



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Outreach Rice Creek
5402 Fairview Avenue North
Crystal, MN 55429
Hennepin County

Report #: HG437002

Date: November 25, 2015

Date of Visit: March 27, 2015
Time of Visit: 7:00 a.m. – 11:00 a.m.

By: Debora Palmer, R.N., Special Investigator
Barbara White, R.N., Special Investigator

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 a client was financially exploited when an employee, the Alleged Perpetrator (AP), used the client's finances over a 12-15 month period for his/her own personal use, totaling \$769.31.

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:

Based on a preponderance of evidence, financial exploitation did occur when the AP stole money from the client multiple times over a period of 12 – 15 months, totaling \$769.31

The client has severe intellectual impairment and is reliant on staff for all needs, including management of personal funds.

The AP was responsible for managing the client's funds, which included making withdrawals from the client's bank account and depositing the money withdrawn into the client's petty cash fund at the facility. The AP was the only facility employee who had access to the client's ATM card for purposes of withdrawing money from the client's bank account so the client had petty cash available at the facility for the client's personal needs, such as shopping trips, eating out, and community activities. The client's petty cash is in a locked area at the facility. The AP was the only facility employee who possessed a key to the client's petty cash funds.

The facility's accounting system for the client's petty cash contained a ledger for documenting the amounts of all deposits with corresponding bank transaction slips from the client's bank account. Withdrawals of petty cash were to be documented on the ledger, what the cash was used for, and corresponding receipts to account for all expenditures of the client's money. The AP's role included reconciliation of the client's petty cash funds each month.

In February 2015, leadership staff discovered discrepancies between the financial transactions on the client's bank account statements and the amounts on the petty cash ledger regarding deposits, withdrawals, and expenditures of the client's money. The AP had been withdrawing money from the client's bank account multiple times over a 12 - 15 month period and not depositing the money into the client's petty cash funds. The AP had also falsified expenditure receipts which indicated the client had spent money for purchases which were not used for the client and/or spent money for community outings during times when the client was at work and not available for a community outing. Leadership staff then conducted an audit of the client's finances, dating back to January 2014 when the AP started managing the client's personal funds. Leadership staff discovered that the AP's monthly reconciliation records of the client's petty cash funds were inaccurate and altered for a period of 12 - 15 months. The AP had misused \$769.31 of the client's money and purchased items for the AP's personal use from January 1, 2014, through February 26, 2015.

The AP failed to respond to a subpoena issued on July 29, 2015 and appear on September 1, 2015, for an interview with the OHFC investigator regarding the client's missing money.

Local law enforcement investigated the matter. On September 1, 2015, law enforcement submitted a Summons Complaint to the city attorney for charges against the AP including financial exploitation of a vulnerable adult and theft.

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 facility provided the AP with ongoing training about abuse, neglect, and what constituted financial exploitation; the AP had this training as recently as February 4, 2015. The AP's job description indicated that the AP was responsible for the day to day operation of the facility program which included management of the client's petty cash fund. The facility had an established system and accounting procedures for managing client money but the AP did not adhere to them.

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 ICF/IID (42 CFR, Part 483, subpart I) – Compliance Met**

The facility was found to be in compliance with Federal Regulations for ICF/IID (42 CFR, Part 483, subpart I). No deficiencies were issued.

State Licensing Rules for Supervised Living Facility (MN Rules Chapter 4665) – Compliance Met

The facility was found to be in compliance with State Licensing Rules for Supervised Living Facilities (MN Rules Chapter 4665). No state licensing orders 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.

State Statutes Chapters 144 & 144A – Compliance Met

The facility was found to be in compliance with State Statutes for Chapters 144 & 144A. No state licensing orders were issued.

Facility Corrective Action:

The facility took the following corrective action(s):

The Program Director implemented an electronic financial auditing process of monthly client funds, to provide a higher level of accountability of facility staff who manage client funds as well as closer leadership oversight of the monthly reconciliation process.

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:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Medical Records | <input type="checkbox"/> Care Guide |
| <input checked="" type="checkbox"/> Medication Administration Records | <input type="checkbox"/> Treatment Sheets |
| <input checked="" type="checkbox"/> Facility Incident Reports | <input type="checkbox"/> Physician Progress Notes |
| <input type="checkbox"/> ADL (Activities of Daily Living) Flow Sheets | <input type="checkbox"/> Laboratory and X-ray Reports |
| <input checked="" type="checkbox"/> Physician Orders | <input type="checkbox"/> Social Service Notes |
| <input checked="" type="checkbox"/> Nurses Notes | <input type="checkbox"/> Meal Intake Records |
| <input type="checkbox"/> Activities Reports | <input type="checkbox"/> Weight Records |
| <input type="checkbox"/> Therapy and/or Ancillary Services Records | <input checked="" type="checkbox"/> Assessments |
| <input type="checkbox"/> Skin Assessments | <input checked="" type="checkbox"/> Care Plan Records |

