

MINNESOTA

Citation

Housing with services establishments (registration): MS §144D.01 et seq.
 Home care licensure: MS 144A.43 to 144A.48.
 Minnesota rule, Chapter 4468 et seq. and Chapter 4669

General Approach and Recent Developments

The State registers housing with services establishments and licenses the service provider. Registered establishments may contract with a licensed agency or obtain its own license based on the level of care provided. Licensing categories include assisted living home care providers and Class E assisted living services, which covers standby assistance and no hands on care. Most service agencies are licensed as assisted living home care providers. Chapter 37 of the Acts of 2003 established new training requirements for assisted living home care providers and housing with services establishments that serve people with Alzheimer’s disease or related disorders. Interest in defining assisted living has emerged among stakeholder, consumers, counties and the attorney general’s office.

| SUPPLY | | | | | | |
|--------------------------------------|------------|-------|------------|-------|------------|-------|
| Category | 2004 | | 2002 | | 2000 | |
| | Facilities | Units | Facilities | Units | Facilities | Units |
| Housing with services establishments | 931 | NA | 600 | NA | 592 | NA |

Definition

A *housing with services* establishment means an establishment providing sleeping accommodations to one or more adult residents, at least 80 percent of which are 55 years of age or older, and offering or providing for a fee one or more regularly scheduled health-related services and two or more regularly scheduled supportive services, whether offered or provided directly by another entity arranged for by the establishment.

The statute defines *assisted living home care provider* as a home care provider who provides 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 registered under Chapter 144D.

The State’s Medicaid waiver program defines *Assisted living services* as “up to 24-hour oversight and supervision, supportive services, home care aide tasks and individualized home management tasks...” provided in all settings that are registered as Housing with Services Establishments and provided by management or by providers under contract with the establishment.

Unit Requirements

Housing with services. No requirements stated. Must meet appropriate building and fire codes for the structure.

Admission/Retention Policy

Housing with services. The statute requires written contracts between facilities and tenants that describe the registration status; terms; a description of services to be provided directly or through other arrangements; fee schedules; a description of the process through which the contract may be modified, amended, or terminated; complaint procedures; retention policies; and other items.

Medicaid waiver and state program. Participants for the Alternative Care and Medicaid waiver programs must be screened by the county pre-admission screening team and must meet the nursing home level of care criteria. The Alternative Care (AC) program, funded solely with state revenues, was implemented in 1991 and supports certain home and community services for persons age 65 and over, who are at risk of nursing home placement, have low levels of income and assets, but do not meet Medicaid financial criteria.

Nursing Home Admission Policy

Professional judgment based on the assessment.

Services

Residential care settings may have specific service requirements and limitations based on their particular licensing category. Beyond those requirements, they may choose from an array of possible “supportive” and “health-related” services to develop their own service packages based on the needs of their community and their target market. Assisted living home care providers must deliver at least one of the following services: delegated nursing services, other services performed by unlicensed personnel, or central storage of medications.

Services furnished or arranged for by a provider may include supervision, supportive services, individualized home care aide tasks, individualized home health aide-like tasks, and individualized home management tasks. Individualized means services are chosen and designed specifically for each resident’s needs, rather than provided or offered to all residents regardless of their illnesses, disabilities, or physical conditions.

Home care licensing rules define health related services as professional nursing services or home health aide tasks such as administration of medication; routine delegated medical, nursing, or assigned therapy procedures; assistance with body

positioning or transfers of people who are not ambulatory; the feeding of clients who are at risk of choking; assistance with bowel and bladder control, devices, and training programs; assistance with therapeutic or passive range of motion exercises; and provision of skin care and of services to maintain hygiene during episodes of illness.

Home care aide tasks are differentiated from home health aide and include assisting with dressing, oral hygiene, hair care, and grooming and bathing. If the client is ambulatory and has no serious illness or infectious disease, these tasks include preparing modified diets, medication reminders, and household chores in the presence of technically sophisticated medical equipment or during episodes of acute illness or infectious disease.

Home management tasks include housekeeping, laundry, preparation of regular snacks and meals, and shopping. Supportive services includes assisting clients in setting up medical and social services, assisting clients with funds, arranging for or providing transportation, and socialization (when socialization is part of the plan of care, has specific goals and outcomes established and is not diversional or recreational in nature.)

Assisted living plus is a group of services, one of which must be 24-hour supervision, delivered in three settings: one to five unrelated people in a residential unit; five or more unrelated people in a setting which is licensed as a board and lodge; or a residential center which is a building or complex of adjacent buildings with separate living units which clients rent or own. Providers must be registered as a housing with services establishment and licensed as a class A home care agency or an assisted living home care provider. Assisted living can be delivered in the same settings but does not include 24-hour supervision.

