

# WISCONSIN

## Citation

Residential care apartment complexes, Chapter HFS 89.  
Community-based residential facilities, Chapter HFS 83.

## General Approach and Recent Developments

Wisconsin has two types of residential care facilities: community-based residential facilities (CBRFs) and residential care apartment complexes (RCACs).

RCACs may be either certified or registered. Regulations providing for RCAC registration and certification were effective March 1997. Registered facilities do not receive regulatory monitoring and cannot contract with counties to serve Medicaid beneficiaries. Tenants residing in registered facilities must be notified that the department does not regularly visit or inspect these facilities. The rules state that the chapter governing RCACs is intended to ensure that all residential care apartment complexes provide each tenant with an independent apartment in a setting that is home-like and residential in character; make available personal, supportive and nursing services that are appropriate to the needs, abilities and preferences of individual tenants; and operate in a manner that protects tenants' rights, respects tenant privacy, enhances tenant self-reliance and supports tenant autonomy in decision-making including the right to accept risk.

Facilities must be certified to receive Medicaid reimbursement. To be certified, facilities must submit documents showing compliance with all applicable federal, state, and local licensing, building, zoning, and related requirements. Certified facilities may be visited to determine compliance with certification requirements.

Several levels of CBRFs are licensed based on size (small: 5 to 8 beds; medium: 9 to 20 beds; and large: 21 or more beds) and six classes of care based on whether residents are ambulatory (walk without difficulty); semi-ambulatory (able to walk with difficulty or only with assistance of an aid such as crutches, a cane, or walker); and non-ambulatory (not able to walk at all but able to be mobile with the help of a wheelchair) and when the resident can self-evacuate the building in the event of a fire. The State is currently revising the rules for CBRFs.

Category	SUPPLY					
	2004		2002		2000	
	Facilities	Units	Facilities	Units	Facilities	Units
RCAC certified	85	3,406	122	4,452	94	3,211
RCAC registered	66	2,595				
Community based residential facilities	1,359	21,374	1,350	21,242	1,340	21,064

The Bureau of Health Care Quality created an Assisted Living Forum in 2004 to recommend revisions to the CBRF rules. Earlier proposed changes were placed on hold pending further review by the Forum, comparison to rules in other states and a review of the recommendations from the national Assisted Living Workgroup. The purpose of the rule revision is to eliminate unneeded or inefficient regulations, and to create outcome-oriented rules. The revisions will also update training standards, and replace department-approved training programs with competency testing or other methods.

## **Definition**

*A residential care apartment complex* is “a place where five or more adults reside that consists of independent apartments, each of which has an individual lockable entrance and exit, a separate kitchen, including a stove, an individual bathroom, sleeping, and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of supportive, personal and nursing services. A residential care apartment complex does not include a nursing home or a community-based residential facility, but may be physically part of a structure that is a nursing home or community based residential facility.”

Facilities that are part of a nursing facility or a community based residential facility must be physically separate and distinct although they may share a common lobby and entrance. They may also share common dining and activity areas as long as they are not scheduled for concurrent use.

*A community based residential facility* is a place where five or more unrelated adults reside, in which care, treatment, or services above the level of room and board are provided to residents as a primary function of the facility not to exceed three hours per resident per week of nursing care.

## **Unit Requirements**

*Residential care apartment complex.* The rules require units with a minimum of 250 square feet for sleeping and living areas, excluding closets. The kitchen must be a visually and functionally distinct area of the unit. Microwave ovens may be used instead of stoves. The sleeping and living areas also have to be visually and functionally distinct but not separate rooms. Variances may be granted for facilities converting to assisted living to allow up to a 10 percent reduction in square footage requirements.

*Community based residential facilities.* Private rooms must offer 100 square feet and double rooms 80 square feet per person. No more than two residents may share a room. Small and medium facilities must offer one bathroom and shower facility for every eight residents. Large facilities must have one toilet, bath, and shower for every eight male residents and every eight female residents.

