



2024 Legislative Priorities

ARRM Members,

2023 was a successful year in terms of our lobbying efforts, as we worked with legislative partners and advocates to address critical issues facing our providers, workforce, and individuals supported. Believe it or not, the 2024 Minnesota Legislative Session is right around the corner, and ARRM members from across the state, and our member-led committees have been hard at work crafting our 2024 Legislative Agenda.

We are pleased to share with you a sneak peek of some of the issues and ideas that have been brought forward, and issues that will serve as the cornerstone of our lobbying and advocacy efforts in 2024. Please know, the legislative process is fluid and moves in unpredictable ways, so these policy objectives and proposals must ebb and flow with it.

All eyes are on the 2024 Legislative Session, set to convene on February 12, 2024, and ARRM will be in the middle of it, advocating for our members, your employees, and the people you support.

In Partnership,



Sue Schettle

ARRM CEO



Sara Grafstrom

Director of State and Federal Policy



2024 Legislative Priorities

Out-of-Home Respite for Children

Issue Summary: A change in 2020 allows for out-of-home respite for Children to only be provided in a licensed setting. Previously, the service could be provided in an unlicensed setting if an individual's Case Manager signed off, similar to how it is done for adults. This change has greatly reduced the amount of available Respite and limited access to the service for families.

Summary of ARRM's Legislation: ARRM has been in communication with the Department of Human Services to identify a solution that would allow out-of-home respite for children to happen in an un-licensed setting while still addressing the concerns of the Department. The proposal will include language that requires sign-off from both the Case Manager and Guardian of the home, a limit on the number of days in a calendar year that an individual can access Respite in an unlicensed setting, and a limit on the number of consecutive days an individual can be in an unlicensed setting as well as requirements that the service be provided in a residential setting and all individuals over 13 have a background check completed.

[Full Proposal Language HERE.](#)

Competitive Workforce Adjustments and Supervisor Standard Occupation Code (SOC) Changes

Issue Summary: Despite meaningful investments passed during the 2023 legislative session that will increase reimbursement amounts in the Disability Waiver Rate System, Direct Support Professional (DSP) wages remain low. In addition, there is an emerging workforce crisis among Supervisors, with increased burnout and wage compression.

Summary of ARRM's Legislation: ARRM, in partnership with the Best Life Alliance, will bring forward legislation that will increase the Competitive Workforce Factor to 16.7%. This number is based on the most recent analysis from the Department of Human Services that compares DSP wages to other occupations with similar training and education requirements and makes recommendations to allow DSP wages to remain competitive.

The legislation will also include changes to the Supervisor SOC code. The current supervisor wage for most DWRS services is based on SOC code 21-1099, Community and Social Service Specialist. The wage that will go into effect in 2024, from the May 2022 BLS database, is \$22.87.

Legislation will propose adding another occupation, SOC code 11-9151, Social and Community Service Manager. The corresponding wage for that job is \$36.25. Since the widely-accepted definition of a supervisor is that they typically spend more than 50% of their time in supervisor duties, legislation will compute a wage using 60% of the manager job and 40% of the specialist job, which would come to \$30.90.

[Full Proposal Language HERE.](#)



245D Changes

Issue Summary: ARRM members identified the current qualifications listed for Designated Coordinators and Designated Managers as a barrier to hiring staff for those positions. At the same time, the restrictions on 16- and 17-year-olds being able to pass medications placed an unnecessary limitation on what those Direct Support Professionals were allowed to do in their day-to-day tasks.

Summary of Proposed Legislation: ARRM will be proposing legislation that would amend the qualifications for Designated Coordinators by removing the requirement that their degree be in a “human service-related field” and removing the requirements for Designated Managers that their three years of required supervisor experience be with a provider of services.

ARRM also proposes removing the restriction on 16- and 17-year-olds being able to pass medications. Also included in this proposal is clean-up language, that updates language related to the “45-Day Planning Meeting” to better reflect a change that was adopted a couple of years ago that states the 45-day meeting can take place within 45 days of service, or 60 calendar days, whichever is shorter.

