



Department of Health

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Commissioner

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Executive Deputy Commissioner

April 29, 2021

DAL: DAL #21-01
Changes to Staff Tuberculosis Testing
Requirements

Dear Adult Care Facility Administrator:

This Dear Administrator Letter (DAL) is being issued pursuant to the New York State Administrative Procedures Act (SAPA) to provide notification to small businesses and local governments of proposed regulatory changes.

The New York State Department of Health (Department) plans to amend Title 18 of the New York Codes, Rules, and Regulations (NYCRR) sections 487, 488, and 490 to mirror recently-adopted regulatory changes to Title 10 NYCRR sections 404.12, 405.3, 415.26, 751.6, 763.13, 766.11, 794.3, and 1001.11. These proposed revisions would modify tuberculosis (TB) testing requirements for personnel of adult homes, enriched housing programs, and residences for adults (collectively, “adult care facilities” or “ACFs”) by removing the requirement for ACF staff to be tested for TB at least every two years and instead require annual assessments for TB testing, which focus on evaluating individual risk and encouraging treatment for persons with untreated latent TB infection.

Specifically, the proposed amendments would require all ACFs, including those owned and operated by small businesses and local governments, to develop policies for tuberculosis testing to ensure adequate baseline assessments, document treatment of tuberculosis infection, and replace tuberculosis serial testing with annual individual risk assessment and education, with further testing as indicated. ACFs must also provide documentation to demonstrate compliance as part of ongoing occupational health records.

General guidance documents related to healthcare personnel screening and education will be developed by the Department, and ACFs must develop specific policies and procedures in accordance with the overall guidance. While a permanent reduction of costs is expected, ACFs may have initial implementation costs related to development of assessment procedures, risk assessment forms, and education and databases. The proposed regulation will allow a 90-day cure period to allow ACFs time to develop necessary compliance measures, and full implementation is expected to occur over a one year period as successive groups of persons are screened according to the revised protocols.

A 60-day public comment period will be provided upon publication of these regulatory amendments in the State Register. The full version of the regulatory notice will also be made available online at <https://regs.health.ny.gov/regulations/proposed-rule-making>. The public comment period will open and public comments will be accepted by the Department beginning on the date of State Register publication.

If you have any questions regarding the contents of this DAL, please write to acinfo@health.ny.gov.

Sincerely,

Heidi L. Hayes, Acting Director
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and Assisted Living Surveillance

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