

Regulation of Health and Human Services Residential Facilities

December 2021

Overview

This publication provides an overview of state regulation of residential facilities that provide support services for their residents. For each facility type, information in summary form is provided on services delivered, clients, number of facilities and capacity in Minnesota, facility and program regulation, and sources of reimbursement.

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Introduction

This publication provides an overview of state regulation of residential facilities that provide support services for their residents. For purposes of this publication, a “residential facility” is one in which the resident lives in a group setting at a location that is not a single-family home or a medical institution such as an inpatient hospital.

The main goals of this publication are to make it easier to distinguish different types of facilities from each other and to distinguish between different aspects of state regulation. In general, residential facilities providing support services must be licensed by the Minnesota Department of Health (MDH) to operate in the state. MDH is responsible for setting health and safety standards for facilities and for setting quality standards for certain support services. In addition, certain treatment and support programs provided at facilities must be licensed by the Minnesota Department of Human Services (DHS), and most must meet DHS standards to receive state and federal funding. Finally, nursing homes, boarding care homes, and intermediate care facilities for persons with developmental disabilities (ICFs/DD) must be certified by MDH in order to qualify for reimbursement under the Medical Assistance (MA) program.

This division of responsibilities between two state agencies, and distinctions made between facility and program standards, can lead to different forms of regulation for facilities with the same MDH facility license. For example, facilities licensed by MDH as supervised living facilities can have one or more of the following DHS program licenses: chapter 245D (home and community-based services standards), “Rule 32” (chemical dependency detoxification programs), “Rule 36” (residential facilities for adults with mental illness), or “Rule 80” (services for the physically disabled). Alternatively, facilities with different MDH facility licenses may be subject to identical regulation. For example, “nursing homes” and “boarding care homes” are separate MDH license categories, but both facility types can be certified by MDH as “nursing facilities” for purposes of MA reimbursement.

It should also be noted that the same DHS program can be offered at more than one facility type. For example, home and community-based waiver services can be provided in assisted living facilities, board and lodging facilities with special services, and adult foster care homes. Similarly, residential programs providing services for adults with mental illness can be offered at noncertified boarding care homes, supervised living facilities, and board and lodging facilities.

Organization. This publication describes facilities that provide both residential and support services and summarizes the regulatory authority of MDH and DHS. The publication also contains appendices and a glossary.

Format for facility type descriptions. Facilities are organized by the facility licensure categories used by MDH. Information is provided for each facility type under the following headings:

Services: Lists the support services provided by the facility. Lodging-related services are not listed, since all facility types provide these services.

Client eligibility: Describes the basis for client eligibility. Generally, a resident must have a physical, mental, or developmental disability to be eligible to reside in a facility.

Facilities or providers in Minnesota:¹ Lists the number of facilities or providers in Minnesota.

Capacity in Minnesota:² Lists the number of beds licensed by MDH or available statewide, to the extent this data is available. In the case of nursing homes, boarding care homes, and ICFs/DD, beds must also be certified by MDH to qualify for reimbursement under the MA program.

MDH facility license: Lists the type of facility license, and the statute and rule citations for the licensing requirements. MDH is the agency generally responsible for ensuring the quality of care provided to residents of facilities and to persons needing support services in their homes.

DHS program license: Lists the DHS program licenses that may be required for a facility, and the statute and rule citations for these requirements. A facility licensed by MDH may be required to have a DHS license for the treatment and support programs it operates. For example, a facility licensed as a “supervised living facility” by MDH may offer programs for persons with mental illness that are licensed by DHS (Minn. Rules, parts 9520.0500 to 9520.0670). Such facilities may be commonly referred to as “Rule 36” facilities.³ Information on the number of program licenses was provided by DHS staff.

MA certification: Indicates whether the facility type qualifies for Medical Assistance (MA) reimbursement. Of the facility types listed, MA pays only nursing homes, certified boarding care homes, and ICFs/DD directly for services. MA does, however, pay nonfacility providers for home health and home and community-based waiver services provided to persons residing in certain types of facilities.

¹ Sources for the numbers of facilities or providers are as follows. For nursing homes, boarding care homes, and residential hospice facilities, this is the figure reported in the publication *Registered, Licensed, and/or Certified Health Care Facilities and Services* (Minnesota Department of Health, 2021). For assisted living facilities and board and lodging establishments with special services, this is the figure reported in MDH’s online Health Care Provider Directory. For supervised living facilities, the number of facilities was provided by MDH staff. For adult foster care homes and community residential settings, the number of facilities or licenses was provided by DHS staff.

² Sources for the capacity numbers are as follows. For nursing homes and boarding care homes, this is the figure reported in *Registered, Licensed, and/or Certified Health Care Facilities and Services* (Minnesota Department of Health, 2021). For supervised living facilities and assisted living facilities, information on capacity was provided by MDH staff. For adult foster care homes and community residential settings, information on capacity was provided by DHS staff.

