

**Revised: June 2010**  
**Regulation of Health and  
Human Services Facilities**

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 beds 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. “Support services” are defined broadly to include both health-related services such as nursing and home health services and nonhealth-related services such as personal care and home management services.

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 mental retardation (ICFs/MR) 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 245B (residential services for persons with mental retardation), Rule 32 (services for persons with chemical dependency), Rule 36 (services for mentally ill persons), or Rule 80 (services for the physically handicapped). Alternatively, facilities with different MDH facility licenses may be subject to identical regulation. For example, “nursing homes” and “certified 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.** Part 1 of this guidebook describes facilities that provide both residential and support services and summarizes the regulatory authority of MDH and DHS. Part 2 of this guidebook describes support services that can be provided both to residents of these facilities and to persons residing in their own homes. Part 3 contains appendices and a glossary. Appendix A provides statute and rule citations related to facility and service regulation by MDH. Appendix B 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.** Within Part 1, facilities are organized by the facility licensure categories used by MDH. Information is provided for each facility type under the following headings:<sup>1</sup>

**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, housing with services establishments, and home care providers, this is the figure reported in *Licensed, Certified and Registered Health Care Facilities and Services* (Minnesota Department of Health, 2009). For certified boarding care homes, noncertified boarding care homes, supervised living facilities, and board and lodging with special services facilities, the number of facilities was provided by MDH staff. For adult foster care homes and semi-independent living services (SILS) agency licenses, the number of facilities or licenses was provided by DHS staff.

**Beds in Minnesota:** Lists the number of beds licensed statewide by MDH. In the case of nursing homes and ICFs/MR, beds must also be certified by MDH to qualify for reimbursement under the MA program.

Sources: For nursing homes, certified boarding care homes, noncertified boarding care homes, and home care providers, this is the figure reported in *Licensed, Certified and Registered Health Care Facilities and Services* (Minnesota Department of Health, 2009). For supervised living facilities, the number of beds was provided by MDH staff. For adult foster care homes, the number of beds was provided by DHS staff.

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<sup>1</sup> Most of these categories, with slight modification, are also used in the descriptions of support services provided in Part 2.

***MDH facility service license:*** Lists the type of facility or service 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 under Rule 36 (Minn. Rules, parts 9520.0500 to 9520.0670). Such facilities are commonly referred to as “Rule 36” facilities.<sup>2</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/MR 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>2</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.

## Part 1: Facilities

### Nursing Homes

<b>Services</b>	Provide nursing and related medical services
<b>Client Eligibility</b>	Serve five or more elderly or physically disabled persons
<b>Facilities in Minnesota</b>	372 licensed facilities, as of March 15, 2009. All of these facilities are certified for participation in MA
<b>Beds in Minnesota</b>	33,201 licensed beds, as of March 15, 2009. Of these, 32,029 beds are certified for participation in MA
<b>MDH Facility License</b>	Nursing home (Minn. Rules parts 4658.0010 to 4658.5590; Minn. Stat. §§ 144A.01 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 handicapped</i> (Minn. Rules parts 9570.2000 to 9570.3400; Minn. Stat. § 245A.09)
<b>MA Certification</b>	Nursing facility (NF) <sup>3</sup>
<b>Reimbursement</b>	Room and board, and services: MA, Medicare, or private pay
<b>Provisions Governing Reimbursement</b>	Rule 50, <i>Nursing facility payment rates</i> (Minn. Rules parts 9549.0010 to 9549.0080; Minn. Stat. §§ 256B.41 to 256B.48, 256B.50, 256B.502)  Minnesota Statutes, section 256B.434, establishes the contractual alternative payment demonstration project, an alternative to reimbursement under Rule 50. Minnesota Statutes, section 256B.441, provides a phase-in of rebased nursing facility operating payment rates.

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<sup>3</sup> In contrast to MA, nursing homes under Medicare are certified as skilled nursing facilities (SNFs).



