

**January 2018**

**Regulation of Health and  
Human Services Residential  
Facilities**

**Research Department**  
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This guidebook provides an overview of state regulation of residential facilities that provide support services for their residents.

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## Introduction

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This guidebook gives 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. For purposes of this guidebook, 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 guidebook 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 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 (services for persons with chemical dependency), Rule 36 (services for mentally ill persons), 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 waived services can be provided in housing with services establishments, board and lodging facilities with special services, and adult foster care homes. Similarly, Rule 36 programs providing services for mentally ill persons can be offered at noncertified boarding care homes, group homes licensed as supervised living facilities, and board and lodging facilities.

**Guidebook organization.** This guidebook describes facilities that provide both residential and support services and summarizes the regulatory authority of MDH and DHS. The guidebook 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 contains definitions of terms related to services, funding, and other aspects of facility regulation and operations.

**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:** Lists the number of facilities or providers in Minnesota.

Sources: For nursing homes, boarding care homes, and housing with services establishments, this is the figure reported in *Licensed, Certified and Registered Health Care Facilities and Services* (Minnesota Department of Health, 2017). For supervised living facilities, board and lodging establishments with special services, and residential hospice 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.

**Capacity in Minnesota:** Lists the number of beds licensed statewide by MDH or otherwise estimates capacity. 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.

Sources: For nursing homes and boarding care homes, this is the figure reported in *Licensed, Certified and Registered Health Care Facilities and Services* (Minnesota Department of Health, 2017). For supervised living facilities and residential hospice facilities, information on capacity was provided by MDH staff. For housing with services establishments and board and lodging establishments with special services, estimates of capacity were provided by MDH staff. For adult foster care homes and community residential settings, information on capacity was provided by DHS staff.

**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.<sup>1</sup> 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 and ICFs/DD directly for services. MA does, however, pay nonfacility providers for home health and home and community-based waived services provided to persons residing in certain types of facilities.

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

**Provisions governing reimbursement:** Provides statute and rule citations for state reimbursement programs.

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

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<sup>1</sup> “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.

## Facilities

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### Nursing Homes

<b>Services</b>	Provide nursing care and related medical services
<b>Client Eligibility</b>	Serve five or more persons who require nursing supervision on an inpatient basis
<b>Facilities in Minnesota</b>	372 licensed facilities, as of March 15, 2017; 361 of these facilities are certified for participation in MA
<b>Capacity in Minnesota</b>	28,647 licensed beds, as of March 15, 2017; of these, 27,896 beds are certified for participation in MA
<b>MDH Facility License</b>	Nursing home ( <a href="#">Minn. Rules parts 4658.0010</a> to 4658.5590; <a href="#">Minn. Stat. §§ 144A.01</a> to 144A.10; 144A.11; 144A.115)
<b>DHS Program License</b>	None required; four have Rule 80, <i>Residential programs and services for physically disabled</i> ( <a href="#">Minn. Rules parts 9570.2000</a> to 9570.3400; <a href="#">Minn. Stat. § 245A.09</a> )
<b>MA Certification</b>	Nursing facility (NF) <sup>2</sup>
<b>Reimbursement</b>	Room and board, and services: MA, Medicare, or private pay
<b>Provisions Governing Reimbursement</b>	<i>Nursing facility payment rates</i> ( <a href="#">Minn. Rules parts 9549.0010</a> to 9549.0080; <a href="#">Minn. Stat. ch. 256R</a> ) (õRule 50ö)

### Boarding Care Homes

<b>Services</b>	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
<b>Client Eligibility</b>	Serve five or more persons who are not acutely ill, but who are elderly or have a physical disability or mental illness
<b>Facilities in Minnesota</b>	24, as of March 15, 2017; of these, 15 facilities are certified for participation in MA
<b>Capacity in Minnesota</b>	1,494 beds, as of March 15, 2017; of these, 885 beds are certified for participation in MA

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<sup>2</sup> In contrast to MA, nursing homes under Medicare are certified as skilled nursing facilities (SNFs).

