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RESIDENTIAL CHILD CARE FACILITIES AND RESIDENTIAL TREATMENT CENTERS - LIMITATIONS ON BEDS

This memorandum addresses the issue of whether any limit exists on the number of beds that a residential child care facility or residential treatment center for children may have.

RESIDENTIAL CHILD CARE FACILITY

According to North Dakota Century Code Section 50-11-01, a residential child care facility is a facility other than an occupied private residence providing foster care to more than eight unrelated children. No limits exist, either by federal or state statute or rule, on the number of beds that a residential child care facility may have.

RESIDENTIAL TREATMENT CENTER FOR CHILDREN

A residential treatment center for children is defined in North Dakota Century Code Section 25-03.2-01 as a facility or a distinct part of a facility that provides to children and adolescents a total, 24-hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment and an individualized treatment plan that meets the needs of the child and family.

While no limitation exists in the North Dakota Century Code or the North Dakota Administrative Code regarding the number of beds that a residential treatment center for children may have, a Medicaid provision limits the number of residential treatment center beds to 16 per institution which are eligible for Medicaid funding. An institution with more than 16 beds is considered an institution for mental diseases and must be accredited as a medical facility to be eligible for Medicaid funding. An institution for

mental diseases must be licensed by the state and accredited by the Joint Commission on the Accreditation of Hospitals as a medical facility to be eligible for Medicaid funding.

The authority for the limitation of 16 residential treatment center beds is contained in the Health Care Financing Administration definitions. According to 42 C.F.R. § 435.1009, an institution is "an establishment that furnishes (in single or multiple facilities) food, shelter, and some treatment services to four or more persons unrelated to the proprietor." The section further defines an institution for mental diseases as:

[A] hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. (emphasis supplied)

Although there are several residential treatment centers in the state, according to the Department of Human Services only the Rivers Edge Residential Treatment Center in Fargo and the James River Treatment Center in Jamestown are licensed and accredited as institutions for mental diseases and therefore are allowed more than 16 beds. However, the department reports that Dakota Boys Ranch in Minot is in the process of becoming accredited as an institution for mental diseases.