NOTE: In the last legislative session, the Housing with Services Act was modified to allow residential care settings that don't have at least 80 percent elderly persons to voluntarily register as Housing with Services Establishments, thus enabling their residents to be served with the Assisted Living Plus package.

Under the Elderly Waiver program (and the Alternative Care program), residents may also receive home health and skilled nursing services, which are reimbursed separately from the payment for assisted living services. However, individuals receiving assisted living services may not receive homemaking and personal care services as well as assisted living services.

Dietary

Not specified.

Agreements

The registration statute requires contracts between the housing operator and tenants that include: name and address of the establishment and owners; a statement describing the registration and licensure status of the establishment; term of the contract; description of the services provided and the base rate; fee schedules for any additional services; process for modifying, amending, or terminating the contract; complaint process; billing and payment procedures; resident's designated representative; criteria for determining who may reside in the establishment; statement regarding the ability of tenants to receive services from providers that do not have an arrangement with the establishment; and a statement regarding the availability of public funds.

Home care regulations cover the service agreement which includes a description of the service to be provided and the frequency of each service, the persons or category of persons who will provide the service, the schedule or frequency of sessions of supervision or monitoring, fees for each service, and a plan for contingency action if scheduled services cannot be provided.

Provisions for Serving People with Dementia

Housing with Services Establishments are required to disclose the form of care or treatment, the treatment philosophy, unique features for screening, admission and discharge, assessment, care planning and implementation, staffing patterns, the physical environment, security features, frequency and type of activities, opportunities for family involvement, and the costs of care. Direct care staff must receive 4 hours of training within the first month of employment and 4 hours a year. The statute specifies that training is required in the following areas: an explanation of Alzheimer's disease and related disorders; assistance with activities of daily living; problem solving with challenging behaviors; and communication skills. The licensee shall provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

Medication Administration

The assisted living home care provider rules allow medication administration. Staff administering medications must be instructed by a registered nurse, the instructions must be written, and the person must demonstrate competence in following the instructions.

Public Financing

Services for low-income residents have been covered through the state-funded Alternative Care Program (AC) since 1991 and the Medicaid Home and Community Based Services Waiver program since 1993. The AC Program serves nursing home eligible residents whose gross monthly income is greater than 120 percent of Federal Poverty Level or whose gross assets are greater than the asset limit for the Medical

Assistance (MA) program, but whose combined adjusted monthly income and adjusted assets are no greater than the cost of 180 days of nursing facility care. The HCBS waiver covers aged and disabled Medicaid recipients who meet the nursing home criteria.

The HCBS waiver program served 2,895 beneficiaries in 281 facilities in FY 2001 and the AC program served 1,588 beneficiaries in 247 facilities. Rates for services are negotiated between the county and the provider with limits based on the client's case-mix classification.

| PARTICIPATION | | | | | | |
|---------------|-------------|---------------|-------------|---------------|------------|---------------|
| Source | 2004 (FY03) | | 2002 (FY01) | | 2000 | |
| | Facilities | Participation | Facilities | Participation | Facilities | Participation |
| HCBS | 396 | 4,114 | 281 | 2,895 | NR | 397 |
| AC* | 325 | 2,328 | 247 | 1,588 | NR | NR |

* AC is a state-funded program.

Alternative Care Program. Service rates under this state-funded program cannot exceed the State's Medicaid share of the average monthly nursing home payment. The client pays for room and board (raw food costs only; meal preparation is covered as a service). The cost of services in addition to assisted living services may not exceed 75 percent of the average nursing home payment for the case-mix classification.

HCBS waiver. Rates for assisted living services in the waiver program are also capped at the state share of the average nursing home payment, and the total costs, including skilled nursing and home health aide in addition to assisted living services, cannot exceed 100 percent of the average cost for the client's case-mix classification. The statewide maximum service rate for assisted living services beginning July 1, 2003, for elderly recipients ranged from \$982 a month to \$2,283 a month depending upon the case-mix classification. These rates are effective through June, 30, 2005. Rates in a particular county could be higher or lower than the averages. In addition to the assisted living rates, the waiver has caps for all waiver services including assisted living. The Alternative Care Program maximum paid for all services including assisted living ranged from \$1,543 to \$3,588 a month. Medicaid waiver maximum costs ranged from \$2,057 to \$4,784 a month depending upon the case-mix classification (see table below). Around 90 percent of the Elderly Waiver participants fall into Categories A through E.