## **Certified Boarding Care Homes**

<b>Services</b>	Provide nursing services and personal or custodial care, such as assistance with eating and grooming and supervision of self-administered medication
<b>Client Eligibility</b>	Serve five or more elderly, physically disabled, or mentally ill persons
<b>Facilities in Minnesota</b>	21, as of March 15, 2009
<b>Beds in Minnesota</b>	1,078, as of March 15, 2009
<b>MDH Facility License</b>	Boarding care home (Minn. Rules, parts 4655.0090 to 4655.9342 and 4660.0090 to 4660.9940; Minn. Stat. §§ 144A.01 to 144A.10; 144A.11; 144A.115)
<b>DHS Program License</b>	None required
<b>MA Certification</b>	Nursing facility (NF)
<b>Reimbursement</b>	Room and board, and services: MA or private pay
<b>Provisions Governing Reimbursement</b>	<p>Rule 50, <i>Nursing facility payment rates</i> (Minn. Rules parts 9549.0010 to 9549.0080; Minn. Stat. §§ 256B.41 to 256B.48, 256B.50, 256B.502)</p> <p>Minnesota Statutes, section 256B.434, establishes the contractual alternative payment demonstration project, an alternative to reimbursement under Rule 50. Minnesota Statutes, section 256B.441, provides a phase-in of nursing facility operating payment rates.</p>
<b>Special Notes</b>	<p>Most certified boarding care homes in Minnesota function as nursing homes; they provide the same services as nursing homes and are considered “nursing facilities” for purposes of MA reimbursement. They are called “certified” because they are certified to participate in the MA program. However, MDH licensure standards for these facilities are less stringent than those for nursing homes, and certified boarding care homes do not meet the skilled nursing facility criteria that would allow them to receive Medicare reimbursement.</p>

## **Noncertified Boarding Care Homes**

<b>Services</b>	Provide personal or custodial care, such as assistance with eating and grooming and supervision of self-administered medication. Nursing services are not required but are usually provided.
<b>Client Eligibility</b>	Serve five or more elderly, physically disabled, or mentally ill persons
<b>Facilities in Minnesota</b>	13, as of March 15, 2009
<b>Beds in Minnesota</b>	847, as of March 15, 2009
<b>MDH Facility License</b>	Boarding care home (Minn. Rules, parts 4655.0090 to 4655.9342 and 4660.0090 to 4660.9940; Minn. Stat. §§ 144A.01 to 144A.10; 144A.11; 144A.115)
<b>DHS Program License</b>	None required. Some facilities have Rule 36, <i>Residential programs for adult mentally ill persons</i> (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. chapter 245A) <sup>4</sup>
<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: Group Residential Housing (GRH) <sup>5</sup> or private pay Services: Rule 12 or private pay
<b>Provisions Governing Reimbursement</b>	The facilities with Rule 36 licenses, <i>Residential programs for adult mentally ill persons</i> (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. ch. 245A), may receive state grants for programs through Rule 12, <i>Residential services for adult mentally ill persons</i> (Minn. Rules parts 9535.2000 to 9535.3000; Minn. Stat. § 245.73)  Room and board may be paid for under GRH (Minn. Stat. ch. 256I). As of June 2009, nine facilities had GRH rate agreements with county agencies.
<b>Special Notes</b>	Noncertified boarding care homes are not certified for participation in the MA program. Residents of these facilities are also ineligible to receive home and community-based waiver services and home care services because these facilities are licensed by MDH and are considered institutional or health care facilities. <sup>6</sup>

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<sup>4</sup> MA classifies noncertified boarding care homes with Rule 36 licensure as Institutions for Mental Diseases (IMDs) and does not reimburse for services provided in these facilities.

<sup>5</sup> Refer to the glossary for short descriptions of the programs and services referred to in the text.

<sup>6</sup> MDH also classifies nursing homes, certified boarding care homes, and supervised living facilities as institutional or health care facilities. Residents of these facilities are also ineligible to receive home and community-based waiver services and home care services.