[Full Proposal Language HERE.](#)

Technology

Issue Summary: ARRM continues to support the advancement of assistive technology across the state. As providers work with individual lead agencies, we are finding that rules and requirements vary with each county; these varying requirements may result in delays in getting technology approved and implemented. Additionally, during the 2023 legislative session, new compensation thresholds were passed and included in the DWRS. These compensation thresholds for Community Residential Settings say that 66% of Medicaid revenue must go towards Direct Care wages and compensation. These thresholds do not include the cost of remote support and will make it difficult for providers to meet the threshold and pay for assistive technology.

Summary of Proposed Legislation: ARRM’s proposal will require the Commissioner to ensure that lead agencies are not implementing additional requirements, outside of what is required by the state, which could result in the delay of implementation or approval of technology. Our proposal also puts in place a 30-day timeline for approval or denial of technology and adds the cost of remote support to the list of allowable expenses in the new compensation threshold standards for direct support.

[Full Proposal Language HERE.](#)

City Ordinance

Issue Summary: Some cities and other municipalities have historically used the requirement of a city rental license as a tool to regulate Community Residential Settings in their communities. Recent news stories have highlighted cities revoking rental licenses as a way to force homes to move out of neighborhoods or to force the current residents of the homes to find alternative housing options.

Summary of Proposed Legislation: ARRM’s 2024 proposal will make it illegal for cities to require rental licenses for homes licensed under 245A.02, subdivision 14 (b)

[Full Proposal Language HERE.](#)



Independent Living First Grants

Issue Summary: Minnesota has adopted policy provisions that state that we as a state support the option of independent living as a first option and that choice in housing must be discussed with individuals annually. However, there are very few policy provisions or funding in place that incentivizes or supports individuals to live independently and for providers to provide the services that support individuals who choose to live in their own home.

Summary of Proposed Legislation: ARRM will propose one-time grants available to providers to expand the services they provide to individuals who live independently, in their own homes.

[Full Proposal Language HERE.](#)

Indirect Time

Issue Summary: Providers that provide the Individualized Home Support (IHS) tiered services are not allowed to bill for services provided when the individual receiving the services is not physically or remotely present. At the same time, providers are reporting more and more needs from individuals that require time to be spent supporting individuals when they are not present with their staff person. Examples of this include medical calls, coordinating appointments, supporting individuals through mental health cycles, and traveling to different individual homes to name a few. These additional costs make it challenging for providers to sustain the service.

Summary of Proposed Legislation: ARRM's legislation will allow providers to bill for certain services that are done when the individual is not physically or remotely present. This will align the IHS tiered services with the employment services that also allow for indirect billing.

[Full Proposal Language HERE.](#)

5 or 6-person Skilled Living Facilities (SLF) to Community Residential Settings (CRS)

Issue Summary: There are currently 14 SLFs across the state that support between 5 and 6 individuals. These homes are funded through the DWRS and follow 245D rules and regulations, but still need to be licensed by the Department of Health for their physical plant management. The Department of Health licenses do not allow for the use of technology or alone time for the individuals living in the home and create additional administrative burdens for providers.

Summary of Proposed Legislation: ARRM proposes a time-limited licensing moratorium exception that would allow a 5 or 6-person SLF to convert to a CRS setting.

[Full Proposal Language HERE.](#)

Family Foster Care Rate Tiers

Issue Summary: Included in the final Human Services Omnibus spending bill in 2023 was the directive to the Commissioner to implement new rate tiers for Family Foster Care and Life Sharing services, effective January 1, 2026. The language was also included in the final legislation that removes Family Foster Care from the DWRS, effective January 1, 2026, and excluded Family Foster Care providers from the ability to request rate exceptions. These changes will result in drastic rate reductions for some providers of these services and force some Family Foster Care providers to no longer provide services.

Summary of Proposed Legislation: ARRM proposes delaying the implementation of the Adult Family Foster Care Rate Tiers to 2028, along with the creation of a Task Force that will study the impact of the rate tiers on Adult Family Foster Care Services and explore alternative payment models and structures for the service.

[Full Proposal Language HERE.](#)



Out of Home Respite Legislative Proposal Coming Soon!



Best Life Alliance Legislation Coming Soon!



245D Legislative Proposal:

MN Statute 245D.071, subdivision 3 is amended to read:

Subd. 3. **Assessment and initial service planning.**

(a) Within 15 days of service initiation the license holder must complete a preliminary support plan addendum based on the support plan.

