Corporate Foster Care Moratorium

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

What is corporate foster care?

Corporate foster care is foster care that is operated by a corporation instead of individuals. The primary license holder does not live in the residence, and shift staff deliver service to clients who live in the residence. Foster care homes serve 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, or ability to cope with the demands of everyday life. The foster care homes also provide services such as supervision, protection, personal care and living skills assistance, and medication assistance.

What kind of license must a corporate foster care provider have?

A corporate foster care provider must have either a foster care license or a community residential setting license. A foster care license covers the setting. The community residential setting license combines the setting and service licenses into one license for corporate foster care providers who serve persons receiving Medical Assistance (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 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; and
- child foster care settings with residential program certifications for compliance with the Family First Preservation Services Act.

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

- new foster care licenses or community residential setting licenses for persons requiring hospital level care;
- new foster care licenses or community residential setting licenses for:

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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; and

- new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the BI or CADI waiver plans and residing in the customized living setting before July 1, 2026. This exception is available when specified conditions are met and expires June 30, 2027.

The corporate foster care moratorium was originally enacted to reduce the number of corporate foster care beds and save the state money by serving people in less expensive community settings.

What requirements must local agencies meet when a person chooses to move out of a corporate foster care home or community residential setting?

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, subds. 7b, para. (c), and 7d.)

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. (See Minn. Stat. § 245A.03, subd. 7b.)

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 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. 7d, and 256B.493, subd 2.)