DEPARTMENT OF HEALTH

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility Name: Home Instead Senior Living		**Report Number:** HL23296007	**Date of Visit:** August 17, 2017
Facility Address: 315 East Central Entrance		**Time of Visit:** 8:00 a.m. to 12:30 p.m.	**Date Concluded:** September 14, 2017
Facility City: Duluth		**Investigator's Name and Title:** Earl Bakke, RN, Special Investigator	
State: Minnesota	**ZIP:** 55811	**County:** Saint Louis	

☒ **Home Care Provider/Assisted Living**

Allegation(s):

It is alleged that a client was financially exploited when a staff member cashed the client's checks for personal use without the client's knowledge.

☒ State Statutes for Home Care Providers (MN Statutes, section 144A.43 - 144A.483)

☒ State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557)

☒ State Statutes Chapters 144 and 144A

Conclusion:

Based on the preponderance of evidence, financial exploitation is substantiated. The alleged perpetrator (AP) took two checks from the client's kitchen drawer, forged a family member's name, and deposited each check into the AP's personal account for a total amount of $3,400.00.

The client received services from the comprehensive home care provider for medication management, hands-on assistance with transfers and mobility, eating assistance, specialty services with dementia care, and assistance with activities of daily living as part of 24 hour-per-day service.

The client's family member discovered two suspicious withdrawals from the client's checking account. The family member thought that the client would not have authorized the withdrawal amounts and went to the bank. The family member learned that two checks had been deposited into another account at the client's bank. The family member viewed copies of the cleared checks and discovered a forged signature. The bank and law enforcement began an investigation, but the family member did not alert the facility because s/he suspected another family member could have taken the checks.

Around the same time, the AP contacted law enforcement and reported that an unknown male had forced the AP to deposit the checks into AP's personal account. The AP then admitted taking the checks from the

client's kitchen drawer, forging the family member's name, and depositing both into the AP's personal account. The two checks were deposited two weeks apart.

During an interview, facility management explained that police contacted the facility office after the AP's report. Management contacted the client's family member and learned that two checks had been cashed, each for $1,700.00. The police told the facility that the AP had confessed to taking the checks and depositing both into the her/his personal account. The facility terminated the AP's employment for violation of company policies regarding financial exploitation of vulnerable adults.

During an interview, a family member reported two $1,700.00 withdrawals on the client's banking statement. The family member said blank checks were kept in the client's kitchen drawer for incidental expenses, and no one was authorized to sign or take the checks. The AP provided services to the client on a regular basis and had access to the drawer where the checks were kept.

A police report indicated that the AP called police fearing for her/his safety after an unknown male forced the AP to deposit the client's checks on two different occasions. The report indicated the AP confessed to making up the story of the unknown male. The AP said s/he forged the family's members name and then deposited each check for $1,700.00 into the AP's personal account. The AP was charged with financial exploitation of a vulnerable adult and felony forgery of checks.

During an interview with the AP, s/he said that s/he willingly took the checks from the client and deposited each into her/his personal account.

Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557)

Under the Minnesota Vulnerable Adults Act (Minnesota Statutes, section 626.557):

☐ Abuse ☐ Neglect ☒ Financial Exploitation

☒ Substantiated ☐ Not Substantiated ☐ Inconclusive based on the following information:

Mitigating Factors:

The "mitigating factors" in Minnesota Statutes, section 626.557, subdivision 9c (c) were considered and it was determined that the ☒ Individual(s) and/or ☐ Facility is responsible for the

☐ Abuse ☐ Neglect ☒ Financial Exploitation. This determination was based on the following:

The AP received training on the facility's vulnerable adult policy, mandatory reporting of maltreatment, and was issued an employee handbook that explained Minnesota Vulnerable Adult Abuse statute. The staff member signed an acknowledgment form indicating s/he understood the policies and procedures regarding vulnerable adult abuse and financial exploitation.

The responsible party will be notified of their right to appeal the maltreatment finding. If the maltreatment is substantiated against an identified employee, this report will be submitted to the nurse aide registry for possible inclusion of the finding on the abuse registry and/or to the Minnesota Department of Human Services for possible disqualification in accordance with the provisions of the background study requirements under

Minnesota 245C.

Compliance:

State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) – Compliance Met
The facility was found to be in compliance with State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557. No state licensing orders were issued.

State Statutes for Home Care Providers (MN Statutes section 144A.43 - 144A.483) - Compliance Not Met
The requirements under State Statutes for Home Care Providers (MN Statutes, section 144A.43 - 144A.483) were not met.

State licensing orders were issued: ☒ Yes ☐ No

(State licensing orders will be available on the MDH website.)

State Statutes Chapters 144 & 144A – Compliance Not Met - Compliance Not Met
The requirements under State Statues for Chapters 144 &144A were not met.

State licensing orders were issued: ☒ Yes ☐ No

(State licensing orders will be available on the MDH website.)