(b) Within the scope of services, the license holder must, at a minimum, complete assessments in the following areas before providing 45 days of service or within 60 calendar days of service initiation, whichever is shorter ~~the 45-day planning meeting~~:

(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;

(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and

(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be based on the person's status within the last 12 months at the time of service initiation. Assessments based on older information must be documented and justified. Assessments must be conducted annually at a minimum or within 30 days of a written request from the person or the person's legal representative or case manager. The results must be reviewed by the support team or expanded support team as part of a service plan review.

(c) Before providing 45 days of service or within 60 calendar days of service initiation, whichever is shorter, the license holder must meet with the person, the person's legal representative, the case manager, other members of the support team or expanded support team, and other people as identified by the person or the person's legal representative to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

(1) the scope of the services to be provided to support the person's daily needs and activities;

(2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;

(3) the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;

(4) whether the current service setting is the most integrated setting available and appropriate for the person;

(5) opportunities to develop and maintain essential and life-enriching skills, abilities, strengths, interests, and preferences;



- (6) opportunities for community access, participation, and inclusion in preferred community activities;
- (7) opportunities to develop and strengthen personal relationships with other persons of the person's choice in the community;
- (8) opportunities to seek competitive employment and work at competitively paying jobs in the community; and
- (9) how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.

(d) A discussion of how technology might be used to meet the person's desired outcomes must be included in the initial 45-day planning meeting. The support plan or support plan addendum must include a summary of this discussion. The summary must include a statement regarding any decision that is made regarding the use of technology and a description of any further research that needs to be completed before a decision regarding the use of technology can be made. Nothing in this paragraph requires that the support plan include the use of technology for the provision of services.

MN Statute 245D.071, subdivision 4 is amended to read:

Subd. 4. Service outcomes and supports.

(a) Within ten working days of the initial 45-day planning meeting, the license holder must develop a service plan that documents the service outcomes and supports based on the assessments completed under subdivision 3 and the requirements in section 245D.07, subdivision 1a. The outcomes and supports must be included in the support plan addendum.

(b) The license holder must document the supports and methods to be implemented to support the person and accomplish outcomes related to acquiring, retaining, or improving skills and physical, mental, and emotional health and well-being. The documentation must include:

(1) the methods or actions that will be used to support the person and to accomplish the service outcomes, including information about:

(i) any changes or modifications to the physical and social environments necessary when the service supports are provided;

(ii) any equipment and materials required; and

(iii) techniques that are consistent with the person's communication mode and learning style;

(2) the measurable and observable criteria for identifying when the desired outcome has been achieved and how data will be collected;

(3) the projected starting date for implementing the supports and methods and the date by which progress towards accomplishing the outcomes will be reviewed and evaluated; and

(4) the names of the staff or position responsible for implementing the supports and methods.

(c) Within 20 working days of the initial planning 45-day meeting, the license holder must submit to and obtain dated signatures from the person or the person's legal representative and case manager to document completion and approval of the assessment and support plan addendum. If, within ten working



days of the submission of the assessment or support plan addendum, the person or the person's legal representative or case manager has not signed and returned to the license holder the assessment and support plan addendum or has not proposed written modifications to the license holder's submission, the submission is deemed approved and the assessment and support plan addendum become effective and remain in effect until the legal representative or case manager submits a written request to revise the assessment or support plan addendum.

Mn Statute 245D.081, subdivision 2 is amended to read:

Subd. 2. Coordination and evaluation of individual service delivery.

(a) Delivery and evaluation of services provided by the license holder must be coordinated by a designated staff person. Except as provided in clause (3), the designated coordinator must provide supervision, support, and evaluation of activities that include:

(1) oversight of the license holder's responsibilities assigned in the person's support plan and the support plan addendum;

(2) taking the action necessary to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;

(3) instruction and assistance to direct support staff implementing the support plan and the service outcomes, including direct observation of service delivery sufficient to assess staff competency. The designated coordinator may delegate the direct observation and competency assessment of the service delivery activities of direct support staff to an individual whom the designated coordinator has previously deemed competent in those activities; and

(4) evaluation of the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcome has been achieved according to the requirements in section 245D.07.