<b>MDH Facility License</b>	Boarding care home ( <a href="#">Minn. Rules, parts 4655.0090</a> to 4655.9342 and <a href="#">4660.0090</a> to 4660.9940; <a href="#">Minn. Stat. §§ 144A.01</a> to 144A.10; <a href="#">144A.11</a> ; <a href="#">144A.115</a> )
<b>DHS Program License</b>	None required. Some facilities are licensed under <a href="#">Minnesota Rules, parts 9520.0500</a> to 9520.0670; <a href="#">Minnesota Statutes, chapter 245A, Licensing of residential programs for adults who are mentally ill</a> (õRule 36ö) <sup>3</sup>
<b>MA Certification</b>	Nursing facility (NF) for facilities participating in MA
<b>Reimbursement</b>	Room and board, and services: MA, housing support services <sup>4</sup> , or private pay
<b>Provisions Governing Reimbursement</b>	<i>Nursing facility payment rates</i> ( <a href="#">Minn. Rules parts 9549.0010</a> to 9549.0080; <a href="#">Minn. Stat. ch. 256R</a> ) (õRule 50ö)  Facilities licensed as <i>residential programs for adults who are mentally ill</i> ( <a href="#">Minn. Rules parts 9520.0500</a> to 9520.0670; <a href="#">Minn. Stat. ch. 245A</a> ), may receive state grants for programs through <a href="#">Minnesota Statutes, sections 245.4661</a> ; <a href="#">245.73</a> ; and <a href="#">256E.12</a> .  Room and board may be paid for under housing support services ( <a href="#">Minn. Stat. ch. 256I</a> ).
<b>Special Notes</b>	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. <sup>5</sup>

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<sup>3</sup> MA classifies some of these programs as Institutions for Mental Diseases (IMDs) and does not reimburse for services provided in these facilities.

<sup>4</sup> Refer to the glossary for short descriptions of the programs and services referred to in the text.

<sup>5</sup> 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.

## **Supervised Living Facilities**

### ***Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD)***

<b>Services</b>	Provide supervision, lodging, meals, and DHS-licensed counseling habilitative or rehabilitative program services
<b>Client Eligibility</b>	Serve four or more persons with developmental disabilities
<b>Facilities in Minnesota</b>	192, as of March 15, 2017
<b>Capacity in Minnesota</b>	1,600 beds, as of March 15, 2017
<b>MDH Facility License</b>	Supervised living facility ( <a href="#">Minn. Rules parts 4665.0100 to 4665.9900</a> ; <a href="#">Minn. Stat. §§ 144.50 and 144.56</a> )
<b>DHS Program License</b>	<a href="#">Chapter 245D</a> , <i>Home and Community-Based Services Standards</i> ( <a href="#">Minn. Stat § 252.28</a> , subd. 2; <a href="#">ch. 245A</a> and <a href="#">245D</a> ) is required
<b>MA Certification</b>	Intermediate care facility for individuals with intellectual disabilities (ICF/IID)
<b>Reimbursement</b>	Room and board, and services: MA or private pay
<b>Provisions Governing Reimbursement</b>	<i>Determination of payment rates for intermediate care facilities for persons with developmental disabilities</i> ( <a href="#">Minn. Rules parts 9553.0010 to 9553.0080</a> ; <a href="#">Minn. Stat. § 256B.501</a> ) (õRule 53ö)
<b>Special Notes</b>	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 <a href="#">section 252.28</a> and <a href="#">chapter 245A</a> , and licensed as a supervised living facility under <a href="#">chapter 144</a> . 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, <a href="#">Code of Federal Regulations, title 42, part 483</a> , subpart I; <i>2017 Directory of Licensed, Certified, and Registered Health Care Facilities and Services</i> , Minnesota Department of Health.