The above rates do not include room and board. The Special Income Standard (SIS) or 300 percent eligibility option, for all Elderly Waiver recipients during state fiscal year 2004, is \$1692. The maintenance allowance that residents retain for their expenses is \$766, which includes a \$74 personal needs allowance (equal to the PNA for nursing facility residents), and the remaining \$692 pays for room and board costs. Any income above the \$766 maintenance allowance is applied toward the cost of waiver services. Elderly Waiver participants who have a gross monthly income which exceeds 300 percent of Supplemental Security Income (SSI) may not use the SIS when determining their Medicaid budget but must pay a medical spend down (all monthly income greater than the State's Medically Needy standard for aged, blind and disabled or \$582) toward all incurred medical expenses.

| MINNESOTA CASE-MIX CATEGORIES AND MAXIMUM STATEWIDE RATE LIMITS FOR ASSISTED LIVING AND ALL OTHER WAIVER SERVICES-- EFFECTIVE 7/01/03-6/30/05 | | | | |
|--|--|---|-----------------------|---|
| Case-Mix | Average Assisted Living Payment^a | Total Rate Limits for All Services^b | | Description |
| | | AC Program | Elderly Waiver | |
| A | \$1,029 | \$1,543 | \$2,057 | Up to 3 ADL dependencies ^c |
| B | \$1,169 | \$1,755 | \$2,340 | 3 ADLs + behavior |
| C | \$1,372 | \$2,059 | \$2,745 | 3 ADLs + special nursing care |
| D | \$1,418 | \$2,127 | \$2,836 | 4-6 ADLs |
| E | \$1,564 | \$2,346 | \$3,128 | 4-6 ADLs + behavior |
| F | \$1,611 | \$2,417 | \$3,223 | 4-6 ADLs + special nursing care |
| G | \$1,663 | \$2,494 | \$3,326 | 7-8 ADLs |
| H | \$1,876 | \$2,814 | \$3,752 | 7-8 ADLs + behavior |
| I | \$1,925 | \$2,888 | \$3,851 | 7-8 ADLs + needs total or partial help eating (observation for choking, tube, or IV feeding and inappropriate behavior) |
| J | #2,051 | \$3,079 | \$4,105 | 7-8 ADLs + total help eating (as above) or severe neuromuscular diagnosis or behavior problems |
| K | \$2,392 | \$3,588 | \$4,784 | 7-8 ADLs + special nursing |

a. Statewide average assisted living monthly payment by case-mix classification.
b. Rate limits must include assisted living services, which the residence is responsible for providing or arranging and all other waiver services provided to the client.
c. ADLs include bathing, dressing, grooming, eating, bed mobility, transferring, walking, and toileting.

Staffing

The Department of Health's standards for home care services licenses do not apply to the building itself. Housing with services providers may not accept anyone for whom services cannot be provided and must provide adequate staff to meet the needs of clients/residents.

Training

Staff. Orientation and training are required based on the tasks performed by the worker.

Training requirements are specified for staff performing home care aide tasks, home management tasks, and delegated nursing tasks. Each person who applies for a license and/or provides direct care, supervision of direct care, or manages services for a licensee must receive an orientation to home care requirements covering: the general approach of the statute and regulations, handling of emergencies, reporting abuse/neglect, home care bill of rights, handling and reporting of complaints, and services of the ombudsman.

Training and a competency evaluation are required for unlicensed people who perform assisted living home care tasks. The curriculum includes: a general overview of the Minnesota statutes; recognition and handling of emergencies and use of emergency services; reporting the maltreatment of vulnerable adults; home care bill of rights;

handling of complaints; services of the ombudsman; observation, reporting, and documentation of client status and of the care or services provided; basic infection control; maintenance of a clean, safe, and healthy environment; communication skills; basic elements of body functioning and changes in body function that must be reported to an appropriate health care professional; and the physical, emotional, and developmental needs of clients.

Staff who provide medication administration and active assistance with medications must complete the above training program, pass a competency test, and be instructed by a registered nurse in the procedures to administer the medications to each client/resident. The instruction is specific to each resident.

Staff providing home management tasks (housekeeping, meal preparation, and shopping) must receive training on the bill of rights and orientation on the aging process and the needs and concerns of elderly and disabled persons.

Background Check

A license may be denied or suspended for conviction of any of 15 types of crimes listed in the regulations. Each employee with direct contact with clients must sign a statement disclosing convictions of all crimes, except minor traffic violations. Employees may be required to sign a release statement authorizing local authorities to provide the commissioner a history of criminal convictions.

Monitoring

Not described.

Fees

Housing with services buildings must pay a registration fee of \$35 per address. Assisted living home care agencies pay a graduated fee based on average census:

- \$125 annually for those providers serving a monthly average of 15 or fewer clients, and for assisted living providers of all sizes during the first year of operation;
- \$200 annually for those providers serving a monthly average of 16 to 30 clients;
- \$375 annually for those providers serving a monthly average of 31 to 50 clients; and
- \$625 annually for those providers serving a monthly average of 51 or more clients.

STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004

Files Available for This Report

Cover, Table of Contents, and Acknowledgments

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HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom1.htm>
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SECTION 2. Comparison of State Policies

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SECTION 3. State Summaries (All States)

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Links to Individual States

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