(b) The license holder must ensure that the designated coordinator is competent to perform the required duties identified in paragraph (a) through education, training, and work experience relevant to the primary disability of persons served by the license holder and the individual persons for whom the designated coordinator is responsible. The designated coordinator must have the skills and ability necessary to develop effective plans and to design and use data systems to measure effectiveness of services and supports. The license holder must verify and document competence according to the requirements in section 245D.09, subdivision 3. The designated coordinator must minimally have:

(1) a baccalaureate degree ~~in a field related to human services~~, and one year of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;

(2) an associate degree ~~in a field related to human services~~, and two years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older;

(3) a diploma ~~in a field related to human services~~ from an accredited postsecondary institution and three years of full-time work experience providing direct care services to persons with disabilities or persons age 65 and older; or

(4) a minimum of 50 hours of education and training related to human services and disabilities; and

(5) four years of ~~full-time work~~ experience providing direct care services to persons with disabilities or persons age 65 and older ~~under the supervision of a staff person who meets the qualifications identified in clauses (1) to (3)~~.



Mn Statute 245D.081, subdivision 3 is amended to read:

Subd. 3. Program management and oversight.

(a) The license holder must designate a managerial staff person or persons to provide program management and oversight of the services provided by the license holder. The designated manager is responsible for the following:

(1) maintaining a current understanding of the licensing requirements sufficient to ensure compliance throughout the program as identified in section 245A.04, subdivision 1, paragraph (e), and when applicable, as identified in section 256B.04, subdivision 21, paragraph (g);

(2) ensuring the duties of the designated coordinator are fulfilled according to the requirements in subdivision 2;

(3) ensuring the program implements corrective action identified as necessary by the program following review of incident and emergency reports according to the requirements in section 245D.11, subdivision 2, clause (7). An internal review of incident reports of alleged or suspected maltreatment must be conducted according to the requirements in section 245A.65, subdivision 1, paragraph (b);

(4) evaluation of satisfaction of persons served by the program, the person's legal representative, if any, and the case manager, with the service delivery and progress toward accomplishing outcomes identified in sections 245D.07 and 245D.071, and ensuring and protecting each person's rights as identified in section 245D.04;

(5) ensuring staff competency requirements are met according to the requirements in section 245D.09, subdivision 3, and ensuring staff orientation and training is provided according to the requirements in section 245D.09, subdivisions 4, 4a, and 5;

(6) ensuring corrective action is taken when ordered by the commissioner and that the terms and conditions of the license and any variances are met; and

(7) evaluating the information identified in clauses (1) to (6) to develop, document, and implement ongoing program improvements.

(b) The designated manager must be competent to perform the duties as required and must minimally meet the education and training requirements identified in subdivision 2, paragraph (b), and have a minimum of three years of supervisory level experience ~~in a program providing direct support services to persons with disabilities or persons age 65 and older.~~

Mn Statute 245D.09, subdivision 3 is amended to read:

Subd. 3. Staff qualifications.

(a) The license holder must ensure that staff providing direct support, or staff who have responsibilities related to supervising or managing the provision of direct support service, are competent as demonstrated through skills and knowledge training, experience, and education relevant to the primary disability of the person and to meet the person's needs and additional requirements as written in the support plan or support plan addendum, or when otherwise required by the case manager or the federal waiver plan. The license holder must verify and maintain evidence of staff competency, including documentation of:



(1) education and experience qualifications relevant to the job responsibilities assigned to the staff and to the primary disability of persons served by the program, including a valid degree and transcript, or a current license, registration, or certification, when a degree or licensure, registration, or certification is required by this chapter or in the support plan or support plan addendum;

(2) demonstrated competency in the orientation and training areas required under this chapter, and when applicable, completion of continuing education required to maintain professional licensure, registration, or certification requirements. Competency in these areas is determined by the license holder through knowledge testing or observed skill assessment conducted by the trainer or instructor or by an individual who has been previously deemed competent by the trainer or instructor in the area being assessed; and

(3) except for a license holder who is the sole direct support staff, periodic performance evaluations completed by the license holder of the direct support staff person's ability to perform the job functions based on direct observation.

(b) Staff under 18 years of age may not perform overnight duties or administer medication.

Mn Statute 245D.09, subdivision 4 is amended to read:

Subd. 4. Orientation to program requirements.