³ “Rule 36” refers to the numbering used in older compilations of DHS rules. For example, under the *Minnesota Code of Agency Rules* (MCAR), rules governing programs for adults with mental illness began at section 2.036. In the rule compilation preceding MCAR, these rules were cited as DPW 36 (for Department of Public Welfare). In September 1983, MCAR was replaced by the current *Minnesota Rules*. However, “Rule 36” and other similar abbreviated rule references (e.g., Rule 50) are still commonly used when referring to facility types and reimbursement sources.

Reimbursement: Lists common sources of reimbursement for the facility or service (see glossary for descriptions).

Reimbursement provisions: Provides statute and rule citations for state reimbursement programs.

Special notes: Where applicable, provides further clarification on licensing, certification, reimbursement, and other issues.

Appendices and Glossary. The publication also contains appendices and a glossary. Appendix A lists the number of facilities and capacity, for each type of facility. Appendix B provides statute and rule citations related to facility regulation by MDH. Appendix C provides statute and rule citations related to facility and service regulation by DHS. The glossary defines terms related to services, funding, and other aspects of facility regulation and operations.

Facilities

Nursing Homes

Services	Provide nursing care and related medical services
Client Eligibility	Serve five or more persons who require nursing supervision on an inpatient basis
Facilities in Minnesota	358, as of March 15, 2021; of these, 350 facilities are certified for participation in MA
Capacity in Minnesota	26,371 licensed beds, as of March 15, 2021; of these, 26,018 beds are certified for participation in MA
MDH Facility License	Nursing home (Minn. Rules parts 4658.0010 to 4658.5590; Minn. Stat. §§ 144A.01 to 144A.1888)
DHS Program License	None required; four have Rule 80, <i>Residential programs and services for physically disabled</i> (Minn. Rules parts 9570.2000 to 9570.3400; Minn. Stat. § 245A.09)
MA Certification	Nursing facility (NF) ⁴
Reimbursement	Room and board, and services: MA, Medicare, or private pay
Reimbursement Provisions	<i>Nursing facility payment rates</i> (Minn. Rules parts 9549.0010 to 9549.0080; Minn. Stat. ch. 256R) (“Rule 50”)
Special Notes	A moratorium in statute prohibits the commissioner of health, in coordination with the commissioner of human services, from licensing or certifying new nursing home beds or from authorizing a construction project with a cost of more than \$1,000,000, unless the addition of beds or construction project is permitted by a statutory exception to the moratorium or authorized by the commissioner of health according to a process specified in statute.

⁴ In contrast to MA, nursing homes under Medicare are certified as skilled nursing facilities (SNFs).

Boarding Care Homes

Services Provide personal or custodial care, such as assistance with eating and grooming and supervision of self-administered medication; may also provide nursing care, but nursing care is not required

Client Eligibility Serve five or more persons who are not acutely ill, but who are elderly or have a physical disability or mental illness

Facilities in Minnesota 22, as of March 15, 2021; of these, 14 facilities are certified for participation in MA

Capacity in Minnesota 1,347 beds, as of March 15, 2021; of these, 857 beds are certified for participation in MA

MDH Facility License Boarding care home (Minn. Rules, parts 4655.0090 to 4655.9342 and 4660.0090 to 4660.9940; Minn. Stat. §§ 144.56; 144A.01 to 144A.1888)

DHS Program License None required. Some facilities are licensed under Minnesota Rules, parts 9520.0500 to 9520.0670; Minnesota Statutes, chapter 245A, *Licensing of residential programs for adults who are mentally ill* (“Rule 36”)⁵

MA Certification Nursing facility (NF) for facilities participating in MA

Reimbursement Room and board, and services: MA, housing support⁶, or private pay

Reimbursement Provisions *Nursing facility payment rates* (Minn. Rules parts 9549.0010 to 9549.0080; Minn. Stat. ch. 256R) (“Rule 50”)

Facilities licensed as *residential programs for adults who are mentally ill* (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. ch. 245A), may receive state grants for programs through Minnesota Statutes, sections 245.4661; 245.73; and 256E.12

Room and board may be paid for under housing support (Minn. Stat. ch. 256I)

⁵ MA classifies some of these programs as Institutions for Mental Diseases (IMDs) and does not reimburse for services provided in these facilities.

⁶ Refer to the glossary for short descriptions of the programs and services referred to in the text.

Special Notes Some but not all boarding care homes are certified to participate in the MA program, and those participating in MA are certified as nursing facilities and function as nursing homes. MDH licensing standards for these facilities are less stringent than those for nursing homes, and boarding care homes do not meet the skilled nursing facility criteria that would allow them to receive Medicare reimbursement. If a boarding care home does not participate in MA (a noncertified boarding care home), residents are also not eligible to receive home and community-based waiver services or home care services because these facilities are licensed by MDH and are considered institutional or health care facilities.⁷

A moratorium in statute prohibits the commissioner of health, in coordination with the commissioner of human services, from certifying new beds in boarding care homes or from authorizing a construction project with a cost of more than \$1,000,000, unless the addition of beds or construction project is permitted by a statutory exception to the moratorium or authorized by the commissioner of health according to a process specified in statute.