## **Admission/Retention Policy**

*Residential care apartment complex.* The rules require the development of a mutually agreed upon service agreement and signing of a negotiated risk agreement. The risk agreement identifies situations or conditions known by the facility to arise from the tenant's preferences which are contrary to the facility's advice, how they will be accommodated, alternatives offered to reduce the risk, the agreed upon course of action, and the tenant's understanding and acceptance of responsibility.

Facilities may retain tenants whose needs can be met by the facility or met by services available from another provider. Facilities may not admit anyone who has a court determination of incompetence, anyone who has an activated power of attorney for health care, anyone found by a physician or psychologist to be incapable of recognizing danger, summoning assistance, expressing need, or making care decisions, unless they share a unit with a competent person who has legal responsibility for the individual. Facilities may also retain a tenant who becomes incompetent as long as adequate oversight and service are provided and risk agreements are signed by the guardian (these residents must have a guardian) or agent with power of attorney.

Facilities may terminate agreements with tenants whose needs cannot be met by the facility if service needs exceed 28 hours a week (unless additional services are secured by the tenant from other providers), tenants require 24-hour-a-day nurse availability, the tenant is a danger to self or others, or fees have not been paid.

*Community based residential facilities* may not admit or retain anyone who is confined to bed by illness or infirmity (unless it is temporary); who is destructive; has physical, mental, psychiatric, or social needs that are not compatible with the CBRFs client group; needs more than three hours of nursing care per week except for a temporary condition lasting no more than 90 days; requires 24-hour supervision by an RN or LPN; has chronic personal care needs that cannot be met by the facility or a community agency; or who requires restraints. A waiver may be granted for residents needing more than three hours of skilled care a week if his or her condition is stable and the services needed are available in the facility.

In its licensing application, the facility must specify the group of residents to be served.

## **Nursing Home Admission Policy**

Individuals qualify if they have severe medical conditions or substantial medical and social/behavioral needs. If the latter, an individual must meet all of the following eligibility criteria:

- A long-term or irreversible illness or disability;
- An unstable or stable medical or psychiatric condition requiring long-term maintenance and prevention;
- Needs help with two or more IADLs;

- Needs assistance with two or more ADLs (feeding oneself, dressing, bathing, using the toilet, getting out of bed or up from a chair, ambulation, or requires daily supervision to ensure safety or wanders, is combative or abusive, incompetent or seriously mentally ill; and
- Has no friends or relatives able or willing to provide assistance.

Substantial medical conditions include significant deterioration of physical or mental health in the past 12 months; a need for daily monitoring of fluid and solid intake; uses six or more prescriptions at least three days a week; needs assistance with medications; incontinence; physician ordered turning or repositioning; daily range of motion exercises to prevent skin breakdown; direct assistance with health care needs five days a week; over 85 and unable to manage medical conditions; and other conditions. People with dementia who do not need regular nursing care are not eligible.

## **Services**

*Residential care apartment complex.* Facilities must provide or contract for services that are sufficient and qualified to meet the care needs identified in the tenant service agreement. The minimum service package includes supportive services (meals, housekeeping, laundry, arranging access to medical services, and transportation to medical services); personal services (daily assistance with ADLs); and nursing services (health monitoring, medication administration, and medication monitoring). Services above these minimums may be provided so long as the total amount of care does not exceed 28 hours per week.

A comprehensive assessment must be done and used as the basis of a service plan and risk agreement. The assessment covers: physical health; functional limitations and capacities; medication and the ability to self-administer; nutritional status and needs; mental and emotional health; behavior patterns; social and leisure needs and preferences; strengths, abilities, and capacity for self-care; situations or conditions which could put the tenant at risk; and the type, amount, and timing of services desired by the tenant.

The legislation and regulations limit the amount of supportive, personal, and nursing services that may be provided to no more than 28 hours a week. The threshold was devised to prevent facilities from discharging residents prematurely. The threshold was developed based on an analysis of the amount of care required by participants in the State's Community Options Program (Medicaid Waiver) and the Community Integration Program, and reflects a higher level of care than the average community client. RCACs must have the capacity to provide up to 28 hours of service a week as indicated by the resident assessment.

The hours of service include staff time attributable to providing or arranging supportive, personal, and nursing services including nursing assessment, documentation, and consultation and standby assistance. Services that are not counted toward the 28 hour limit are meals, laundry, social, and recreational activities. Residents

have the right to contract for or arrange for additional services outside the service agreement.