### ***Licensed-Only Supervised Living Facilities***

<b>Services</b>	Provide supervision, lodging, meals, and DHS-licensed counseling and habilitative or rehabilitative program services
<b>Client Eligibility</b>	Serve five or more clients who are chemically dependent, who are adults with a mental illness, or who have a physical or developmental disability
<b>Facilities in Minnesota</b>	90, as of March 15, 2017
<b>Capacity in Minnesota</b>	3,201 beds, as of March 15, 2017
<b>MDH Facility License</b>	Supervised living facility ( <a href="#">Minn. Rules parts 4665.0100</a> to <a href="#">4665.9900</a> ; <a href="#">Minn. Stat. §§ 144.50</a> and <a href="#">144.56</a> )
<b>DHS Program License</b>	Depending on the population served, the facility must have at least one of the following: <ul style="list-style-type: none"><li>▪ <a href="#">Chapter 245D, Home and Community-Based Services Standards (Minn. Stat. ch. 245A and 245D; Minn. Stat. § 252.28, subd. 2)</a></li><li>▪ <a href="#">Licensure of chemical dependency rehabilitation programs (Minn. Rules parts 9530.7000 to 9530.7031; Minn. Stat. ch. 245A)</a> (õRule 31ö)</li><li>▪ <a href="#">Licensure of residential programs for adults who are mentally ill (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. ch. 245A)</a> (õRule 36ö)</li><li>▪ <a href="#">Residential programs and services for physically disabled (Minn. Rules parts 9570.2000 to 9570.3400; Minn. Stat. ch. 245A)</a> (õRule 80ö)</li></ul>
<b>MA Certification</b>	None; licensed-only supervised living facilities are not federally certified to participate in MA
<b>Reimbursement</b>	Room and board: housing support services or private pay  Services: adult mental health grants, chemical dependency care for public assistance recipients, MA, or private pay
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under housing support services if the service provider is licensed under <a href="#">chapter 245A (Minn. Stat. ch. 256I)</a>  Depending on the population served, DHS program services may be funded under one of the following: <ul style="list-style-type: none"><li>▪ Adult mental health grants (<a href="#">Minn. Stat. §§ 245.4661</a>;</li></ul>

[245.73; 256E.12](#))

- 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](#)) (õRule 25ö)
- MA through one of the waiver services

## **Housing With Services Establishments**

<b>Services</b>	Provide sleeping accommodations to one or more adult residents. Also offer or provide one or more health-related or two or more supportive services. Examples of health-related services are professional nursing services and administering medication. Examples of supportive services are assistance with personal laundry and arranging transportation to social service appointments.
<b>Client Eligibility</b>	Serve primarily persons age 55 or older, or persons experiencing long-term homelessness
<b>Facilities in Minnesota</b>	1,559, as of March 15, 2017
<b>Capacity in Minnesota</b>	Bed number is not available; MDH reports that maximum resident capacity was approximately 35,683 as of March 15, 2017
<b>MDH Facility License</b>	Housing with services establishment registration ( <a href="#">Minn. Stat. ch. 144D</a> )
<b>DHS Program License</b>	None required. Depending on the population served, services may be licensed under <a href="#">chapter 245D</a> , Home and Community-Based Services Standards ( <a href="#">Minn. Stat. chs. 245A</a> and <a href="#">245D</a> )
<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: housing support services or private pay  Services: MA, MA waivers, Alternative Care (AC) program, or private pay

**Provisions Governing  
Reimbursement**

Room and board may be paid for under housing support services ([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)

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

- Elderly waiver (EW), [Minn. Stat. § 256B.0915](#)
- Community access for disability inclusion (CADI) waiver," [Minn. Stat. § 256B.49](#)
- Brain injury (BI) waiver, [Minn. Stat. § 256B.093](#)

The AC program may pay for services ([Minn. Stat. § 256B.0913](#))

**Special Notes**

Any setting that provides housing, one or more health-related or two or more supportive services for a fee, and serves an elderly population (80 percent age 55 and older) must register with MDH as a housing with services establishment under [Minnesota Statutes, chapter 144D](#). A setting that meets all other criteria for a housing with services establishment, except that fewer than 80 percent of its residents are age 55 or older, may opt to register as a housing with services establishment.

A facility that registers as a housing with services establishment is not required to also obtain a lodging license under [Minnesota Statutes, chapter 157](#).

Assisted living services in Minnesota are provided in facilities registered as a housing with services establishment under [Minnesota Statutes, chapter 144D](#). Use of the term "assisted living" is governed by [Minnesota Statutes, chapter 144G](#), and that term cannot be used to describe any services, housing, or program unless the requirements in [chapter 144G](#) are met.

Housing with services establishments that provide health-related services are required to obtain the appropriate home care provider license from MDH, or to contract with a licensed home care provider for provision of those services.

As of October 13, 2017, 1,213 MDH home care licenses are held by housing with services establishments.