## **Supervised Living Facilities (SLFs)**

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

<b>Services</b>	Provide supervision, counseling, and DHS-licensed habilitative or rehabilitative program services
<b>Client Eligibility</b>	Serve five or more developmentally disabled clients
<b>Facilities in Minnesota</b>	219, as of March 15, 2009
<b>Beds in Minnesota</b>	1,921, as of March 15, 2009
<b>MDH Facility License</b>	Supervised living facility (Minn. Rules parts 4665.0100 to 4665.9900; Minn. Stat. §§ 144.50 and 144.56)
<b>DHS Program License</b>	Chapter 245B, <i>Services for developmental disabilities</i> (Minn. Stat § 252.28, subd. 2; ch. 245A and 245B) is required
<b>MA Certification</b>	Intermediate care facility for persons with developmental disabilities (ICF/DD)
<b>Reimbursement</b>	Room and board, and services: MA or private pay
<b>Provisions Governing Reimbursement</b>	Rule 53, <i>Determination of payment rates for intermediate care facilities for persons with developmental disabilities</i> (Minn. Rules parts 9553.0010 to 9553.0080; Minn. Stat. § 256B.501)

## **Group Homes**

<b>Services</b>	Provide supervision, counseling, and DHS-licensed habilitative or rehabilitative program services
<b>Client Eligibility</b>	Serve five or more clients who are chemically dependent, mentally ill adults, physically disabled, or developmentally disabled
<b>Facilities in Minnesota</b>	89 facilities, as of March 15, 2009
<b>Beds in Minnesota</b>	3,161 beds, as of March 15, 2009
<b>MDH Facility License</b>	Supervised living facility (Minn. Rules parts 4665.0100 to 4665.9900; Minn. Stat. §§ 144.50 and 144.56)
<b>DHS Program License</b>	Depending on the population served, the facility must have at least one of the following:  <i>Chapter 245B, Services for developmental disabilities</i> (Minn. Stat. ch. 245A and 245B; Minn. Stat. § 252.28, subd. 2)  <i>Rule 32, Licensure of chemical dependency rehabilitation programs</i> (Minn. Rules parts 9530.7000 to 9530.7031; Minn. Stat. ch. 245A)  <i>Rule 36, Residential programs for adult mentally ill persons</i> (Minn. Rules parts 9520.0500 to 9520.0690; Minn. Stat. ch. 245A)  <i>Rule 80, Residential programs and services for physically handicapped</i> (Minn. Rules parts 9570.2000 to 9570.3400; Minn. Stat. ch. 245A)
<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: GRH or private pay  Services: Rule 12, Rule 25, or private pay
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under GRH (Minn. Stat. ch. 256I)  Depending on the population served, DHS program services may be funded under:  <i>Rule 12, Residential services for adult mentally ill persons</i> (Minn. Rules parts 9535.2000 to 9535.3000; Minn. Stat. § 245.73) for persons with mental illness; or  <i>Rule 25, Chemical dependency care for public assistance recipients</i> (Minn. Rules parts 9530.6600 to 9530.6660; Minn. Stat. §§ 254A.03; 254B.03) for persons who are chemically dependent

## **Housing With Services Establishments**

<b>Services</b>	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 the elderly
<b>Facilities in Minnesota</b>	1,434, as of March 15, 2009
<b>Beds in Minnesota</b>	Not available. MDH reports that 44,871 residents were served in housing with services establishments as of March 15, 2009. Maximum resident capacity was 58,778.
<b>MDH Facility License</b>	Housing with services registration (Minn. Stat. ch. 144D) and any other required facility license, such as a board and lodging license or an adult foster care license
<b>DHS Program License</b>	None required
<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: GRH or private pay  Services: MA, MA waivers, Alternative Care (AC) program, or private pay
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under GRH (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.04)  Services may also be paid for under MA through the following waived services programs: <ul style="list-style-type: none"><li>▪ Alternative community-based services (ACS) waiver, Minn. Rules parts 9525.1800 to 9525.1930</li><li>▪ Elderly waiver (EW), Minn. Stat. § 256B.0915</li><li>▪ Community alternatives for disabled individuals (CADI) waiver, Minn. Stat. § 256B.49</li><li>▪ Home and community-based waiver for persons with developmental disabilities (DD), Minn. Rules parts 9525.1800 to 9525.1140</li><li>▪ Traumatic brain injury (TBI) waiver, Minn. Stat. § 256B.093</li></ul>

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.