Except for a license holder who does not supervise any direct support staff, within 60 calendar days of hire, unless stated otherwise, the license holder must provide and ensure completion of orientation sufficient to create staff competency for direct support staff that combines supervised on-the-job training with review of and instruction in the following areas:

(1) the job description and how to complete specific job functions, including:

(i) responding to and reporting incidents as required under section 245D.06, subdivision 1; and

(ii) following safety practices established by the license holder and as required in section 245D.06, subdivision 2;

(2) the license holder's current policies and procedures required under this chapter, including their location and access, and staff responsibilities related to implementation of those policies and procedures;

(3) data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;

(4) the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;

(5) sections 245A.65, 245A.66, and 626.557 and chapter 260E governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;

(6) the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;

~~(7) the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and~~



seclusion, including chemical restraint;

~~(8) staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;~~

(9) basic first aid;

(10) strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities; and

(11) other topics as determined necessary in the person's support plan by the case manager or other areas identified by the license holder.



Technology Legislative Proposal:

Section 1: Minnesota Statutes, section 256B.4905, subdivision 12 is amended to read:

Subd. 12. **Informed choice in technology implementation for disability waiver services.**

The commissioner of human services shall ensure that:

(1) disability waivers under sections 256B.092 and 256B.49 support the presumption that all adults who have disabilities and children who have disabilities may use assistive technology, remote supports, or both to enhance the adult's or child's independence and quality of life; and

(2) each individual accessing waiver services is offered, after an informed decision-making process and during a person-centered planning process, the opportunity to choose assistive technology, remote support, or both to ensure equitable access; and

(3) lead Agencies are not including additional processes or requirements, outside of those required by the Department of Human Services, that could result in the delay of approval or implementation of technology; and

(4) lead Agencies are approving technology in a timely manner, with no more than 30 calendar days allowed before final approval. (4) "lead agencies are approving or denying technology in a timely manner, with no more than 30 calendar days, from when the original request is made, allowed before making that determination; if denied, the lead agency is required to submit a Notice of Action form clearly indicating why the request was denied, including information about why the technology is not appropriate to meet the individuals assessed need."

Effective Date: This section is effective January 1, 2025

Section 2: Minnesota Statutes 2023, section 256B.4914, subdivision 10d is amended to read:

Subd. 10d.

Direct care staff; compensation.

(a) A provider paid with rates determined under subdivision 6 must use a minimum of 66 percent of the revenue generated by rates determined under that subdivision for direct care staff compensation.

(b) A provider paid with rates determined under subdivision 7 must use a minimum of 45 percent of the revenue generated by rates determined under that subdivision for direct care compensation.

(c) A provider paid with rates determined under subdivision 8 or 9 must use a minimum of 60 percent of the revenue generated by rates determined under those subdivisions for direct care compensation.

(d) Compensation under this subdivision includes:

- (1) wages;
- (2) taxes and workers' compensation;
- (3) health insurance;
- (4) dental insurance;
- (5) vision insurance;
- (6) life insurance;
- (7) short-term disability insurance;



(8) long-term disability insurance;

(9) retirement spending;

(10) tuition reimbursement;

(11) wellness programs;

(12) paid vacation time;

(13) paid sick time; or

~~(14) payments made to remote monitoring companies; costs related to providing remote support, including payments made to third-party vendors;~~

~~(15) cost of technology to support individuals remotely; or~~

~~(16)~~ other items of monetary value provided to direct care staff.

Effective Date: This section is effective January 1, 2025



City Ordinance Legislative Proposal:

245A.11 SPECIAL CONDITIONS FOR RESIDENTIAL PROGRAMS.

Subdivision 1. **Policy statement.**

It is the policy of the state that persons shall not be excluded by municipal zoning ordinances or other land use regulations from the benefits of normal residential surroundings.

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Subd. 2. **Permitted single-family residential use.**

(a) Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

(b) Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones.

(c) Residential programs with a licensed capacity of six or fewer persons as defined in MN Statute 245A.02, subd 14 (b) and actively serving residents for which they are licensed, shall not be regulated as a rental property by any town, municipal, or county zoning regulation.

(d) Residential programs with a licensed capacity of six or fewer persons as defined in MN Statute 245A.02, subd 14 (b) not actively serving the residents for which they are licensed for, may be regulated as a rental property by any town, municipal, or county zoning regulation if they are being rented to the general public.