Supervised Living Facilities

Intermediate Care Facilities for Persons with Development Disabilities (ICFS/DD)

Services Provide supervision, lodging, meals, and DHS-licensed counseling and developmental habilitative or rehabilitative program services

Client Eligibility Serve four or more persons with developmental disabilities

Facilities in Minnesota 115, as of November 2021

Capacity in Minnesota 988 beds, as of November 2021

MDH Facility License Supervised living facility (Minn. Rules parts 4665.0100 to 4665.9900; Minn. Stat. §§ 144.50 and 144.56)

⁷ MDH also classifies nursing homes and supervised living facilities as institutional facilities, and residents of these facilities are also ineligible to receive home and community-based waiver services and home care services.

DHS Program License Chapter 245D, *Home and Community-Based Services Standards* (Minn. Stat § 252.28, subd. 2; ch. 245A and 245D) is required

MA Certification Intermediate care facility for individuals with intellectual disabilities (ICF/IID)

Reimbursement Room and board, and services: MA or private pay

Reimbursement Provisions *Determination of payment rates for intermediate care facilities for persons with developmental disabilities* (Minn. Rules parts 9553.0010 to 9553.0080; Minn. Stat. § 256B.501) (“Rule 53”)

Special Notes The term intermediate care facility for persons with developmental disabilities or ICF/DD is used in Minnesota Statutes to refer to a residential program licensed to serve four or more persons with developmental disabilities under section 252.28 and chapter 245A, and licensed as a supervised living facility under chapter 144. The federal Department of Health and Human Services (DHHS) and MDH now use the term intermediate care facility for individuals with intellectual disabilities or ICF/IID for these facilities. See, for instance, Code of Federal Regulations, title 42, part 483, subpart I; *2021 Directory of Registered, Licensed, and/or Certified Health Care Facilities and Services*, Minnesota Department of Health.

A moratorium in statute prohibits the commissioner of human services from granting a new license for an ICF/DD or from authorizing an increase in the capacity of an existing ICF/DD unless the project is permitted by a statutory exception to the moratorium.

Licensed-Only Supervised Living Facilities

Services Provide supervision, lodging, meals, and DHS-licensed counseling and developmental habilitative or rehabilitative program services

Client Eligibility Serve five or more clients who are chemically dependent, who are adults with a mental illness, or who have a physical or developmental disability

Facilities in Minnesota 94, as of November 2021

Capacity in Minnesota 3,438 beds, as of November 2021

MDH Facility License Supervised living facility (Minn. Rules parts 4665.0100 to 4665.9900; Minn. Stat. §§ 144.50 and 144.56)

DHS Program License Depending on the population served, the facility must have at least one of the following:

- Chapter 245D, *Home and Community-Based Services Standards* (Minn. Stat. ch. 245A and 245D; Minn. Stat. § 252.28, subd. 2)
- *Detoxification programs* (Minn. Rules parts 9530.6510 to 9530.6590; Minn. Stat. ch. 245A; 245G) (“Rule 32”)
- *Licensure of substance use disorder treatment programs* (Minn. Stat. ch. 245A; 245G) (formerly known as “Rule 31”)
- *Licensure of residential programs for adults who are mentally ill* (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. ch. 245A) (“Rule 36”)
- *Residential programs and services for physically disabled* (Minn. Rules parts 9570.2000 to 9570.3400; Minn. Stat. ch. 245A) (“Rule 80”)

MA Certification None; licensed-only supervised living facilities are not federally certified to participate in MA

Reimbursement Room and board: housing support or private pay

Services: adult mental health grants, chemical dependency care for public assistance recipients, MA, or private pay

Reimbursement Provisions Room and board may be paid for under housing support if the service provider is licensed under chapter 245A (Minn. Stat. ch. 256I)

Depending on the population served, DHS program services may be funded under one of the following:

- Adult mental health grants (Minn. Stat. §§ 245.4661; 245.73; 256E.12)
- Behavioral health fund (formerly the consolidated chemical dependency treatment fund) (Minn. Stat. ch. 254B; Minn. Rules parts 9530.7000 to 9530.7030)
- *Chemical dependency care for public assistance recipients* (Minn. Rules parts 9530.6600 to 9530.6655; Minn. Stat. §§ 254A.03; 254B.03) (“Rule 25”)
- MA through one of the waiver services

Assisted Living Facilities

Services Provide assisted living services to one or more adults

Client Eligibility Serve one or more adults who need one or more of the services listed in the definition of assisted living services, and who may also need supportive services