Facilities that may register as housing with services establishments include board and lodging facilities with special services, corporate adult foster care homes, and assisted living settings. Registration as a housing with services establishment is in addition to, not a replacement for, any other required license.

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 services. (Refer to home care services section on page 16.)

As of March 15, 2009, the following MDH home care licenses are held by housing with services establishments:

Class F home care provider:	459
Class A professional home care agency:	26

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

<b>Services</b>	Provide supportive or health supervision services such as assisting with preparation and administration of certain medications and assisting with dressing, grooming, and bathing
<b>Client Eligibility</b>	Serve five or more regular boarders who need special services (i.e., are frail elderly, mentally ill, developmentally disabled, or chemically dependent)
<b>Facilities in Minnesota</b>	58, as of March 15, 2009
<b>Beds in Minnesota</b>	Not available
<b>MDH Facility License</b>	Board and lodging (Minn. Rules parts 4625.0100 to 4625.2355; Minn. Stat. §§ 144.12, subs. 1 and 3, 157.011 to 157.22, 327.10 to 327.131, 327.70 to 327.76)

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 Minnesota Statutes, chapter 144D, and must obtain the appropriate home care provider license.

**DHS Program License** None required. It is rare for a board and lodging facility with special services to have a DHS program license.

**MA Certification** None

**Reimbursement** Room and board: GRH or private pay

Services: Rule 12, Rule 25, MA, MA waivers, AC program, or private pay

**Provisions Governing Reimbursement** Room and board may be paid for under GRH (Minn. Stat. ch. 256I)

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

Rule 12, *Residential services for adult mentally ill persons* (Minn. Rules parts 9535.2000 to 9535.3000; Minn. Stat. § 245.73) for persons with mental illness; or

Rule 25, *Chemical dependency care for public assistance recipients* (Minn. Rules parts 9530.6600 to 9530.6660; Minn. Stat. §§ 254A.03 and 254B.03) for persons who are chemically dependent

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.04)

Services may also be paid for under MA through the following waived services programs:<sup>7</sup>

- Alternative community-based services (ACS) waiver, Minn. Rules parts 9525.1800 to 9525.1930
- Elderly waiver (EW), Minn. Stat. § 256B.0915
- Community alternatives for disabled individuals (CADI) waiver, Minn. Stat. § 256B.49
- Traumatic brain injury (TBI) waiver, Minn. Stat. § 256B.093

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

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<sup>7</sup> In addition, the home and community-based waiver for persons with developmental disabilities (DD) provides services to a small number of residents who were transferred from the semi-independent living services (SILS) program to the DD waiver in the early 1990s, but allowed to remain in a board and lodging facility with special services (Laws 1993, 1<sup>st</sup> spec. sess., ch. 1, art. 1, § 2, subd. 3).

## **Board and Lodging Facilities**

<b>Services</b>	Room and board only
<b>Client Eligibility</b>	Clients vary
<b>Facilities in Minnesota</b>	Not available <sup>8</sup>
<b>Beds in Minnesota</b>	Not available <sup>9</sup>
<b>MDH Facility License</b>	Board and lodging (Minn. Rules parts 4625.0100 to 4625.2355; Minn. Stat. §§ 144.12, subds.1 and 3, 157.011 to 157.22, 327.10 to 327.76)
<b>DHS Program License</b>	None required. Depending on the population served, a facility may be licensed under:  <i>Children's Residential Facility Rule</i> (Minn. Rules, parts 2960.0010 to 2960.3340; Minn. Stat. ch. 245A);  <i>Rule 32, Licensure of chemical dependency rehabilitation programs</i> (Minn. Rules parts 9530.7000 to 9530.7031; Minn. Stat. ch. 245A); or  <i>Rule 36, Residential programs for adult mentally ill persons</i> (Minn. Rules parts 9520.0500 to 9520.0670; Minn. Stat. ch. 245A).
<b>MA Certification</b>	Children's Residential Facility Rule programs
<b>Reimbursement</b>	Room and board: GRH 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 GRH (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).
<b>Special notes</b>	A wide range of facilities have board and lodging licenses. Facility types include rooming houses, private-pay-only senior housing establishments, and hotels.  As of September 21, 2009, there were 46 Rule 36 programs with a total bed capacity of 1,204.