## **Board and Lodging Establishments With Special Services**

<b>Services</b>	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
<b>Client Eligibility</b>	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)
<b>Registration in Minnesota</b>	197, as of September 2017
<b>Capacity in Minnesota</b>	Bed number is not available; MDH reports approximately 3,692 people served, as of January 2016
<b>MDH Facility License</b>	<p>Board and lodging (<a href="#">Minn. Rules parts 4625.0100</a> to 4625.2355; <a href="#">Minn. Stat. §§ 157.011</a> to 157.22, <a href="#">327.10</a> to 327.131, <a href="#">327.10</a> to 327.131, <a href="#">327.70</a> to 327.76)</p> <p>If the facility provides one or more health-related services or two or more supportive services for a fee, to an elderly population (at least 80 percent age 55 and older), it must also register as a housing with services establishment under <a href="#">Minnesota Statutes, chapter 144D</a>, and must obtain the appropriate home care provider license.</p>
<b>DHS Program License</b>	None required. Some board and lodging facilities with special services are licensed by DHS. Depending on the population served, services may be licensed under <a href="#">chapter 245D</a> , Home and Community-Based Services Standards; <a href="#">245G</a> , Chemical Dependency Treatment Facilities; or <a href="#">245A</a> , for mental health treatment programs ( <a href="#">Minn. Stat. chs. 245A</a> , <a href="#">245D</a> , and <a href="#">245G</a> )
<b>MA Certification</b>	None
<b>Reimbursement</b>	<p>Room and board: housing support services or private pay</p> <p>Services: adult mental health grants, chemical dependency care for public assistance recipients, MA, MA waivers, AC program, or private pay</p>
<b>Provisions Governing Reimbursement</b>	<p>Room and board may be paid for under housing support services (<a href="#">Minn. Stat. ch. 256I</a>)</p> <p>Depending on the population served, DHS program services may be funded under the following:</p> <ul style="list-style-type: none"><li>▪ Adult mental health grants (<a href="#">Minn. Stat. §§ 245.4661</a>;</li></ul>

[245.73](#); [256E.12](#));

- 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 who are chemically dependent
- For persons eligible for MA, home health services ([Minn. Rules parts 9505.0290](#) to [9505.0297](#); [Minn. Stat. § 256B.0625](#), subs. 6a, 7, 8, 8a, and 19a) or through one of the waiver services programs
- The AC program ([Minn. Stat. § 256B.0913](#))

## **Board and Lodging Establishments**

<b>Services</b>	Room and board only
<b>Client Eligibility</b>	Clients vary
<b>Facilities in Minnesota</b>	Not available <sup>6</sup>
<b>Capacity in Minnesota</b>	Not available <sup>7</sup>
<b>MDH Facility License</b>	Board and lodging ( <a href="#">Minn. Rules parts 4625.0100</a> to <a href="#">4625.2355</a> ; <a href="#">Minn. Stat. §§ 144.12</a> , subs.1 and 3, <a href="#">157.011</a> to <a href="#">157.22</a> , <a href="#">327.10</a> to <a href="#">327.131</a> and <a href="#">327.70</a> to <a href="#">327.76</a> )
<b>DHS Program License</b>	None required. Depending on the population served, a facility may be licensed under <i>Licensure and Certification of Programs for Children</i> ( <a href="#">Minn. Rules, parts 2960.0010</a> to <a href="#">2960.3340</a> ; <a href="#">Minn. Stat. ch. 245A</a> ) (group residential settings; foster residence settings; detention settings; shelter care), or other provisions governing group residential programs.
<b>MA Certification</b>	None

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<sup>6</sup> An accurate number of board and lodging establishments that are not ðboard and lodging establishments with special servicesð and are not registered as a ðhousing with services establishmentð is not available. The state licenses board and lodging establishments in 50 counties. The remaining 37 counties in Minnesota have delegated programs and these facilities are licensed at the local level.

<sup>7</sup> 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 rooms.

<b>Reimbursement</b>	Room and board: housing support services or private pay, Title IV-E for Children's Residential Facility Rule programs
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under housing support services ( <a href="#">Minn. Stat. ch. 256I</a> ). 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).
<b>Special Notes</b>	A wide range of facilities have board and lodging establishment licenses. Facility types include rooming houses, private-pay-only senior housing establishments, and hotels.