Independent Living First Legislative Proposal:

Own Home Services Provider Capacity Building Grants

Subdivision 1. The commissioner shall establish a grant program to expand provider capacity to support people with disabilities living in their Own Home as defined in MN Statutes 256B.492, subdivision 3. Allowable uses of money include:

- (1) enhancing resources and staffing to support people and families in understanding housing options;
- (2) implementing and testing innovative approaches to better support people with disabilities and their families in living in their own home; and
- (3) other activities approved by the commissioner.

Subdivision 2. Appropriation.



Indirect Time Legislative Language:

DIRECTION TO COMMISSIONER; INDIRECT BILLING AUTHORIZED FOR INDIVIDUALIZED HOME SUPPORTS

By December 1, 2024, the commissioner of human services shall submit to the federal Centers for Medicare and Medicaid Services any necessary changes to home and community-based services waiver plans to allow for providers providing individualized homes supports with training, individualized homes supports without training and individualized home supports with family training to bill for services that do not require direct contact with the service recipient, but are within an allowable community living service category. Allowable tasks that may be billed that do not require direct contact with the person may include but are not limited to:

- (1) researching, coordinating, and arranging for transportation, necessary equipment, and all support and training needed to allow service recipients to safely access the community;
- (2) arranging and coordinating access to all necessary health care, including the scheduling of medical appointments, communicating with health professionals, benefits fact gathering, review and analysis, and all support and training needed to support the recipient's health and well-being;
- (3) coordinating and advocating to ensure needed legal support, crisis prevention, positive support strategies, and all support and training needed to support the recipient's preferences;
- (4) collaborating with employers to ensure maintenance of the service recipient's desired employment;
- (5) arranging and coordinating access to resources to meet basic needs, including accessing necessary shelter and food shelves, and phone and internet access;
- (6) coordinating to ensure the service recipient can continue to live independently in their own home, including collaborating with property management, coordinating with other home and community-based service providers, meeting with the recipient's interdisciplinary team members, ensuring access to proper equipment and technology and all support and training needed to support the recipient's preferences;
- (7) coordinating with other service providers and natural supports as needed for status changes and/or crisis management

(b) Individualized home supports services that do not require direct contact with the recipient may only be billed if:

- (1) the services are necessary to ensure continuity of other necessary services and support for the service recipient.
- (2) reasonable attempts have been made to directly involve the service recipient in the allowable service, or the recipient is not able to be directly involved due to illness, injury, or other factors; and
- (3) the service recipient has made an informed choice to allow for services to be provided without their direct contact.



SLF to CRS Legislative Language

MN Statutes 245A.03, subdivision 7 is amended to read:

Subd. 7. **Licensing moratorium.**

(a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts [2960.3000](#) to [2960.3340](#), or adult foster care licensed under Minnesota Rules, parts [9555.5105](#) to [9555.6265](#), under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section [245A.07](#). The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) a license for a person in a foster care setting that is not the primary residence of the license holder and where at least 80 percent of the residents are 55 years of age or older;

(2) 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, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section [256B.092](#), subdivision 13, or [256B.49, subdivision 24](#);

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital-level care; or

(5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section [256B.49](#) and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section [256B.49](#) in a single-family home operational on or before June 30, 2021. Operational is defined in section [256B.49, subdivision 28](#);

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.



(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(6) new community residential setting license for homes currently licensed as a supervised living facility under MN Administrative Rules Chapter 4665, with a capacity of 5 or 6 beds, but not designated as an Intermediate Care Facility. This exception is available until June 30, 2026.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section [256B.49, subdivision 15](#), paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section [245D.33](#).

(e) A resource need determination process, managed at the state level, using the available data required by section [144A.351](#), and other data and information shall be used to determine where the reduced capacity determined under section [256B.493](#) will be implemented. The commissioner shall consult with the stakeholders described in section [144A.351](#), and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section [256B.092](#) or [256B.49](#), must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section [144A.351](#). Under this authority, the commissioner may approve new licensed settings or delicensing existing settings. Delicensing of settings will be accomplished through a process identified in section [256B.493](#).

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.



(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts [2960.0580](#) to [2960.0700](#), under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

Effective Date: This section is effective the date following enactment.



Family Foster Care Legislative Proposal Coming Soon!