Facilities in Minnesota 2,006, as of November 2021

Capacity in Minnesota 58,935 beds, as of November 2021

MDH Facility License Assisted living facility or assisted living facility with dementia care (Minn. Stat. §§ 144G.08 to 144G.9999; Minn. Rules parts 4659.0010 to 4659.0210)⁸

DHS Program License None required

MA Certification None

Reimbursement Room and board: housing support or private pay

Services: MA, MA waivers, Alternative Care (AC) program, or private pay

Reimbursement Provisions Room and board may be paid for under housing support (Minn. Stat. § 256I)

If the person is eligible for MA, services may be paid for under home health services (Minn. Rules, parts 9505.0290 to 9505.0297 and Minn. Stat. § 256B.0625, subds. 6a, 7, 8, 8a, and 19a)

Services may also be paid for under MA through the following MA waiver programs:

- Elderly Waiver (EW) program, Minn. Stat. ch. 256S
- Brain Injury (BI) waiver, Minn. Stat. § 256B.093
- Community Access for Disability Inclusion (CADI) waiver, Minn. Stat. § 256B.49

The AC program may pay for services if the service provider is different from the assisted living provider (Minn. Stat. § 256B.0913).

⁸ Requirements for facility licensure as an assisted living facility or assisted living facility with dementia care became effective August 1, 2021.

Special Notes Assisted living facilities are excluded from DHS licensure under Minn. Stat. ch. 245A (Human Services Licensing) and 245D (Home and Community-Based Services Standards). However, a provider may have multiple service licenses and setting licenses across the provider’s organization.

Housing with Services Establishments

Prior to August 1, 2021, a setting was required to register with MDH as a housing with services establishment under Minnesota Statutes, chapter 144D, if it provided housing and either one or more health-related services or two or more supportive services for a fee, and served a population 80 percent of which was 55 or older. If a setting met the other criteria for a housing with services establishment but had less than 80 percent of its population who were 55 and older, registration was optional but not required. Housing with services establishments that provided health-related services were required to obtain a home care license from MDH or contract with an MDH-licensed home care provider for the provision of those services.

A housing with services establishment was prohibited from using the term “assisted living” in its title or to describe any housing, services, or program it provided unless it complied with the requirements in Minnesota Statutes, sections 144G.01 to 144G.07.

The housing with services establishment facility category and requirements for the use of the term “assisted living” were repealed August 1, 2021, when licensure of assisted living facilities became effective. MDH no longer registers housing with services establishments.

Board and Lodging Establishments with Special Services

Services Provide supportive services or health supervision services such as assisting with preparation and administration of certain medications; assisting with dressing, grooming, and bathing; and supervision and minimal assistance with independent living skills

Client Eligibility Serve five or more regular boarders who need special services (i.e., are frail elderly, or are persons with mental illness, developmental disability, or chemical dependency)

Facilities in Minnesota 240, as of November 2021

Capacity in Minnesota Not available⁹

MDH Facility License Both (1) applicable food, beverage, and lodging establishment license or licenses and (2) registration as board and lodging establishment with special services or lodging establishing

⁹ MDH does not collect data on the capacity of board and lodging establishments with special services.

with special services (Minn. Rules parts 4625.0100 to 4625.2355, 4626.0010 to 4626.1855; Minn. Stat. §§ 157.011 to 157.22, 327.10 to 327.131, 327.70 to 327.76)

DHS Program License None required. Some board and lodging establishments with special services are licensed by DHS. Depending on the population served, services may be licensed under chapter 245D, Home and Community-Based Services Standards; 245G, Chemical Dependency Licensed Treatment Facilities; or 245A, for mental health treatment programs (Minn. Stat. chs. 245A, 245D, and 245G).

MA Certification None

Reimbursement Room and board: housing support or private pay

Services: adult mental health grants, chemical dependency care for public assistance recipients, MA, MA waivers, or private pay

Reimbursement Provisions Room and board may be paid for under housing support (Minn. Stat. ch. 256I)

Depending on the population served, DHS program services may be funded under the following:

- Adult mental health grants (Minn. Stat. §§ 245.4661; 245.73; 256E.12);
- Behavioral health fund (formerly the consolidated chemical dependency treatment fund) (Minn. Stat. ch. 254B; Minn. Rules parts 9530.7000 to 9530.7030);
- *Chemical dependency care for public assistance recipients* (Minn. Rules parts 9530.6600 to 9530.6655; Minn. Stat. §§ 254A.03 and 254B.03) for persons with substance use disorder
- For persons eligible for MA, home health services (Minn. Rules parts 9505.0290 to 9505.0297; Minn. Stat. § 256B.0625, subds. 6a, 7, 8, 8a, and 19a) or through one of the waiver services programs

