



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

People Incorporated
317 York Avenue
St Paul, MN 55130
Ramsey County

Report #: H7264001

Date: May 22, 2014

Date of Visit: April 24, 2014

By: Deborah Neuberger, R.N., Special Investigator

Time of Visit: 8:00 a.m. – 2:00 p.m.

- Type of Facility:**
- Nursing Home
 - HHA
 - Home Care Provider/Assisted Living
 - SLF
 - ICF/IID
 - Home Care
 - Hospital
 - Other: _____

- Facility Self Report
- Complaint

Allegation(s): It is alleged that financial exploitation occurred when a staff, alleged perpetrator (AP), took a patient's narcotic medication.

An unannounced visit was made at this facility and an investigation was conducted under:

- Federal Regulations for Hospital Conditions of Participation (42 CFR, Part 482)
- Federal Regulations for Long Term Care Facilities (42 CFR Part 483, subpart B)
- Federal Regulations for ICF/IID (42 CFR Part 483, subpart I)
- Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484)
- Federal Regulations for CAH (Critical Access Hospital) (42 CFR, Part 485)
- Federal Regulations for EMTALA (42 CFR Part 489)
- State Licensing Rules for Boarding Care Homes (MN Rules Chapter 4655)
- State Licensing Rules for Nursing Homes (MN Rules Chapter 4658)
- State Licensing Rules for Supervised Living Facilities (MN Rules Chapter 4665)
- State Licensing Rules for Home Care (MN Rules Chapter 4668)

- State Statutes for Maltreatment of Minors (MN Statutes, section 626.556)
 State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557)
 State Statutes Chapters 144 and 144A

Conclusion:

Minnesota Vulnerable Adults Act (MN 626.557)

Under the Minnesota Vulnerable Adults Act (MN. 626.557):

- Abuse Neglect Financial Exploitation was:
 Substantiated Not Substantiated Inconclusive based on the following information:

A preponderance of evidence indicates that financial exploitation occurred when the AP replaced a patient's OxyContin tablets with non-narcotic tablets that the AP brought into the patient's home and took the OxyContin for his/her own use.

Interviews and document review revealed that the patient had orders that included Skilled Nursing visits 3 – 5 times a month for medication management, pain assessment and medication orders for OxyContin 10 mg. 2 times daily. The AP was responsible to provide medication set-up for the patient, including the patient's OxyContin medication.

The patient was interviewed and stated the home health nurse sets up the patient's medications by using the medications the patient's friend picks up at the local pharmacy. During the Skilled Nurse Visit on 3/31/2014 the AP was observed by the patient and the patient's friend to pull a brown, unlabeled pharmacy bottle from his/her pocket and put a yellow tablet from that bottle in the medication set-up box where the patient's OxyContin should have been. When the AP was asked by the patient what s/he was doing the AP stated the OxyContin manufacturer had changed and the OxyContin looked different. The patient's OxyContin medication was missing after the AP left the home. The patient stated s/he never had a nurse bring medications into the home prior to this occasion. The patient stated s/he did not know what the yellow tablets were that the AP set-up in his/her medication box, but s/he refused to take a medication that was not his/hers. The patient and friend called the agency and the police to report the incident.

After the patient called the agency an agency staff member went out to the patient's home, called the pharmacy and identified that that the yellow tablet in the medication box was Cyclobenzaprine (a muscle relaxant) and not OxyContin. The patient did not have a prescription for Cyclobenzaprine. The patient's friend had picked up the OxyContin prescription on 3/19/2014 for 60 pills, so 36 OxyContin 10 mg. should have been left on 3/31/2014, and all 36 of those pills were missing. The AP was interviewed by agency staff about the missing OxyContin and denied s/he took the OxyContin.

The AP was interviewed and denied s/he brought any pills into the patient's home, or took any pills out of the patient's home. The AP stated both bottles were labeled as OxyContin and already in the home and s/he assumed there was a new manufacturer and that was why the OxyContin looked different in the 2 bottles. The AP had no explanation for how the Cyclobenzaprine came to be in the patient's home. The AP stated the patient had a history of taking more pain medicine than is ordered, and perhaps that is what happened to the missing OxyContin.

Law enforcement was contacted and indicated the incident was being investigated. No further information was available.