RCACs must also establish a signed, negotiated risk agreement that identifies situations that could put the resident at risk and for which the resident understands and accepts responsibility.

*Community based residential facilities.* Residents receive an assessment upon admission, and an individualized service plan. The service plan covers specific areas and includes the goals to be accomplished and an integrated program of individually designed activities and services necessary to achieve those goals. The plan specifies which program services will be provided to meet the resident's needs as identified by the assessment and the frequency with which each service will be provided. The plan identifies the service provider responsible for each element of care or service prescribed in the plan. Facilities provide general services, medication administration and assistance, and client group-specific services. General services include supervision, information and referral, leisure time activities, community activities, family contacts, transportation, and health monitoring. Client group-specific services include personal care, independent living skills, communication skills, socialization, activity programming for persons with dementia, transitional services, and nursing care (up to three hours a week).

## **Negotiated Risk Agreements**

*Residential care apartment complex.* RCACs must sign risk agreements with tenants that identify situations or conditions which should be known that involve a course of action taken or desired by the tenant that is contrary to the facility's policy and could put the tenant at risk. The agreement describes the tenant's preference for handling the situation and potential consequences. It also describes what the RCAC will and will not do to meet the tenant's needs, alternatives offered to reduce or mitigate risk and the agreed course of action. The agreement does not mitigate or waive any tenant rights.

*Community based residential facilities.* No provisions.

## **Dietary**

*Community based residential facilities.* Facilities must provide at least three nutritious meals a day and a nutritious snack that meet the recommended daily allowances in the USDA Food Guide Pyramid. Special or modified diets may be provided if ordered by a physician or a dietician. A physician must be consulted if the resident is not eating enough to maintain nutritional balance.

*Residential care apartment complex.* Facilities must have the capacity to provide meals. Qualified staff must be available to provide services, including meals. Meals and snacks shall be prepared, stored, and served in a safe and sanitary manner.

## **Agreements**

*Community based residential facilities.* The resident agreement must be provided prior to move-in or within five days of an emergency admission. A copy of the resident's rights and house rules must be provided prior to and upon move-in. The agreement covers the services provided; the basic daily or monthly rate; the source of payment and the time of the payment; the amount of the security deposit, if any; the entrance fee, if any; any bed hold fee; conditions for discharge or transfer; and refund policy.

*Residential care apartment complex.* Facilities must provide to prospective residents a schedule of fees for services that separately identify charges for rent, meals, and services; application fees, entrance fee, or deposits; and the refund policy. A service agreement is signed that includes the type, amount, and frequency of services to be provided, any additional services available for purchase, and the activities and social connection the tenant will be assisted in maintaining. Charges are also included, individually and total, as is the procedure for notifying residents of any fee increases that may occur. Supplemental fees for services not covered in the agreement must be specified.

## **Provisions for Serving People with Dementia**

An Alzheimer's/Dementia Special Care Unit is any licensed facility serving people with dementia that provides specialized services, 24-hours per day, in a specialized unit, for residents with a diagnosis of Alzheimer's disease or related dementia; and that advertises, markets or otherwise promotes the facility as providing a specialized unit. These facilities must complete a disclosure form.

*Residential care apartment complex.* Staff must have appropriate training based on the physical, functional, and psychological characteristics of the population served.

*Community based residential facilities.* Residents with dementia are specified as a client group. Facilities serving people with dementia must prepare a full description of the special needs of the residents to be served and the care and services to be offered. Structured activities must be provided that reflect resident capabilities and are meant to involve residents and may include: household tasks they were doing prior to admission, activities involving past memories, repetitive and simple tasks, non-verbal creative tasks, physical activity, sensory activity, and music therapy.

## **Medication Administration**

*Residential care apartment complex.* Facilities can offer medication administration and medication management (storage; preparation or organization or reminder system; assessment of effectiveness of medications; monitoring of side effects, negative reactions and drug interactions; and delegation and supervision of medication administration). Medications can be administered by a registered nurse or delegated.