Other pertinent medical records:

- Hospital Records Ambulance/Paramedics Medical Examiner Records Death Certificate
- Police Report

Additional facility records:

- | | |
|---|---|
| <input type="checkbox"/> Resident/Family Council Minutes | <input checked="" type="checkbox"/> Personnel Records/Background Check, etc. |
| <input checked="" type="checkbox"/> Staff Time Sheets, Schedules, etc. | <input checked="" type="checkbox"/> Facility In-service Records |
| <input checked="" type="checkbox"/> Facility Internal Investigation Reports | <input checked="" type="checkbox"/> Facility Policies and Procedures |
| <input type="checkbox"/> Call Light Audits | <input checked="" type="checkbox"/> Other, specify: Petty cash system for client monies |

Outreach Rice Creek

HG437002

Number of additional resident(s) reviewed: 3

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: _____

Interviews: The following interviews were conducted during the investigation:

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

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: The client was cognitively impaired and was visited.

Did you interview additional residents: Yes No

Total number of resident interviews: 1

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 3

Physician interviewed: Yes No

Nurse Practitioner interviewed: Yes No

Interview with Alleged Perpetrator(s): Yes No N/A Specify: Attempts to contact the AP were unsuccessful.

Attempts to contact: Date/time: 04/02/15 @ 12:05 p.m. Date/time: 08/03/15 @ 1:30 p.m. Date/time: 09/01/15 @ 10:00 a.m.

If unable to contact was subpoena issued: Yes , date subpoena was issued 07/29/15 No

Were contacts made with any of the following:

Emergency personnel Police Officers Medical Examiner Other: Specify _____

Observations were conducted related to:

- | | | |
|---|---|---|
| <input type="checkbox"/> Wound Care | <input type="checkbox"/> Medication Pass | <input type="checkbox"/> Meals |
| <input checked="" type="checkbox"/> Personal Care | <input checked="" type="checkbox"/> Dignity/Privacy Issues | <input type="checkbox"/> Restorative Care |
| <input type="checkbox"/> Nursing Services | <input checked="" type="checkbox"/> Safety Issues | <input checked="" type="checkbox"/> Facility Tour |
| <input type="checkbox"/> Infection Control | <input type="checkbox"/> Cleanliness | <input type="checkbox"/> Injury |
| <input type="checkbox"/> Use of Equipment | <input type="checkbox"/> Transfers | <input type="checkbox"/> Incontinence |
| <input type="checkbox"/> Call Light | <input checked="" type="checkbox"/> Other: Petty cash storage and reconciliation system | |

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: Petty cash storage, ledgers, receipts, and cash available

xc: Health Regulation Division - Licensing & Certification
 Minnesota Ombudsman for Mental Health and Developmental Disabilities
 Crystal City Police Department: Matthew Marson
 Hennepin County Attorney
 Crystal City Attorney

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

PRINTED: 04/02/2015
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 24G437	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 03/27/2015
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NAME OF PROVIDER OR SUPPLIER OUTREACH-RICE CREEK	STREET ADDRESS, CITY, STATE, ZIP CODE 5402 FAIRVIEW AVENUE NORTH CRYSTAL, MN 55429
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(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
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W 000	<p>INITIAL COMMENTS</p> <p>An abbreviated standard survey was conducted to investigate complaint #HG437002. Outreach Rice Creek is in compliance with 42 CFR Part 483 Subpart 1, Requirements for Intermediate Care Facilities for Individuals with Intellectual Disabilities.</p>	W 000		
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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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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.

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 01562	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 03/27/2015
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NAME OF PROVIDER OR SUPPLIER OUTREACH-RICE CREEK	STREET ADDRESS, CITY, STATE, ZIP CODE 5402 FAIRVIEW AVENUE NORTH CRYSTAL, MN 55429
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(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
5 000	<p>Initial Comments</p> <p>In accordance with Minnesota Statute, section 144.56 and/or Minnesota Statute, section 144.653, this correction order has been issued pursuant to a survey. If, upon reinspection, it is found that the deficiency or deficiencies cited herein are not corrected, a fine for each violation not corrected shall be assessed in accordance with a schedule of fines promulgated by rule of the Minnesota Department of Health.</p> <p>Determination of whether a violation has been corrected requires compliance with all requirements of the rule provided at the tag number and MN Rule number or MN Statute indicated below. When a rule or statute contains several items, failure to comply with any of the items will be considered lack of compliance. Lack of compliance upon re-inspection with any item of multi-part rule will result in the assessment of a fine even if the item that was violated during the initial inspection was corrected.</p> <p>You may request a hearing on any assessments that may result from non-compliance with these orders provided that a written request is made to the Department within 15 days of receipt of a notice of assessment for non-compliance. A complaint investigation was conducted to investigate complaint #HG437002. Outreach Rice Creek is in compliance with requirements of Minnesota Rules, Chapter 4665 requirements for Supervised Living Facilities (SLF).</p>	5 000		

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