Board and Lodging Establishments

Services	Room and board only
Client Eligibility	Clients vary
Facilities in Minnesota	Not available ¹⁰
Capacity in Minnesota	Not available ¹¹
MDH Facility License	Board and lodging establishment (Minn. Rules parts 4625.0100 to 4625.2355; Minn. Stat. §§ 157.011 to 157.22, 327.10 to 327.131 and 327.70 to 327.76)
DHS Program License	None required. Depending on the population served, a facility may be licensed under <i>Licensure and Certification of Programs for Children</i> (Minn. Rules, parts 2960.0010 to 2960.3340; Minn. Stat. ch. 245A) (group residential settings; foster residence settings; detention settings; shelter care), or other provisions governing group residential programs.
MA Certification	None
Reimbursement	Room and board: housing support or private pay, Title IV-E for Children’s Residential Facility Rule programs
Reimbursement Provisions	Room and board may be paid for under housing support (Minn. Stat. ch. 256I). Children’s residential facility rule programs may receive federal funding through Title IV-E of the Social Security Act (federal payments for foster care and adoption assistance).
Special Notes	A wide range of facilities have board and lodging establishment licenses. Facility types include rooming houses, private-pay-only senior housing establishments, and hotels.

¹⁰ An accurate number of board and lodging establishments that are not “board and lodging establishments with special services” is not available. MDH also does not collect data on the number of board and lodging establishments licensed in counties with delegated licensing programs. The state licenses board and lodging establishments in 52 counties; the remaining 35 counties in Minnesota have delegated programs and establishments in these counties are licensed at the local level.

¹¹ The board and lodging establishment license is an MDH license, but is not an MDH health care facility license. Board and lodging establishments are not licensed by the number of beds, as health care facilities are, but are instead licensed by the number of sleeping accommodation units. A sleeping accommodation unit is a bed for certain settings and a room for certain settings.

Adult Foster Care Homes

Services Provide food; supervision; protection; household services, such as teaching or performing cooking, cleaning, and budgeting; personal care and living skills assistance, such as eating, personal hygiene, laundry, and using transportation, recreation, and social services available in the community; medication assistance; and assistance safeguarding cash resources. Adult foster care homes may not advertise, promote, or describe itself using the phrase “assisted living.”

Client Eligibility Serve one to four people who have substantial difficulty carrying out one or more of the essential tasks of daily living, or have a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with demands of everyday life.

May serve five people, if all persons in care are age 55 or over and do not have a serious and persistent mental illness or developmental disability

Facilities in Minnesota 1,261, as of September 14, 2021

Capacity in Minnesota 3,336, as of September 14, 2021

MDH Facility License None required

DHS Program License *Adult foster care services and licensure of adult foster care homes* (Minn. Rules parts 9555.5050 to 9555.6265 (“Rule 203”); Minn. Stat. §§ 245A.09) is required

Depending on the population served, services may be licensed under chapter 245D, Home and Community-Based Services Standards (Minn. Stat. ch. 245A and 245D; § 252.28, subd. 2)

MA Certification None

Reimbursement Room and board: housing support or private pay

Services: MA, MA waivers, or private pay

Reimbursement Provisions Room and board may be paid for under housing support (Minn. Stat. ch. 256I)

If the person is eligible for MA, services may be paid for under home health services (Minn. Rules parts 9505.0290 to

9505.0297; Minn. Stat. § 256B.0625, subds. 6a, 7, 8, 8a, and 19a)

MA pays for services through the following home and community-based waiver programs:

- Elderly waiver (EW), Minn. Stat. ch. 256S
- Community alternative care (CAC) waiver, Minn. Stat. § 256B.49
- Community access for disability inclusion (CADI) waiver, Minn. Stat. § 256B.49
- Home and community-based waiver for persons with developmental disabilities (DD), Minn. Stat. § 256B.09
- Brain injury (BI) waiver, Minn. Stat. § 256B.093

Special Notes Adult foster care homes may be either family adult or corporate adult foster care. A family adult foster care home is a facility that is the primary residence of the license holder and in which the license holder is the primary caregiver. A corporate adult foster care home is not the primary residence of the license holder, and the license holder need not be the primary caregiver. Since 2009, there has been a moratorium on corporate adult foster care licenses, with some exceptions.

Community Residential Settings

Services Provide food and lodging; supervision; household services, such as teaching or assisting with cooking, cleaning, and budgeting; home health services, including medically necessary services ordered by a physician; and personal care

Client Eligibility Serve one to five people who are receiving services through one or more of the MA waivers

Facilities in Minnesota 3,957, as of September 14, 2021

Capacity in Minnesota 14,237 beds, as of September 14, 2021

MDH Facility License None required

DHS Program License Chapter 245D, *Home and Community-Based Services Standards* (Minn. Stat. § 245A.11, subd. 8, and ch. 245D) is required

MA Certification None required

Reimbursement Room and board, and services: MA waiver

- Reimbursement Provisions** MA pays for services through the following home and community-based waivers:
- Community alternative care (CAC) waiver (Minn. Stat. § 256B.49)
 - Community access for disability inclusion (CADI) waiver (Minn. Stat. § 256B.49)
 - Home and community-based waiver for persons with developmental disabilities (DD) (Minn. Stat. § 256B.092)
 - Brain injury (BI) waiver (Minn. Stat. § 256B.093)
 - Elderly waiver (EW) (Minn. Stat. ch. 256S)

Special Notes The community residential settings license was created under Minnesota Statutes, section 245A.11, subdivision 8, to combine the setting and services licenses into one license for corporate foster care providers who serve persons receiving MA waiver services.

