

MINNESOTA

Citation Housing with services establishments (registration): MS §144D.01 et seq.
 Home care licensure: MS §144A.43 to 144A.48.
 Assisted living title protection: MS §144G. 01 et. seq. 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. Chapter 282, article 19 of the Acts of 2006 made changes in the licensing of service agencies. Health care services in housing with services establishments must be provided by a Class A professional home care agency or a Class F home care agency (previously called an assisted living home care provider). The law requires that only establishments that comply with MS 144 G may use the term assisted living. A template was developed to allow consumers to compare providers. Chapter 37 of the Acts of 2003 established training requirements for assisted living home care providers and housing with services establishments that serve people with Alzheimer’s disease or related disorders.

Adult Foster Care

Adult foster homes are licensed by the Department of Human Services as a residence operated by an operator who, for financial gain or otherwise, provides 24-hour foster care to no more than four functionally impaired residents and a residence with five or six residents. Rules are available at:

http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_028245.

Web Address	Content
http://www.revisor.leg.state.mn.us/arule/4668/	Rules
http://www.health.state.mn.us/divs/fpc/profinfo/cms/als/UCIG_july2007.doc	Guide
http://www.health.state.mn.us/divs/fpc/profinfo/cms/alhcp/alhcpsurvey.htm	Provider, FAQs
http://www.health.state.mn.us/divs/fpc/ohfcinfo/filecomp.htm	Complaints
http://www.health.state.mn.us/divs/fpc/consumerinfo/MNHCBORAL_eng_lg.pdf	Bill of rights
http://www.health.state.mn.us/divs/fpc/profinfo/cms/alhcp/alhcpsurveyresults.htm	Class F service provider survey results
http://www.health.state.mn.us/divs/fpc/profinfo/cms/als/alsreviewresults.html	Housing establishment survey results
http://www.health.state.mn.us/divs/fpc/profinfo/cms/hcacla/hcacla_index.html	Class A service providers
http://www.health.state.mn.us/divs/fpc/profinfo/cms/als/alsindex.html	Assisted living requirements

Category	Supply					
	2007		2004		2002	
	Facilities	Units	Facilities	Units	Facilities	Units
Housing with services establishments	1,239*	NA	931	NA	600	NA
* NOTE: 859 housing with services establishments indicated that they will be the term assisted living and comply with MS 144G. The remaining establishments serve non-elderly populations and do not plan to use the term assisted living.						

Definition

A *housing with services* establishment means an establishment providing sleeping accommodations to one or more adult residents, at least 80% 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.

MS 144G defines assisted living as a service or package of services advertised, marketed, or otherwise described, offered or promoted using the phrase “assisted living” either alone or in combination with other words, whether orally or in writing, and which is subject to the requirements of this chapter.

The state’s Medicaid waiver program defines *assisted living services* as a group of services provided by or arranged for by the management of a Housing with Services Establishment or a residential center, or contracted for by the county with a Class A home care agency. Services provided or arranged for by the assisted living provider may include supervision, supportive services, individualized home care aide tasks, individualized home health aide-like tasks, and individualized home management tasks. Assisted living plus services are assisted living services with additional requirements. Assisted living plus services providers must provide 24-hour supervision and must be registered with the Department of Health as Housing with Services Establishments.

Unit Requirements

Housing with services. No requirements stated. Buildings must meet the 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 (AC) and Medicaid waiver programs must be screened by the county pre-admission screening team and must meet the nursing home LOC criteria. The 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

MS 144G requires the following services at a minimum: health-related services that include assistance with self-administration of medication or medication administration and assistance with at least three of the following seven ADLs: bathing, dressing, grooming, eating, transferring, continence care, and toileting; provides necessary assessments of the physical and cognitive needs of assisted living clients by a RN; has and maintains a system for delegation of health care activities to unlicensed assistive health care personnel by a RN, including supervision and evaluation of the delegated activities; provides staff access to an on-call RN 24 hours per day, seven days per week; has and maintains a system to check on each assisted living client at least daily; provides a means for assisted living clients to request assistance for health and safety needs 24 hours per day, seven days per week, from the establishment or a person or entity with which the establishment has made arrangements; has a person or persons available 24 hours per day, seven days per week, who is responsible for responding to the requests of assisted living clients for assistance with health or safety needs, who shall be: awake; located in the same building, in an attached building, or on a contiguous campus with the housing with services establishment in order to respond within a reasonable amount of time; capable of communicating with assisted living clients; capable of recognizing the need for assistance; capable of providing either the assistance required or summoning the appropriate assistance; and capable of following directions; and offers to provide or make available at least the following supportive services to assisted living clients -- two meals per day; weekly housekeeping; weekly laundry service; upon the request of the client, reasonable assistance with arranging for transportation to medical and social services appointments, and the name of or other identifying information about the person or persons responsible for providing this assistance; upon the request of the client, reasonable assistance with accessing community resources and social services available in the community, and the name of or other identifying information about the person or persons responsible for providing this assistance; and periodic opportunities for socialization.

Establishments must offer to arrange a nursing assessment by a RN of the physical and cognitive needs of a prospective resident before a contract is signed.