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<sup>8</sup> An accurate number of board and lodging facilities that are not "board and lodging facilities with special services" and are not registered as a "housing with services establishment" is not available. The state licenses board and lodging facilities in 41 counties. The remaining 46 counties in Minnesota have delegated programs and these facilities are licensed at the local level.

<sup>9</sup> The board and lodging license is an MDH license, but is not an MDH health care facility license (also see footnote 6 on page 6). Board and lodging facilities are not licensed by the number of beds, as health care facilities are, but are instead licensed by the number of rooms.



As of September 21, 2009, there were 94 children's residential facilities (formerly Rule 5 and Rule 8) with a total bed capacity of 1,856.

## **Adult Foster Care Homes**

<b>Services</b>	Provide 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 four people (five, if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability) who are unable to live alone or independently due to a developmental or physical disability or some other functional impairment
<b>Facilities in Minnesota</b>	4,815 facilities, as of September 21, 2009
<b>Beds in Minnesota</b>	16,924 beds, as of September 21, 2009
<b>MDH Facility License</b>	If a corporate adult foster care 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 register as a housing with services establishment under Minnesota Statutes, chapter 144D, and must obtain the appropriate home care license. <sup>10</sup>
<b>DHS Program License</b>	Rule 203, <i>Administration of adult foster care services and licensure of adult foster care homes</i> (Minn. Rules parts 9555.5050 to 9555.6400; Minn. Stat. §§ 245A.09, 256B.092) is required.
<b>MA Certification</b>	None
<b>Reimbursement</b>	Room and board: GRH or private pay  Services: MA, MA waivers, AC program, or private pay
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under GRH (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.04)  MA pays for services through the following home and community-

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<sup>10</sup> Family adult foster care homes are exempt from this requirement.

based waiver programs:

- Alternative community-based services (ACS) waiver, Minn. Rules parts 9525.1800 to 9525.1930
- Elderly waiver (EW), Minn. Stat. § 256B.0915
- Community alternative care (CAC) waiver, Minn. Stat. § 256B.49
- Community alternatives for disabled individuals (CADI) waiver, Minn. Stat. § 256B.49
- Home and community-based waiver for persons with developmental disabilities (DD), Minn. Rules parts 9525.1800 to 9525.2140
- Traumatic brain injury (TBI) waiver, Minn. Stat. § 256B.093

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

### **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. Many corporate adult foster care homes serve developmentally disabled residents.

## Part 2: Support Services

### Assisted Living

<b>Services</b>	Services provided vary. They may include, but are not limited to, provision of the following services to clients who reside in apartment buildings and other residential settings: daily meals, supportive services, health-related services, and oversight.
<b>Client Eligibility</b>	Clients generally need help with activities of daily living (such as eating, bathing, and dressing)
<b>Facilities in Minnesota</b>	Not available <sup>11</sup>
<b>Beds in Minnesota</b>	Not available
<b>MDH Service License</b>	A facility providing “assisted living” services must be registered as a housing with services establishment under Minnesota Statutes, chapter 144D, and is subject to the requirements of Minnesota Statutes, chapter 144G.
<b>DHS Program License</b>	None required
<b>Reimbursement</b>	Room and board: GRH or private pay  Services: MA waivers, AC program, or private pay
<b>Provisions Governing Reimbursement</b>	Room and board may be paid for under GRH (Minn. Stat. ch. 256I)  MA may pay for services through the following home and community-based waiver programs: <ul style="list-style-type: none"><li>▪ Elderly waiver (EW), Minn. Stat. § 256B.0915</li><li>▪ Community alternatives for disabled individuals (CADI), Minn. Stat. § 256B.49</li><li>▪ Community alternative care program (CAC), Minn. Stat. § 256B.49</li><li>▪ Traumatic brain injury (TBI) waiver, Minn. Stat. § 256B.093</li></ul> The AC program may pay for services (Minn. Stat. § 256B.0913)

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<sup>11</sup> Most assisted living services in Minnesota are provided in facilities registered as housing with services establishments. Some elderly persons receive assisted living services in family adult foster care homes; these facilities are exempt from housing with services registration.