If a facility includes one or more persons with a funding source other than a waiver, such as private pay, the facility is licensed as an adult foster care home. Funding sources for these facilities do not limit where people live, but funding sources do determine which license is required for the facility to operate.

The moratorium on corporate adult foster care licenses also applies to community residential settings licenses.

Residential Hospice Facilities

Services Provide palliative and supportive care and other services (including physical therapy, occupational therapy, speech therapy, and nutritional counseling) to terminally ill hospice patients and their families to meet physical, nutritional, emotional, social, spiritual, and special needs experienced during the final stages of illness, dying, and bereavement, or during a chronic, complex, and life-threatening illness contributing to a shortened life expectancy for persons 21 years of age or younger

Client Eligibility Serve individuals diagnosed as terminally ill and with a probable life expectancy of under one year, and individuals 21 years of age or younger who have been diagnosed with an illness contributing to shortened life expectancy and not expected to survive to adulthood

Facilities in Minnesota 15, as of March 15, 2021

Capacity in Minnesota Not available

MDH Facility License None required. Services in a residential hospice facility must be provided by a hospice provider licensed by MDH under Minn. Stat. §§ 144A.75 to 144A.756. The facility must also comply with requirements in Minn. Stat. § 144A.75, subd. 13, and Minn. Rules parts 4664.0390 to 4664.0550.

DHS Program License None required

MA Certification Medicare-certified facilities may participate in MA

Reimbursement MA or private pay

Reimbursement Provisions Minn. Rules part 9505.0446

Special Notes The MA state plan hospice benefit follows the same rules and regulations as the Medicare hospice benefit.

Appendices and Glossary

Appendix A: Number of Facilities and Facility Capacity

Health and Human Services Residential Facilities Number of Facilities and Capacity, 2021

Facility Type	# of Facilities	Capacity
Nursing Homes	358	26,371
Boarding Care Homes	22	1,347
Intermediate Care Facilities for Persons with Developmental Disabilities	115	988
Licensed-Only Supervised Living Facilities	94	3,438
Assisted Living Facilities	2,006	58,935
Board and Lodging Establishments with Special Services	240	Unavailable
Board and Lodging Establishments	Unavailable	Unavailable
Adult Foster Care Homes	1,261	3,336
Community Residential Settings	3,957	14,237
Residential Hospice Facilities	15	Unavailable

Appendix B: MDH Facility Regulation

Facility Regulation Minnesota Department of Health Rules 2021 and Minnesota Statutes 2021

Facility	Minnesota Rules Parts	Minnesota Statutes	Description
Nursing Homes	4658.0010 to 4658.5590	§§ 144A.01 to 144A.1888	Governs licensure and operation of nursing homes, inspection of facilities, enforcement, and physical plant requirements
Boarding Care Homes	4655.0090 to 4655.9342; 4660.0090 to 4660.9940	§§ 144.56; 144A.01 to 144A.1888	Governs licensure and operation of boarding care homes, enforcement, and physical plant requirements
Supervised Living Facilities	4665.0100 to 4665.9900	§§ 144.50; 144.56	Governs licensure and operation of supervised living facilities, enforcement, and physical plant requirements
Assisted Living Facilities	4659.0010 to 4659.0210	§§ 144G.08 to 144G.9999	Governs licensure and operation of assisted living facilities, enforcement, operations, physical plant, staffing, and services requirements
Board and Lodging Establishments	4625.0100 to 4625.2355	§§ 157.011 to 157.22; 327.10 to 327.131; 327.70 to 327.76	Authorizes adoption of rules to regulate board and lodging establishments; governs licensure, additional registration, fees, inspection, and physical plant requirements
Residential Hospice Facilities	4664.0002 to 4664.0550, 9505.0297, 9505.0446	§§ 144A.75 to 144A.756	Governs licensure of hospice providers, patient rights, enforcement, provider operations, staffing and facility requirements, and payment

Appendix C: DHS Facility and Service Regulation

Facility and Service Regulation Minnesota Department of Human Services Rules 2021 and Minnesota Statutes 2021