### **Adult Foster Care Homes**

<b>Services</b>	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."
<b>Client Eligibility</b>	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.
<b>Facilities in Minnesota</b>	1,084 as of October 19, 2017
<b>Capacity in Minnesota</b>	3,358 as of October 19, 2017
<b>MDH Facility License</b>	None required
<b>DHS Program License</b>	<i>Adult foster care services and licensure of adult foster care homes</i> ( <a href="#">Minn. Rules parts 9555.5050</a> to <a href="#">9555.6265</a> (Rule 2036)); <a href="#">Minn. Stat. §§ 245A.09</a> ) is required.  Depending on the population served, services may be licensed under <a href="#">chapter 245D</a> , Home and Community-Based Services Standards ( <a href="#">Minn. Stat. ch. 245A</a> and <a href="#">245D</a> ; <a href="#">§ 252.28</a> , subd. 2).

<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: housing support services or private pay  Services: MA, MA waivers, AC program, or private pay
<b>Provisions Governing Reimbursement</b>	<p>Room and board may be paid for under housing support services (<a href="#">Minn. Stat. ch. 256I</a>)</p> <p>If the person is eligible for MA, services may be paid for under home health services (<a href="#">Minn. Rules parts 9505.0290</a> to <a href="#">9505.0297</a>; <a href="#">Minn. Stat. § 256B.0625</a>, subs. 6a, 7, 8, 8a, and 19a)</p> <p>MA pays for services through the following home and community-based waiver programs:</p> <ul style="list-style-type: none"><li>▪ Elderly waiver (EW), <a href="#">Minn. Stat. § 256B.0915</a></li><li>▪ Community alternative care (CAC) waiver, <a href="#">Minn. Stat. § 256B.49</a></li><li>▪ Community access for disability inclusion (CADI) waiver, <a href="#">Minn. Stat. § 256B.49</a></li><li>▪ Home and community-based waiver for persons with developmental disabilities (DD), <a href="#">Minn. Stat. § 256B.092</a></li><li>▪ Brain injury (BI) waiver, <a href="#">Minn. Stat. § 256B.093</a></li></ul> <p>The AC program may pay for services (<a href="#">Minn. Stat. § 256B.0913</a>)</p>
<b>Special Notes</b>	<p>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.</p>

## **Community Residential Settings**

<b>Services</b>	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
<b>Client Eligibility</b>	Serve one to five people who are receiving services through one or more of the four MA disability waivers (BI, CAC, CADI, and DD)
<b>Facilities in Minnesota</b>	3,526, as of October 19, 2017
<b>Capacity in Minnesota</b>	13,080 beds, as of October 19, 2017
<b>MDH Facility License</b>	None required
<b>DHS Program License</b>	<a href="#">Chapter 245D</a> , <i>Home and Community-Based Services Standards</i> ( <a href="#">Minn. Stat. § 245A.11</a> , subd. 8, and ch. 245D) is required
<b>MA Certification</b>	None required
<b>Reimbursement</b>	Room and board, and services: MA through a disability waiver
<b>Provisions Governing Reimbursement</b>	MA disability waivers
<b>Special Notes</b>	<p>The community residential settings license was created under <a href="#">Minnesota Statutes, section 245A.11</a>, subdivision 8, to combine the setting and services licenses into one license for corporate foster care providers who serve persons receiving MA disability waiver services.</p> <p>If a facility includes one or more persons with a funding source other than a disability waiver, such as EW or 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.</p>

## **Residential Hospice Facilities**

<b>Services</b>	Provides 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
<b>Client Eligibility</b>	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
<b>Facilities in Minnesota</b>	14, as of March 15, 2017
<b>Capacity in Minnesota</b>	106 beds, as of March 15, 2017
<b>MDH Facility License</b>	None required. Services in a residential hospice facility must be provided by a hospice provider licensed by MDH. The facility must also comply with requirements in <a href="#">Minn. Stat. § 144A.75</a> , subd. 13 and <a href="#">Minn. Rules parts 4664.0390</a> to 4664.0550
<b>DHS Program License</b>	None required
<b>MA Certification</b>	Medicare certified facilities may participate in MA
<b>Reimbursement</b>	MA or private pay
<b>Provisions Governing Reimbursement</b>	<a href="#">Minn. Rules part 9505.0446</a>
<b>Special Notes</b>	The MA state plan hospice benefit follows the same rules and regulations as the Medicare hospice benefit.