Assisted living plus is a group of Medicaid 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 a Class F home care provider. Assisted living can be delivered in the same settings but does not include 24-hour supervision.

[NOTE: An amendment to the Housing with Services Act allows residential care settings that do not have at least 80% 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 AC 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.

MS §144A.441 added the right to reasonable notice of changes in services or charges and at least a 30 day notice of termination of services to the resident's bill of rights.

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 four hours of training within the first month of employment and four 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 ADLs;

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 RN, 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 Medicaid HCBS waiver program since 1993. Rates for services are negotiated between the county and the provider with limits based on the client’s case-mix classification. Coverage through the state-funded Alternate Care Program was dropped in September 2005. The HCBS waiver program served 3,486 beneficiaries in 588 facilities in FY 2007.

Coverage of services in residential settings was changed July 1, 2007 based on legislation passed in 2006 and 2007. Services in residential settings are now called “customized living services” and “24-hour customized living services.” Rates are negotiated within caps based on the case-mix classification system (see table) and are based on the service to be delivered rather than a base rate. Customized living service is a package of component services individually designed to meet the assessed needs of a waiver participant living in a qualified setting.³ The components can include home management tasks, supportive services, home care aide tasks, home health aide-like tasks, central storage of medications, incidental nursing services and supervision.

	Participation					
	2007		2004 (FY 03)		2002 (FY 01)	
	Facilities	Participation	Facilities	Participation	Facilities	Participation
Home and community-based services	588	3,486	396	4,114	281	2,895
Alternative care	NA	NA	325	2,328	247	1,588

³ Bulletin #07-25-01. Comprehensive Policy on Elderly Waiver customized (formerly Assisted) Living. Available at http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_138636.pdf.

Minnesota Case-Mix Categories and Maximum Statewide Rate Limits for Assisted Living and All Other Waiver Services -- Effective July 1, 2006-September 30, 2007			
Case-mix	Average Assisted Living Payment ^a	Total Rate Limits for All Services ^b	Description
A	\$1,086	\$2,170	Up to 3 ADL dependencies ^c
B	\$1,234	\$2,470	3 ADLs + behavior
C	\$1,448	\$2,897	3 ADLs + special nursing care
D	\$1,589	\$2,993	4-6 ADLs
E	\$1,650	\$3,301	4-6 ADLs + behavior
F	\$1,700	\$3,401	4-6 ADLs + special nursing care
G	\$1,755	\$3,510	7-8 ADLs
H	\$1,979	\$3,960	7-8 ADLs + behavior
I	\$1,041	\$4,064	7-8 ADLs + needs total or partial help eating (observation for choking, tube, or IV feeding and inappropriate behavior)
J	\$2,164	\$4,332	7-8 ADLs + total help eating (as above) or severe neuromuscular diagnosis or behavior problems
K	\$2,524	\$5,049	7-8 ADLs + special nursing
<p>a. Statewide average customized living monthly payment by case-mix classification.</p> <p>b. Rate limits must include customized living services, which the residence is responsible for providing or arranging and all other waiver services provided to the client.</p> <p>c. ADLs include bathing, dressing, grooming, eating, bed mobility, transferring, walking, and toileting.</p>			

The SIS or 300% eligibility option, for all Elderly Waiver recipients during state FY 2007, is \$1,869. The maintenance allowance that residents retain for their expenses is \$816 which includes an \$82 PNA (equal to the PNA for nursing facility residents), and the remaining \$737 pays for room and board costs. Any income above the \$816 maintenance allowance is applied toward the cost of waiver services. Elderly Waiver participants who have a gross monthly income which exceeds 300% of 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 75% of the federal poverty level, or \$613) toward all incurred medical expenses.

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 RN 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

Class F home care providers are surveyed before a license is approved or renewed. A licensee that has been licensed for at least two consecutive years and that has been in substantial compliance with this chapter and Minnesota Statutes, Sections 144A.43 to 144A.47, and has had no serious violations in that period, may be surveyed every second license term rather than during each license term.

Fees

Housing with services establishment registration fees were increased to \$155 effective July 1, 2007. Chapter 282 requires a surcharge based on the capacity of the establishment to be determined by the Department of Health to pay for the costs of bringing actions for injunctive relief. Class F home care service 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 16-30 clients;
- \$375 annually for those providers serving a monthly average of 31-50 clients; and
- \$625 annually for those providers serving a monthly average of 51 or more clients.

RESIDENTIAL CARE AND ASSISTED LIVING COMPENDIUM: 2007

Files Available for This Report

REPORT INTRODUCTION (*including Cover, Table of Contents, Acknowledgments, and Acronyms*)

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf>

SECTION 1. Overview of Residential Care and Assisted Living Policy

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.pdf>

SECTION 2. Comparison of State Policies

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.pdf>

SECTION 3. State Summaries

HTML: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.htm>
PDF: <http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.pdf>

Each state's summary can also be viewed separately at:

Alabama	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAL.pdf
Alaska	http://aspe.hhs.gov/daltcp/reports/2007/07alcomAK.pdf
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