Common Name	Title	Description	MN Rules Parts	Minnesota Statutes
Children's Residential Facility Rule	Licensure and certification of programs for children	Licensure rule governing operation of residential care and treatment programs serving children or detention or foster care services for out-of-home placement	2960.0010 to 2960.3340	
	Semi-independent living services	Rule governing eligibility, program services, and administration of SILS	9525.0900 to 9525.1020	Chapters 245A, 245D; §§ 252.275; 252.28
	Housing support	Administration of housing support	NA	Chapter 256I
	Licensure of residential programs for persons with developmental disabilities	Governs operation of residential programs and services for persons with developmental disabilities		Chapters 245A, 245D; § 252.28, subd. 2
	Licenses; residential-based habilitation services	Governs operation of residential-based habilitation services for persons with developmental disabilities		Chapters 245A, 245D; § 252.28
Rule 24	Consolidated chemical dependency treatment fund	Rule governing the administration of and payments under the behavioral health fund (formerly the chemical dependency consolidated treatment fund)	9530.7000 to 9530.7030	§ 254B.03, subds. 2 and 5
Rule 25	Chemical dependency care for public assistance recipients	Rule governing eligibility criteria for public assistance recipients to receive chemical dependency treatment	9530.6600 to 9530.6655	§§ 254A.03; 254B.03
Rule 31	Licensure of chemical dependency licensed treatment facilities	Governs operation of residential programs for chemically dependent persons funded through the behavioral health fund (formerly the consolidated chemical dependency treatment fund)		Chapter 245G

Common Name	Title	Description	MN Rules Parts	Minnesota Statutes
Rule 36	Licensing residential programs for adults who are mentally ill	Governs operation of residential programs for adults who are mentally ill	9520.0500 to 9520.0670	Chapters 245A and 245D
Rule 50	Nursing facility payment rates	Governs payment rates for nursing homes	9549.0010 to 9549.0080	Chapter 256R
Rule 53	Determination of payment rates for intermediate care facilities for persons with developmental disabilities	Governs payment rates for ICFs/DD	9553.0010 to 9553.0080	§ 256B.501
	Alternative care grant program	Standards and long-term care consultation services procedures for the alternative care grant program	NA	§ 256B.0913
Rule 80	Residential programs and services for physically disabled	Governs the operation of residential programs for persons who are physically disabled	9570.2000 to 9570.3400	Chapters 245A and 245D
Rule 203	Adult foster care services and licensure of adult foster homes	Governs the administration of adult foster care services and licensure of adult foster care homes	9555.5050 to 9555.6265	Chapter 245A

Glossary

Alternative Care (AC) program is a state-funded program that provides health care and supportive services to individuals age 65 or older who are at risk of nursing home placement. These services are intended to allow these individuals to remain in the community. In order to qualify for AC services, individuals must be eligible to receive MA within 135 days of admission to a nursing home.

Assisted living services includes one or more of the following: assisting with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing; providing standby assistance; providing reminders to take medications or perform regularly scheduled treatments and exercises; preparing modified diets; services from one of the listed health care providers; tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional; medication management; hands-on assistance with transfers and mobility; treatment and therapies; assistance with eating; providing other complex or specialty health care services; and supportive services, in addition to one of the previously listed services. ([Minn. Stat. § 144G.08](#), subd. 9 (2021 Supplement))

Assistive tasks are services provided to a client by licensed or unlicensed personnel employed by a home care provider that include assistance with dressing, self-feeding, oral hygiene, hair care, grooming, toileting, and bathing; providing standby assistance; providing verbal or visual reminders to a client to take regularly scheduled medication or perform regularly scheduled treatments and exercises; preparing modified diets; and assisting with laundry, housekeeping, meal preparation, shopping, or other household chores. ([Minn. Stat. § 144A.471](#), subd. 6 (2020))

Health supervision services provided in board and lodging establishments with special services, means assistance in the preparation and administration of medications other than injectables; the provision of therapeutic diets; taking vital signs; and providing assistance with dressing, grooming, bathing, or with walking devices. ([Minn. Stat. § 157.17](#), subd. 1 (2020))

Home care provider means an individual or entity licensed by MDH that is regularly engaged in the delivery of at least one home care service directly in a client's home for a fee. A home care provider may operate under a basic license or a comprehensive license. ([Minn. Stat. § 144A.43](#), subd. 4 (2020))

Home care service means any of the following services delivered in the home of a person who needs the service because of an illness, disability, or physical condition: assistive tasks; services provided by an RN or LPN, physical therapist, respiratory therapist, occupational therapist, speech-language pathologist, dietitian, nutritionist, or social worker; medication and treatment management services; or the provision of durable medical equipment when provided with any of the previously listed services. ([Minn. Stat. § 144A.43](#), subd. 3 (2020))

Home health services means medically necessary services that are ordered by a physician; are in a documented plan of care; and are provided at the recipient's place of residence that is a place other than a hospital or long-term care facility. ([Minn. Rules part 9505.0295](#) (2021))

Household services include activities taught to or performed by a caregiver for a resident of an adult foster care home, such as cooking, cleaning, budgeting, and other household care and maintenance tasks. ([Minn. Rules part 9555.5105](#), subp. 17 (2021))

Housing support provides funding to eligible persons to pay for room and board and other related housing services. Housing support replaced what was referred to as the “negotiated rate” payment system. Housing support payments are made out of the housing support fund, which is composed of General Assistance (GA) and Minnesota Supplemental Aid (MSA) funding that had previously been used to provide funding to negotiated rate facilities.