*Community based residential facilities.* A registered nurse must supervise the administration of medications unless the medication is packaged in unit doses. Aides who have passed required training may administer medications. Injections may be administered by a registered nurse, or for people with stable medical conditions, by an LPN, or they may be delegated to a staff member and supervised by a registered nurse.

## **Public Financing**

*Residential care apartment complex (RCAC).* Services are covered for Medicaid beneficiaries who meet the nursing home level of care criteria through the Medicaid Community Options Program Waiver (COP-W), the Community Integration Program II (CIP II), the Wisconsin Partnership Program and the Family Care Demonstration program. CIP II funding is only available when nursing home beds are closed and funding is transferred to provide community care to replace the closed capacity. The state-funded Community Options Program (COP) is not available to residential care apartment complex residents. Medicaid state plan personal care services are covered for beneficiaries in RCACs and CBRFs with 20 or fewer beds.

Medicaid reimbursement is limited to 85 percent of the average statewide Medicaid nursing home rate excluding room and board. Rates are negotiated between facilities and the county. The maximum spending for the resident's total service plan is \$77.81 per day. (An adjustment based on average nursing facility payments is made each year in July). This payment includes assisted living services provided by the facility and other waiver costs such as county care management, transportation, and therapies not covered by the Medicaid state plan. Despite the high maximum service payment, counties must ensure that the average cost for all waiver participants (all settings) does not exceed \$41.86 per day. For every RCAC resident, counties must make sure there are sufficient participants in other settings who receive a lower cost service plan in order to bring down the average. Room and board costs are not included in this ceiling.

The state agency allows income supplementation by families to cover room and board, a private room, or for service enhancements that are not covered by the Medicaid payment. However, each county can set its own policy on family supplementation.

Persons eligible for the Medicaid waiver program under the 300 percent of SSI rule are allowed to keep a maintenance allowance of \$744 a month, which can be used to pay for room and board. Counties may only contract with certified RCACs. In 2002, 125 of the RCACs, with a capacity of 4,452 units, contracted with Medicaid and served about 132 waiver participants.

*Community Based Residential Facilities.* CBRFs have access to the state funded COP program, COP-W, and CIP II funds. They also can access waiver programs for persons with mental retardation or other developmental disabilities and for individuals with traumatic brain injuries. There is no cap on the service payment in CBRFs. The

COP program, which can also be used to supplement the resident's room and board payment, may contract with facilities up to 20 beds. Waiver programs used to be limited to smaller facilities (20 or fewer beds) but COP-W (elderly and physical disabilities waiver) may now serve people in larger facilities if they demonstrate that the facility is non-institutional in character, and receives approval from the Bureau of Aging and Long Term Care Resources. Medicaid and state programs served 3,812 people in CBRFs in calendar 2002. The table below compares public funding participation by setting.

<b>MEDICAID AND STATE-FUNDED PROGRAMS PARTICIPATION</b>						
	<b>2004*</b>		<b>2002</b>		<b>2000</b>	
	<b>Facilities</b>	<b>Participants</b>	<b>Facilities</b>	<b>Participants</b>	<b>Facilities</b>	<b>Participants</b>
RCAC	NA	144	125	132	45	31
CBRF	NA	3,812	NA	2,473	NA	987
* The information was reported by the Department of Health and Family Services report to the Legislature on the Community Options Program Calendar Year 2002						

## Staffing

*Residential care apartment complex.* The number, assignment, and responsibilities of all staff shall be adequate to provide all services identified in the tenants' service agreements including assisting tenants with unscheduled care needs.

*Community Based Residential Facilities.* The staff ratio must be adequate to meet the needs of residents. At least one qualified staff must be in the facility when one or more residents are in the facility. At least one qualified staff must be on duty and awake if one resident needs continuous care. Class C facilities (21 or more) must have one staff on duty and awake at night for every 20 residents.

## Training

*Residential care apartment complex administrators.* Each RCAC must have a service manager responsible for the day-to-day operation of the facility, including ensuring that the services provided are sufficient to meet tenant needs and are provided by qualified persons; that staff are appropriately trained and supervised; that facility policies and procedures are followed; and that the health, safety, and autonomy of the tenants are protected. The service manager shall be capable of managing a multi-disciplinary staff to provide services specified in the service agreements.

