of Health (MDH) response to the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), draft report titled *"Maryland Did Not Comply With Federal Waiver and State Requirements at 20 Adult Day Care Facilities Audited."* Report No.: A-03-24-00201 | March 2025

OIG Recommendation No. 3: Collaborate with providers to enhance their facilities, staffing, and training.

MDH Response to Recommendation No. 3: MDH concurs with this recommendation.

Current Status: Not Fully Implemented

Estimated Implementation Date: June 2025

Implementation Plan:

MDH, Office of Health Care Quality (OHCQ), will implement the following technical assistance strategies to collaborate with providers to enhance their facilities, staffing, and training by June 30, 2025:

- Development of COMAR-based compliance checklists for providers that align with survey focus areas such as personnel files, physical plant requirements, and medication storage. These checklists will be available on the OHCQ website.

- Compile a Frequently Asked Questions (FAQ) document to address routine provider inquiries.

- Provide brief routine email updates or regulatory reminders as needed to AMDC providers. These communications will highlight seasonal survey priorities (such as fire drills or influenza vaccination documentation), recent COMAR or MDH policy changes, and key tips to prepare for upcoming surveys.

Sincerely,

Nilesh Kalyanaraman, MD
Deputy Secretary, Public Health Services

cc: Meena Seshamani, MD, PhD., Secretary
Erin McMullen, Chief of Staff
Emily Berg, Deputy Chief of Staff
Erin Penniston, Chief of Staff
Tia Witherspoon-Udcox, Director
Frederick Doggett, Director
Deneen Toney, Deputy Director

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