## **Special Notes**

There is no standard definition of “assisted living.” DHS has defined “assisted living” for purposes of the alternative care and home and community-based waiver program. MDH has a definition for purposes of the class F license, and the term is protected under chapter 144G. However, the term is often used more broadly by the general public.

The housing with services statute defines assisted living “for purposes of consistency with terminology commonly used in long-term care insurance policies” (Minn. Stat. § 144D.015).

## **Home Care Services**

<b>Services</b>	Home care providers and private duty nurses provide skilled nursing, personal care services, rehabilitative therapy, and other health-related services necessary for clients to live independently
<b>Client Eligibility</b>	Clients typically are physically disabled, developmentally disabled, or mentally ill
<b>Providers in Minnesota</b>	1,672, as of September 21, 2009
<b>Beds in Minnesota</b>	Not applicable
<b>MDH Service License</b>	<p>Home care licensure (Minn. Rules parts 4668.0002 to 4668.0870; Minn. Stat. §§ 144A.45 to 144A.47) is required. Classes of home care licenses include the following:</p> <p><b>Class A:</b> professional home care agency license for providers of all home care services; 664 licenses as of March 15, 2009</p> <p><b>Class B:</b> paraprofessional agency license for providers of home care aide tasks and home management tasks; 27 licenses as of March 15, 2009</p> <p><b>Class C:</b> individual paraprofessional license for providers of home health aide, home care aide, and home management tasks; 50 licenses as of March 15, 2009</p> <p><b>Class F:</b> category of home care licensure for providers of nursing services, delegated nursing services, other services performed by unlicensed personnel, or central storage of medications, solely for residents of one or more housing with services establishments; 628 licenses as of March 15, 2009</p> <p><b>Home management:</b> registration for providers performing only home management services; 114 licenses as of March 15, 2009</p>

<b>DHS Program License</b>	None required. MA requirements for home care providers are specified in Minnesota Statutes, sections 256B.0625, 256B.0651, 256B.0653, 256B.0654, and 256B.0659.
<b>Reimbursement</b>	Services: Medicare, MA, MA waivers, AC program, or private pay
<b>Provisions Governing Reimbursement</b>	<p>MA may pay for services as a regular covered service if provided by Medicare-certified class A providers, personal care provider organizations, some independently enrolled personal care assistants, and private duty nursing providers.</p> <p>MA may also pay for services through the following home and community-based waiver programs:</p> <ul style="list-style-type: none"><li>▪ Alternative community-based services (ACS) waiver, Minn. Rules parts 9525.1800 to 9525.1930</li><li>▪ Elderly waiver (EW), Minn. Stat. § 256B.0915</li><li>▪ Community alternative care (CAC) waiver, Minn. Stat. § 256B.49</li><li>▪ Community alternatives for disabled individuals (CADI) waiver, Minn. Stat. § 256B.49</li><li>▪ Home and community-based waiver for persons with developmental disabilities (DD), Minn. Rules parts 9525.1800 to 9525.2140</li><li>▪ Traumatic brain injury (TBI) waiver, Minn. Stat. § 256B.093</li></ul> <p>The AC program may pay for services (Minn. Stat. § 256B.0913)</p>
<b>Special Notes</b>	<p><b>Personal Care Assistant (PCA) Services:</b> Services are provided by MA-enrolled providers that provide or assist with providing PCA services. Providers include PCA provider organizations, PCA choice agencies, class A license nursing agencies, and Medicare-certified home health agencies. The 2009 Legislature enacted several changes to the PCA program including requiring PCA agencies and agency staff to meet certain standards, including training and limiting the number of hours a PCA can work each month to 310 hours (this limitation was changed to 275 hours by the 2010 Legislature).</p> <p><b>Hospice Provider Licensure:</b> In 2002, legislation was enacted to separate hospice provider licensure from home care provider licensure. Hospice providers are licensed under a separate licensure system administered by MDH (Minn. Rules, parts 4664.0002 to 4664.0550 and Minn. Stat. § 144A.752). As of May 15, 2010, there were 78 licensed hospice facilities.</p>