Institutions for mental diseases (IMDs) are defined as hospitals, nursing facilities, or other facilities with more than 16 beds, primarily providing diagnosis, treatment, or care of persons with mental illness, including medical attention, nursing care, and related services. Examples of IMDs include psychiatric hospitals, nursing facilities, and residential treatment centers. ([Code of Federal Regulations, title 42, section 435.1010](#)).

Medical Assistance (MA) is a state-federal program that pays for health care services for children, families, the elderly, and disabled persons who meet categorical eligibility requirements and have income and assets below certain levels set by the commissioner of human services.

Medical Assistance (MA) certification indicates whether the facility type qualifies for MA reimbursement. Of the facility types listed, MA pays for room and board only in nursing homes, certified boarding care homes, and ICFs/DD. Federal law prohibits MA payment for services provided in institutions for mental diseases (IMDs) for individuals aged 21 or older and under 65 (“IMD exclusion”). MA pays for inpatient psychiatric hospital services in IMDs for individuals under 21 in the same facility and services in IMDs for individuals 65 and older. MA also pays for services provided in an inpatient psychiatric hospital IMD to individuals up to age 22 who received MA covered services prior to their 21st birthday and continue to receive these services after age 21.

Medicare is a federal program that provides health care coverage for elderly and disabled persons. Medicare enrollees do not need to meet income and asset standards; instead, enrollees qualify on the basis of employment history or disability. Medicare provides only limited coverage for nursing home care.

Nursing care means health evaluation and treatment of patients and residents who do not need to be in an acute care facility but who do need nursing supervision on an inpatient basis. ([Minn. Stat. § 144A.01](#), subd. 6 (2020))

Personal or custodial care means board, room, laundry, personal services, and supervision over medication that can be safely self-administered, plus a program of activities and supervision required by persons who are not capable of properly caring for themselves. ([Minn. Rules part 4655.0100](#), subp. 3 (2021))

Private pay includes all nongovernmental payment sources, such as private insurance coverage and paying out-of-pocket.

Semi-independent living services (SILS) means training and assistance with managing money, meal preparation, shopping, maintaining personal appearance and hygiene, and other activities needed to maintain and improve the ability of adults with developmental disabilities to live in the community. ([Minn. Stat. § 252.275](#), subd. 1 (2020))

Supportive services provided in board and lodging establishments with special services means supervision and minimal assistance with independent living skills (such as social and recreational opportunities, transportation, arranging meetings and appointments, and arranging medical and social services) and reminding residents to take self-administered medications or providing medication storage. ([Minn. Stat. § 157.17](#), subd. 1 (2020))

Supportive services provided in assisted living facilities means assistance with laundry, shopping, and household chores; housekeeping services; providing or assisting with meals or food preparation; help with arranging medical, social, recreational, personal, or social services appointments; provision of social or recreational services; or “I’m okay” check services, which is defined as a system to check on the safety of a resident once a day or more frequently according to an assisted living contract. Arranging for services does not include making referrals or contacting a service provider in an emergency. ([Minn. Stat. § 144G.08](#), subd. 68 (2020))

Title IV-E of the Social Security Act authorizes federal funding to states and Tribes to receive reimbursement for foster care, kinship or guardianship assistance, and adoption assistance programs. The law provides financial incentives for states and Tribes to provide safe and stable out-of-home placements and achieve permanency, and sets various program and state plan eligibility requirements.

Waiver services programs provide health care and supportive services to MA enrollees, in order to allow these enrollees to live in the community rather than in a hospital, nursing home, or ICF/DD. MA waiver programs are able to provide services not normally covered by the regular MA program, due to the “waiver” by the federal government of certain laws and rules. Minnesota operates the following waiver service programs:

- Brain injury (BI) waiver for persons under age 65 at the time of initial eligibility who are diagnosed with traumatic or acquired brain injury and are at risk of nursing home or neurobehavioral hospital-level of care
- Elderly waiver (EW) for persons age 65 or older at risk of nursing home placement
- Community alternative care (CAC) waiver for persons under age 65 at the time of initial eligibility who are in a hospital prior to receipt of waiver services or are at risk of inpatient hospital care
- Community access for disability inclusion (CADI) waiver for persons under age 65 at the time of initial eligibility who are certified as disabled and determined to require the level of care provided in a nursing home

- Home and community-based waiver for persons with developmental disabilities (DD) for persons with developmental disabilities at risk of ICF/DD placement



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