Compliance Notes:

Definitions:

Minnesota Statutes, section 626.5572, subdivision 9 - Financial exploitation

"Financial exploitation" means:

(b) In the absence of legal authority a person:

(1) willfully uses, withholds, or disposes of funds or property of a vulnerable adult;

Minnesota Statutes, section 626.5572, subdivision 19 - Substantiated

"Substantiated" means a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

The Investigation included the following:

Document Review: The following records were reviewed during the investigation:

- [x] Medical Records
- [x] Care Guide
- [x] Care Plan Records
- [x] Facility Incident Reports
- [x] ADL (Activities of Daily Living) Flow Sheets
- [x] Service Plan

Other pertinent medical records:

- [x] Police Report

Additional facility records:

- [x] Staff Time Sheets, Schedules, etc.
- [x] Facility Internal Investigation Reports
- [x] Personnel Records/Background Check, etc.
- [x] Facility In-service Records
- [x] Facility Policies and Procedures

Number of additional resident(s) reviewed: none

Were residents selected based on the allegation(s)? ○ Yes ○ No ◉ N/A

Specify: _____

Were resident(s) identified in the allegation(s) present in the facility at the time of the investigation?

○ Yes ◉ No ○ N/A

Specify: Client is provided service in-home

Interviews: The following interviews were conducted during the investigation:

Interview with reporter(s) ◉ Yes ○ No ○ N/A

Specify: _____

If unable to contact reporter, attempts were made on:

Date:	Time:	Date:	Time:	Date:	Time:

Interview with family: ◉ Yes ○ No ○ N/A Specify: _____

Did you interview the resident(s) identified in allegation:

○ Yes ◉ No ○ N/A Specify: Client can not use phone due to medical reasons

Did you interview additional residents? ○ Yes ◉ No

Total number of resident interviews: None

Interview with staff: ◉ Yes ○ No ○ N/A Specify: _____

Tennessen Warnings

Tennessen Warning given as required: ◉ Yes ○ No

Total number of staff interviews: One

Physician Interviewed: ○ Yes ◉ No

Nurse Practitioner Interviewed: ○ Yes ◉ No

Physician Assistant Interviewed: ○ Yes ◉ No

Interview with Alleged Perpetrator(s): ◉ Yes ○ No ○ N/A Specify: _____

Attempts to contact:

Date:	Time:	Date:	Time:	Date:	Time:
08/17/2017	3:50 p.m.	08/18/2017	11:00 a.m.	08/21/2017	1:20 p.m.

If unable to contact was subpoena issued: ◉ Yes, date subpoena was issued August 21, 2017 ○ No

Were contacts made with any of the following:

☐ Emergency Personnel ☒ Police Officers ☐ Medical Examiner ☐ Other: Specify _____

Observations were conducted related to:

Was any involved equipment inspected: ○ Yes ◉ No ○ N/A

Was equipment being operated in safe manner: ○ Yes ◉ No ○ N/A

Were photographs taken: ○ Yes ◉ No Specify: _____

cc:

Health Regulation Division - Home Care & Assisted Living Program

The Office of Ombudsman for Long-Term Care

Duluth Police Department

Duluth City Attorney

Saint Louis County Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	H23296	A. BUILDING: _____ B. WING _____	C 09/07/2017

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
HOME INSTEAD SENIOR CARE	315 EAST CENTRAL ENTRANCE SUITE 3 DULUTH, MN 55811

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
0 000	Initial Comments *****ATTENTION****** HOME CARE PROVIDER LICENSING CORRECTION ORDER In accordance with Minnesota Statutes, section 144A.43 to 144A.482, this correction order is issued pursuant to a survey. Determination of whether a violation has been corrected requires compliance with all requirements provided at the Statute number indicated below. When Minnesota Statute contains several items, failure to comply with any of the items will be considered lack of compliance. INITIAL COMMENTS: On August 17, 2017, a complaint investigation was initiated to investigate complaint #HL23296007. At the time of the survey, there were 53 clients that were receiving services under the comprehensive license. The following correction orders are issued.	0 000	Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota State Statutes for Home Care Providers. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state Statute number and the corresponding text of the state Statute out of compliance is listed in the "Summary Statement of Deficiencies" column. This column also includes the findings which are in violation of the state requirement after the statement, "This Minnesota requirement is not met as evidenced by." Following the surveyors ' findings is the Time Period for Correction. PLEASE DISREGARD THE HEADING OF THE FOURTH COLUMN WHICH STATES,"PROVIDER ' S PLAN OF CORRECTION." THIS APPLIES TO FEDERAL DEFICIENCIES ONLY. THIS WILL APPEAR ON EACH PAGE. THERE IS NO REQUIREMENT TO SUBMIT A PLAN OF CORRECTION FOR VIOLATIONS OF MINNESOTA STATE STATUTES. The letter in the left column is used for tracking purposes and reflects the scope and level issued pursuant to 1441.474 subd. 11 (b) (1) (2)	
0 325 SS=D	144A.44, Subd. 1(14) Free From Maltreatment Subdivision 1. Statement of rights. A person who receives home care services has these rights:	0 325		

Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE TITLE (X6) DATE

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	H23296	A. BUILDING: _____ B. WING _____	C 09/07/2017

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
HOME INSTEAD SENIOR CARE	315 EAST CENTRAL ENTRANCE SUITE 3 DULUTH, MN 55811

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
0 325	Continued From page 1 (14) the right to be free from physical and verbal abuse, neglect, financial exploitation, and all forms of maltreatment covered under the Vulnerable Adults Act and the Maltreatment of Minors Act; This MN Requirement is not met as evidenced by: Based on document review and interview, the licensee failed to ensure that a client was free from maltreatment for one of one client, (C1), reviewed when a staff member stole two personal checks from C1 and cashed each for $1,700.00. The violation occurred as a level 2 violation (a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death) and is issued at an isolated scope (when one or a very limited number of residents are affected and/or one of a very limited number of staff are involved, and/or the situation has occurred only occasionally or in a very limited number of locations). The findings include: A policy titled Abuse Prevention Plan indicates clients will be free from maltreatment under Minnesota State Statute 144A.479, all clients are provided vulnerable adult abuse information at initial signing and annually, and caregiver training sessions will review vulnerable adult abuse policies and procedures for reporting during orientation and annual training C1's medical record was reviewed. According to a service agreement dated March 6, 2017, C1 received comprehensive home care services for	0 325		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	H23296	A. BUILDING: _____ B. WING _____	C 09/07/2017

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
HOME INSTEAD SENIOR CARE	315 EAST CENTRAL ENTRANCE SUITE 3 DULUTH, MN 55811

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
0 325	Continued From page 2 registered nurse services, medication management, delegated tasks to unlicensed personnel, hands-on assistance with transfers and mobility, eating assistance, speciality services with dementia care, assistance with activities of daily living, laundry, housekeeping, meal preparation, shopping with errands and companionship and socialization. Unlicensed personnel (ULP)-C's personnel record indicated ULP-C received, read, trained, understood, and acknowledged the caregiver handbook policies on May 18, 2017 regarding the facility vulnerable adult policy. A police report dated May 23, 2017 indicated ULP-C of the comprehensive home care provider took a check belonging to C1 on two different occasions from a kitchen drawer, forged a family member's name, and deposited each into the staff member's own personal account. ULP-C was being charged with felony check forgery and financial exploitation of a vulnerable adult. During an interview with the owner on August 17, 2017 at 10:50 a.m. the owner stated ULP-C did work in C1's home. The ULP-C was terminated for violating a policy regarding financial exploitation of vulnerable adults and failing to report financial transactions with C1's personal account for cashing C1's personal checks without permission. Interview with family member (F)-B on August 18, 2017 at 3:30 p.m. revealed the ULP-C did not have permission to write or sign the checks with F-B's name or deposit funds into the ULP-C's own personal account. C1 did not suffer any negative outcomes as a result of having $3,400.00 taken from C1's personal checking	0 325		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	H23296	A. BUILDING: _____ B. WING _____	C 09/07/2017

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
HOME INSTEAD SENIOR CARE	315 EAST CENTRAL ENTRANCE SUITE 3 DULUTH, MN 55811

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
0 325	Continued From page 3 account. During an interview with ULP-C on September 6, 2017 at 10:10 a.m., she said that she took two of C1's checks without permission, forged F-B's name, and deposited each into her own account. ULP-C said she had admitted this to law enforcement and had to go to court for criminal charges. TIME PERIOD FOR CORRECTION: Twenty-one (21) days	0 325		

DEPARTMENT OF HEALTH

Protecting, Maintaining and Improving the Health of All Minnesotans

November 9, 2017

Ms. Mary Andrews, Administrator
Home Instead Senior Care
315 East Central Entrance Suite 3
Duluth, MN 55811

RE: Complaint Number HL23296007

Dear Ms. Andrews :

On November 7, 2017 an investigator of the Minnesota Department of Health, Office of Health Facility Complaints completed a re-inspection of your facility, to determine correction of orders found on the complaint investigation completed on September 7, 2017 with orders received by you on October 12, 2017. At this time these correction orders were found corrected and are listed on the attached State Form: Revisit Report.

You are encouraged to retain this document for your records. It is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body. Please feel free to call me with any questions.

Sincerely,

Matthew Heffron

Matthew Heffron, JD, NREMT
Health Regulations Division
Supervisor, Office of Health Facility Complaints
85 East Seventh Place, Suite 220
P.O. Box 64970
St. Paul, MN 55164-0970
Telephone: (651) 201-4221 Fax: (651) 281-9796

MLH

Enclosure

cc: Home Health Care Assisted Living File
Saint Louis County Adult Protection
Office of Ombudsman for Long-Term Care
MN Department of Human Services