## **Semi-Independent Living Services (SILS)**

<b>Services</b>	Provide supportive services that may include budgeting, meal preparation, shopping, counseling, and related services needed to maintain and improve the client's functioning. Services are provided in the client's home, apartment, foster home, or board and lodging facility.
<b>Client Eligibility</b>	Services are provided to persons with developmental disabilities whose dependency requires services above the level of board and lodging but who do not need 24-hour-per-day care or supervision. Clients cannot be at risk for ICF/DD placement.
<b>Facilities in Minnesota</b>	119 agency licenses, as of December 27, 2009
<b>Beds in Minnesota</b>	Not applicable
<b>MDH Service License</b>	None
<b>DHS Program License</b>	Chapter 245B, <i>Semi-independent living services</i> (Minn. Stat. ch. 245B and §§ 245A.09, 252.28) is required
<b>Reimbursement</b>	Services: State allocation, county contributions, or private pay
<b>Provisions Governing Reimbursement</b>	SILS are reimbursed by a state allocation authorized by the legislature: <i>Semi-independent living services for persons with developmental disability</i> (Minn. Stat. § 252.275)

## Part 3: Appendices and Glossary

### Appendix A

#### Facility and Service Regulation Minnesota Department of Health Rules 2009 and Minnesota Statutes 2008

Facility	Minnesota Rule Parts	Minnesota Statutes
Nursing Homes	4658.0010 to 4658.5590	§§ 144A.01 to 144A.10; 144A.11; 144A.115
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
Supervised Living Facilities	4665.0100 to 4665.9900	§§ 144.50; 144.56
Board and Lodging Facilities	4625.0100 to 4625.2355	§§ 144.12, subds. 1 and 3; 157.011 to 157.22; 327.10 to 327.131; 327.70 to 327.76
Home Care Providers	4668.0002 to 4668.0870 4669.0001 to 4669.0050	§§ 144A.45 to 144A.47
Hospice Providers	4664.0002 to 4664.0550 9505.0446	§§ 144A.75 to 144A.756

**Appendix B**

**Facility and Service Regulation  
 Minnesota Department of Human Services  
 Rules 2009 and Minnesota Statutes 2008**

<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 certain 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	
Rule 12	Residential services for adult mentally ill persons	Rule for administering program grants to Rule 36 facilities	9535.2000 to 9535.3000	§ 245.73
Chapter 245B	Semi-independent living services	Rule governing eligibility, program services, and administration of SILS	9525.0900 to 9525.1020	Chapters 245A, 245B; §§ 252.275; 252.28
	Group residential housing rate	Administration of group residential housing	NA	Chapter 256I
	Licensure of residential programs for persons with developmental disabilities	Governs operation of residential programs and services for persons with developmental disabilities	9525.0935	Chapters 245A, 245B; §§ 252.275; 252.28, subd. 2
	Licenses; residential-based habilitation services	Governs operation of residential-based habilitation services for persons with developmental disabilities	9525.0900 to 9525.0935	Chapters 245A, 245B; §§ 252.28; 252A.03; 256B.092
Rule 24	Consolidated chemical dependency treatment fund	Rule governing payments under the chemical dependency consolidated treatment fund	9530.6800 to 9530.7031	§ 254B.03, subd. 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 9530.6660	§§ 254A.03; 254B.03
Rule 32	Licensure of chemical dependency rehabilitation programs	Governs operation of residential programs for chemically dependent persons funded through the Consolidated Chemical Dependency Treatment Fund	9530.7000 to 9530.7031	§ 254B.03



