

**256B.492 HOME AND COMMUNITY-BASED SETTINGS FOR PEOPLE WITH DISABILITIES.**

(a) Individuals receiving services under a home and community-based waiver under section 256B.092 or 256B.49 may receive services in the following settings:

(1) an individual's own home or family home;

(2) a licensed adult foster care or child foster care setting of up to five people or community residential setting of up to five people; and

(3) community living settings as defined in section 256B.49, subdivision 23, where individuals with disabilities may reside in all of the units in a building of four or fewer units, and who receive services under a home and community-based waiver occupy no more than the greater of four or 25 percent of the units in a multifamily building of more than four units, unless required by the Housing Opportunities for Persons with AIDS Program.

(b) The settings in paragraph (a) must not:

(1) be located in a building that is a publicly or privately operated facility that provides institutional treatment or custodial care;

(2) be located in a building on the grounds of or adjacent to a public or private institution;

(3) be a housing complex designed expressly around an individual's diagnosis or disability, unless required by the Housing Opportunities for Persons with AIDS Program;

(4) be segregated based on a disability, either physically or because of setting characteristics, from the larger community; and

(5) have the qualities of an institution which include, but are not limited to: regimented meal and sleep times, limitations on visitors, and lack of privacy. Restrictions agreed to and documented in the person's individual service plan shall not result in a residence having the qualities of an institution as long as the restrictions for the person are not imposed upon others in the same residence and are the least restrictive alternative, imposed for the shortest possible time to meet the person's needs.

(c) The provisions of paragraphs (a) and (b) do not apply to any setting in which individuals receive services under a home and community-based waiver as of July 1, 2012, and the setting does not meet the criteria of this section.

(d) Notwithstanding paragraph (c), a program in Hennepin County established as part of a Hennepin County demonstration project is qualified for the exception allowed under paragraph (c).

(e) Notwithstanding paragraphs (a) and (b), a program in Hennepin County, located in the city of Golden Valley, within the city of Golden Valley's Highway 55 West redevelopment area, that is not a provider-owned or controlled home and community-based setting, and is scheduled to open by July 1, 2016, is exempt from the restrictions in paragraphs (a) and (b). If the program fails to comply with the Centers for Medicare and Medicaid Services rules for home and community-based settings, the exemption is void.

(f) The commissioner shall submit an amendment to the waiver plan no later than December 31, 2012.

**History:** 2012 c 247 art 4 s 37; 2013 c 63 s 16; 2013 c 108 art 7 s 43; 2014 c 291 art 8 s 10; 2014 c 312 art 27 s 70