## Appendices and Glossary

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### **Appendix A: Number of Facilities and Facility Capacity**

#### **Health and Human Services Residential Facilities Number of Facilities and Capacity, 2017**

<b>Facility Type</b>	<b># of Facilities</b>	<b>Capacity</b>
Nursing Homes	372	28,647
Boarding Care Homes	24	1,494
Intermediate Care Facilities for Persons with Developmental Disabilities	192	1,600
Licensed-only Supervised Living Facilities	90	3,201
Housing with Services Establishments	1,559	35,683 (approx.)
Board and Lodging Establishments with Special Services	197	Unavailable
Board and Lodging Establishments	Unavailable	Unavailable
Adult Foster Care Homes	1,084	3,358
Community Residential Settings	3,526	13,080
Residential Hospice Facilities	14	106

**Appendix B: MDH Facility Regulation**

**Facility Regulation  
 Minnesota Department of Health Rules 2017 and Minnesota Statutes 2017**

<b>Facility</b>	<b>Minnesota Rules Parts</b>	<b>Minnesota Statutes</b>	<b>Description</b>
Nursing Homes	4658.0010 to 4658.5590	§§ 144A.01 to 144A.10; 144A.11; 144A.115	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	§§ 144.50; 144.56; 144A.01 to 144A.10; 144A.11; 144A.115	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
Housing with Services Establishments		§§ 144D.01 to 144D.11	Governs registration of housing with services establishments, required disclosures, and training
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 for facilities, and payment

**Appendix C: DHS Facility and Service Regulation**

**Facility and Service Regulation  
 Minnesota Department of Human Services  
 Rules 2017 and Minnesota Statutes 2017**

<b>Common Name</b>	<b>Title</b>	<b>Description</b>	<b>MN Rules Parts</b>	<b>Minnesota Statutes</b>
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 services	Administration of housing support services	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
Rule 24	Licenses; residential-based habilitation services	Governs operation of residential-based habilitation services for persons with developmental disabilities		Chapters 245A, 245D; § 252.28
	Consolidated chemical dependency treatment fund	Rule governing the administration of and payments under 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 rehabilitation programs	Governs operation of residential programs for chemically dependent persons funded through the Consolidated Chemical Dependency Treatment Fund	9530.6405 to 9530.6505	Chapter 245G

<b>Common Name</b>	<b>Title</b>	<b>Description</b>	<b>MN Rules Parts</b>	<b>Minnesota Statutes</b>
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**, as defined by MDH, means a service or package of services described or promoted using the phrase “assisted living.” At a minimum, these services must include the provision or availability of health-related services provided under a home care license (including assisting with medication self-administration, management, or administration, and assistance with at least three activities of daily living); an assessment of physical and cognitive needs by a registered nurse; a system to delegate health care activities to unlicensed personnel; a system to check on clients at least daily; staff to provide assistance with health and safety needs 24 hours a day, seven days a week; and certain supportive services (such as meals, housekeeping, and transportation). ([Minn. Stat. §§ 144G.01](#), subd. 2; [144G.03](#), subd. 2 (2016))

**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 (2016))

**Health-related services**, as they are provided in housing with services establishments, include professional nursing services, home health aide tasks, or the central storage of medication for residents. ([Minn. Stat. § 144D.01](#), subd. 6 (2017 Supplement))

**Health supervision services** provided in board and lodging establishments and 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 (2016))

**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 (2016))

**Home care services** 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. ([Minn. Stat. § 144A.43](#), subd. 3 (2016))

**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](#) (2015))

**Household services** include activities taught to or performed by a caregiver for a resident, such as cooking, cleaning, budgeting, and other household care and maintenance tasks. ([Minn. Rules part 9555.5105](#), subp. 17 (2015))

**Housing support services** provides funding to eligible persons to pay for room and board and other related housing services. Housing support services 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 facilities 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 (2016))

**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 (2015))

**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 (2016))

**Supportive services** provided in board and lodging establishments or 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 medication storage. ([Minn. Stat. § 157.17](#), subd. 1 (2016))

**Supportive services** provided in housing with services establishments means help with personal laundry; handling or assisting with personal funds of residents; or arranging for medical services, health-related services, social services, or transportation to medical or social services appointments. Arranging for services does not include making referrals, assisting residents in contacting a service provider, or contacting a service provider in an emergency. ([Minn. Stat. § 144D.01](#), subd. 5 (2016))

**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.

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

*For more information about health and human services facilities, visit the health and human services area of our web site, [www.house.mn/hrd/](http://www.house.mn/hrd/)*