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 agency had adequate policies in place related to client protections and implemented those policies. Although the AP was trained in the policies related to client protections, the AP took client narcotic medication from the client's home without his/her permission.

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:**Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484) – Compliance Met**

The facility was found to be in compliance with Federal Regulations for HHA (Home Health Agencies) (42 CFR, Part 484). No deficiencies were issued.

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.

Facility Corrective Action:

The facility took the following corrective action(s):

Prior to the site investigation the facility took the following corrective action: Staff retraining during staff meetings related to medications, boundaries and substance abuse.

Definitions:

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.

Minnesota Statutes, section 626.5572, subdivision 9 - Financial exploitation

"Financial exploitation" means:

(a) In breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party under section 144.6501, a person:

(1) engages in unauthorized expenditure of funds entrusted to the actor by the vulnerable adult which results or is likely to result in detriment to the vulnerable adult; or

(2) fails to use the financial resources of the vulnerable adult to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the vulnerable adult, and the failure results or is likely to result in detriment to the vulnerable adult.

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

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

(2) obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor or another to the detriment of the vulnerable adult;

(3) acquires possession or control of, or an interest in, funds or property of a vulnerable adult through the use of undue influence, harassment, duress, deception, or fraud; or

(4) forces, compels, coerces, or entices a vulnerable adult against the vulnerable adult's will to perform services for the profit or advantage of another.

(c) Nothing in this definition requires a facility or caregiver to provide financial management or supervise financial management for a vulnerable adult except as otherwise required by law.

The Investigation included the following:**Document Review:** The following records were reviewed during the investigation:

Medical Records

Care Guide

Medication Administration Records

Treatment Sheets

Facility Incident Reports

Physician Progress Notes

ADL (Activities of Daily Living) Flow Sheets

Laboratory and X-ray Reports

Physician Orders

Social Service Notes

Nurses Notes

Meal Intake Records

Activities Reports

Weight Records

Therapy and/or Ancillary Services Records

Assessments

Skin Assessments

Care Plan Records

Other pertinent medical records:

Hospital Records

Ambulance/Paramedics

Medical Examiner Records

Death Certificate

Police Report

Additional facility records:

Resident/Family Council Minutes

Personnel Records/Background Check, etc.

Staff Time Sheets, Schedules, etc.

Facility In-service Records

Facility Internal Investigation Reports

Facility Policies and Procedures

Call Light Audits

Other, specify: _____

Number of additional resident(s) reviewed: 2

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: This is a home health agency.

Interviews: The following interviews were conducted during the investigation:

Interview with complainant(s): Yes No N/A Specify: This is an agency self-report.

If unable to contact complainant, 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: _____

Did you interview additional residents: Yes No

Total number of resident interviews: 2

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 5

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

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

Attempts to contact: Date/time: _____ Date/time: _____ Date/time: _____

If unable to contact was subpoena issued: Yes , date subpoena was issued _____ No

Were contacts made with any of the following:

Emergency personnel Police Officers Medical Examiner Other: Specify _____

Observations were conducted related to:

- Wound Care
- Medication Pass
- Meals
- Personal Care
- Dignity/Privacy Issues
- Restorative Care
- Nursing Services
- Safety Issues
- Facility Tour
- Infection Control
- Cleanliness
- Injury
- Use of Equipment
- Transfers
- Incontinence

Call Light

Other: Medication set-up procedures.

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: _____

xc: Division of Compliance Monitoring - Licensing & Certification
Minnesota Board of Nursing
Brooklyn Park City Police Department; Detective Russell Czapar
Hennepin County Attorney
Brooklyn Park City Attorney

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 05/02/2014
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 247264	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 05/02/2014
--	---	--	---

NAME OF PROVIDER OR SUPPLIER PEOPLE INCORPORATED	STREET ADDRESS, CITY, STATE, ZIP CODE 317 YORK AVENUE SAINT PAUL, MN 55120
--	--

(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) COMPLETION DATE
G 000	<p>INITIAL COMMENTS</p> <p>A complaint investigation was conducted to investigate case #H7264001. People Incorporated was found to be in compliance with 42 CFR, Part 484, requirements for Home Health Agencies.</p>	G 000		

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.