<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 adult mentally ill persons	Governs operation of residential programs for adult mentally ill persons funded by Rule 12	9520.0500 to 9520.0690	Chapter 245A
Rule 50	Nursing facility payment rates	Governs payment rates for nursing homes	9549.0010 to 9549.0080	§§ 256B.41 to 256B.48; 256B.50; 256B.502
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 physically disabled persons	9570.0100 to 9570.4300	Chapter 245A
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 9555.6400	Chapter 245A; § 256B.092

## **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**, as defined by MDH, means individualized home care aide tasks or home management tasks provided to clients of a residential center in their living units, and provided either by the management of the residential center or by providers under contract with the management. (Minn. Rules part 4668.0003, subp. 3) According to Minnesota Statutes, section 144G.01, services or a package of services that use the phrase “assisted living” are subject to Minnesota Statutes, chapter 144G.

**Group residential housing (GRH) program** provides funding to eligible persons to pay for room and board and other related housing services. The GRH program replaced what was referred to as the “negotiated rate” payment system. GRH payments are made out of the GRH 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.

**Health-related services**, as they are provided in housing with services establishments, include professional nursing services, home health aide tasks, and home care aide tasks, or the central storage of medication for residents. (Minn. Stat. § 144D.01, subd. 6 (2008))

**Health supervision services**, as they are provided in board and lodging facilities and board and lodging facilities 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 (2008))

**Home care aide tasks** include preparing modified diets; reminding clients to take medication or to perform exercises; doing household chores in certain circumstances; and assisting with dressing, oral hygiene, hair care, grooming, and bathing in certain circumstances. (Minn. Rules part 4668.0110, subp. 1 (2005))

**Home care services** include nursing, certain personal care services, physical therapy, speech therapy, respiratory therapy, occupational therapy, nutritional services, home management services, medical social services, provision of medical supplies and equipment, and other health-related services. (Minn. Stat. § 144A.43, subd. 3 (2008))

**Home health aide tasks** include the administration of medication; routine, delegated medical or nursing or assigned therapy procedures; assisting with body positioning and transfers; feeding of clients; assisting with bowel and bladder control, devices, and training; assisting with certain exercises; skin care and bathing; and maintaining hygiene of the client’s body and environment. (Minn. Rules part 4668.0100, subp. 1 (2005))

**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 (2005))

**Home management services** include at least two of the following services: housekeeping, meal preparation, and shopping. (Minn. Stat. § 144A.43, subd. 3, cl. 8 (2008))

**Home management tasks** means all home management services that are not home health aide or home care aide tasks. (Minn. Rules part 4668.0003, subp. 14 (2005))

**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 (2005))

**Institutions for mental diseases (IMDs)** are defined as facilities of 16 or more beds in which a majority of residents are age 22 to 64 and have diagnoses of mental illness. Many supervised living facilities (SLFs) serving persons with mental illness are classified as IMDs.

**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 services only in nursing facilities and ICFs/MR. MA does not pay for services provided in institutions for mental diseases (IMDs).

**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 (2008))

**Personal care** means assistance by a caregiver with or teaching of skills related to activities of daily living such as eating, grooming, bathing, and mobility. (Minn. Stat. § 256B.0659, subd. 1 (2009))

**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 (2005))

**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 other activities needed to maintain the ability of adults with developmental disabilities to live in the community. (Minn. Stat. § 245B.02, subd. 23 (2008))

**Supportive services** 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 (2008))

**Title IV-E** of the Social Security Act authorizes federal funding to states for foster care and adoption assistance. The law provides financial incentives for states to reduce the number of inappropriate and lengthy out-of-home placements and sets various program and state plan 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:

- Alternative community-based services (ACS) waiver for persons with developmental disabilities who are residing in a nursing home prior to receipt of waived services and who are at risk of ICF/MR placement
- 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 alternatives for disabled individuals (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
- Traumatic brain injury (TBI) 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

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