*Community based residential facilities administrators* must be 21 years old, have a high school diploma or GED, and have administrative experience or one post high school course in business management and one year of experience or a post high school course related to the needs of the client group.

*Residential care apartment complex staff.* Services shall be provided by staff who are trained in the services that they provide and are capable of doing their assigned work. Personal and supportive services shall be provided by staff who have documented training or experience in needs and techniques for assistance with tenant care and activities of daily living such as bathing, grooming, skin care, transfer,

ambulation, exercise, meal preparation and eating assistance, dressing, and use of adaptive aids and equipment. All facility staff shall have training in safety procedures, including fire safety, first aid, universal precautions, the facility's emergency plan, and facility policies and procedures relating to tenants' rights. Staff providing assisted living services must have documented training in the following areas:

- Physical, functional, and psychological characteristics associated with aging or likely to be present in the tenant population, and their implications for service needs;
- The purpose and philosophy of assisted living, including respect for tenant privacy, autonomy, and independence; and
- Assigned duties and responsibilities, including the needs and abilities of individual tenants.

*Community based residential facilities.* Administrators and staff must have 45 hours of initial training covering: resident rights; recognizing and responding to challenging behaviors; client group-specific training; needs assessment of prospective residents and individualized service plans; universal precautions; and fire safety, first aid, and procedures to alleviate choking.

Administrators and appropriate staff must receive three hours of training in dietary needs, menu planning, food preparation, and sanitation. The administrator and appropriate staff must receive eight hours training in management and administration of medications. Exemptions from training are allowed for employees with specified licenses or credentials.

Administrators and staff must receive 12 hours of continuing education that is relevant to their job responsibilities beginning the second year of employment.

## **Background Check**

*Residential care apartment complex.* Facilities must conduct a criminal record check with the Wisconsin Department of Justice, and with the registry for nurses aides, home health aides, and hospice aides for managers, service providers, and others.

*Community based residential care facilities.* Same.

## **Monitoring**

*Residential care apartment complex.* The Department conducts periodic inspections of certified RCACs, and has the authority, but is not required, to inspect registered RCACS to determine compliance with regulatory requirements.

## Fees

Annual fees for certified RCACs are \$350 plus \$6 for each apartment. Registered RCACs do not pay a fee. CBRFs pay a biennial fee of \$306 plus \$39.60 per bed.

REQUIREMENTS AND FUNDING SOURCES	
Facility Type	Funding Sources
Community based residential facility	Private income/assets, including Social Security, SSI, and insurance. COP: 8 or fewer beds; with variance 9 to 20 beds. Only in 21+ beds if facility is a certified independent apartment or was licensed prior to 7/29/95 and has a variance. COP-W, CIP II: 8 or fewer beds and in certified independent apartment in any size and state plan services provided by a home health or personal care agency in facilities under 20 beds. CIP 1A/1B; BIW: when variance granted and facility has 8 or fewer beds. County funds/community aids.
Residential care apartment complex	Private income/assets, including Social Security, SSI, and insurance. COP-Waiver, CIP-II, and state plan services provided by a home health or personal care agency. County funds (not including community aids).

# **STATE RESIDENTIAL CARE AND ASSISTED LIVING POLICY: 2004**

## Files Available for This Report

Cover, Table of Contents, and Acknowledgments

HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom.htm>  
PDF <http://aspe.hhs.gov/daltcp/reports/2005/04alcom.pdf>

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom1.htm>  
PDF <http://aspe.hhs.gov/daltcp/reports/2005/04alcom1.pdf>

SECTION 2. Comparison of State Policies

HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom2.htm>  
PDF <http://aspe.hhs.gov/daltcp/reports/2005/04alcom2.pdf>

SECTION 3. State Summaries (All States)

HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom3.htm>  
PDF <http://aspe.hhs.gov/daltcp/reports/2005/04alcom3.pdf>

### ***Links to Individual States***

Alabama

HTML <http://aspe.hhs.gov/daltcp/reports/2005/04alcom3#AL.htm>  
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