

Corporate Foster Care Moratorium

September 2021

Corporate foster care is foster care in which the primary license holder does not reside in the residence, and the foster care home is operated by a corporation with shift staff delivering services to clients. The 2009 Legislature established a partial moratorium on new licenses for corporate foster care. The moratorium has been modified by the legislature several times since 2009.

What is the corporate foster care moratorium?

Beginning July 1, 2009, the commissioner of human services was prohibited from assigning initial licenses for corporate foster care. Exceptions to the moratorium include:

- foster care settings where at least 80 percent of the residents are 55 years of age or older;
- new foster care licenses or community residential setting licenses for people receiving home and community-based services and residing in an unlicensed setting before May 1, 2017, and for which a license is required, if certain conditions are met; and
- beginning July 1, 2022, new foster care licenses or community residential setting licenses for people:
 - 1) receiving customized living or 24-hour customized living services under the MA Brain Injury or Community Access for Disability Inclusion waivers; and
 - 2) residing in the customized living setting before July 1, 2022, and for which a license is required, if certain conditions are met. This exception is only available until June 30, 2023.

The commissioner may also issue licenses for corporate foster care if the commissioner determines they are needed for the following purposes:

- foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013;
- new foster care licenses or community residential setting licenses for persons requiring hospital level care; and
- new foster care licenses or community residential setting licenses for:
 - 1) the closure of a nursing facility, intermediate care facility for persons with developmental disabilities, or regional treatment center;
 - 2) restructuring of state-operated services that limits the capacity of state-operated facilities; or
 - 3) allowing movement to the community for people who no longer need the level of care provided in state-operated facilities as provided under the MA disability waiver programs.

What is a community residential setting license?

The community residential setting license combines the setting and service license into one license for corporate foster care providers who serve persons receiving MA disability waiver services.

If a facility includes one or more persons with a funding source other than a disability waiver, such as elderly waiver 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.

What requirements must local agencies meet?

Counties are required to immediately inform the Department of Human Services (DHS) when an adult corporate foster care or community residential setting recipient chooses to move out of a corporate foster care home into a community-living setting. DHS may decrease the statewide licensed capacity for adult corporate foster care settings in order to align statewide licensed capacity with needs. (See [Minn. Stat. § 245A.03](#), subd. 7, paragraph (c).)

Are any settings exempt from decreases to licensed capacity?

Residential settings that would otherwise be subject to decreased licensed capacity are exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder meets adult mental health certification standards.

Is there a voluntary planned closure process?

Yes, there is an adult foster care planned closure process to accomplish the consolidation or closure of settings. Voluntary proposals from license holders for consolidation and closure of adult foster care or community residential settings are encouraged in the statute governing the voluntary planned closure process. License holders must submit a closure plan to the commissioner for review and approval. (See [Minn. Stat. § 256B.493](#).)

Is there a process to determine the statewide level of need for foster care capacity?

Yes, the commissioner must use a process to determine resource needs and align capacity where needed, using available long-term care services and supports reports and other data and information. (See [Minn. Stat. §§ 245A.03](#), subd. 7, and [256B.493](#), subd 2.)



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