



Protecting, Maintaining and Improving the Health of Minnesotans

Office of Health Facility Complaints Investigative Report
PUBLIC

Facility:

Visiting Angels
5871 Cedar Lake Rd., Suite 101
St. Louis Park, MN 55416
Hennepin County

Report #: HL21550001

Date: August 18, 2014

Date of Visit: July 21, 2014 and July 22, 2014 By: Darin Hatch, Special Investigator
Time of Visit: 12:10 p. m. -1:00 p. m. and 9:20 a. m. - 11:45 a. m.

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

Allegation(s): It is alleged that a client was financially exploited when a staff, alleged perpetrator (AP) took \$1130.00 that belonged to the client.

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 upon a preponderance of the evidence, financial exploitation did occur when the AP while employed by the agency took \$1130.00 from the client.

The client receives services in the form of personal care from the agency when the family member is away, or other times, as directed by the family member.

Interview with the family revealed \$1130.00 missing from the client the same day the client received service from the AP. The family reported the theft to the police and to the provider.

Interview with the agency staff confirmed the AP worked for the client the day of the theft and the AP admitted to the provider s/he took the money from the client.

Interview with police and review of police evidence revealed the AP admitted to working for the client the day of the theft. The AP admitted to police s/he took \$1130.00 from the client on that day. The AP gave the \$1130.00 to the police.

The AP was interviewed and admitted that all the information s/he told the police was true and accurate. The AP admitted to taking the \$1130.00 from the client. The AP admitted it was a one-time mistake and admitted to receiving an employee handbook and training from the provider. The AP was terminated from the provider. The police report indicates " the case will now be referred to the Hennepin County Attorney's office for consideration of a charge of Financial Exploitation of a Vulnerable Adult (Over \$1,000.000).

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 home care provider had adequate policies in place to govern financial exploitation. The AP's personnel file adequately showed the AP's acknowledgement of receiving the "Employee Handbook" which indicated any

theft was unacceptable in the workplace and was grounds for "immediate discharge". The AP's personnel file showed the AP received adequate training in regards to the policies in place.

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 Licensing Rules for Home Care (MN Rules Chapter 4668) – Compliance Met

The facility was found to be in compliance with State Licensing Rules for Home Care (MN Rules Chapter 4668). No state licensing orders were issued.

State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) – Compliance Not Met

The requirements under State Statutes for Vulnerable Adults Act (MN Statutes, section 626.557) were not met.

State licensing orders were issued: Yes No If no, specify: _____

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

State Statutes Chapters 144 & 144A – Compliance Not Met

The requirements under State Statutes for Chapters 144 & 144A were not met.

State licensing orders were issued: Yes No If no, specify: _____

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

Facility Corrective Action:

The facility took the following corrective action(s):

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:

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

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

The Investigation included the following:

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

- | | |
|---|---|
| <input type="checkbox"/> Medical Records | <input checked="" type="checkbox"/> Care Guide |
| <input 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 type="checkbox"/> Physician Orders | <input type="checkbox"/> Social Service Notes |
| <input 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:

- 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: 0

Were residents selected based on the allegation(s)? Yes No N/A Specify: Home Care

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

Yes No N/A Specify: Home Care

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: Client not interviewed due to cognitive deficits

Did you interview additional residents: Yes No

Total number of resident interviews: 0

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

Tennessee Warning given as required: Yes No

Total number of staff interviews: 7

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:

- | | | |
|--|---|---|
| <input type="checkbox"/> Wound Care | <input type="checkbox"/> Medication Pass | <input type="checkbox"/> Meals |
| <input type="checkbox"/> Personal Care | <input type="checkbox"/> Dignity/Privacy Issues | <input type="checkbox"/> Restorative Care |
| <input type="checkbox"/> Nursing Services | <input 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: Police photos/audio confession of AP to police | |

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: Police photos

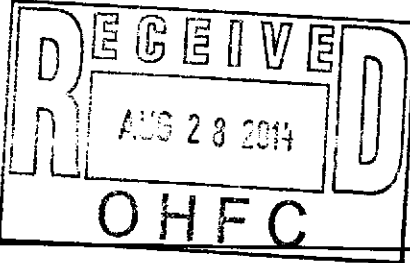
xc: Division of Compliance Monitoring - Licensing & Certification
 Wayzata City Police Department
 Hennepin County Attorney
 Wayzata City Attorney

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H21550	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 07/28/2014
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NAME OF PROVIDER OR SUPPLIER VISITING ANGELS	STREET ADDRESS, CITY, STATE, ZIP CODE 5871 CEDAR LAKE RD EDINA, MN 55416
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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
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0 000	<p>Initial comments</p> <p>A complaint investigation was conducted to investigate case #HL21550001. The following correction order is issued.</p> <p>When corrections are completed please sign and date, make a copy of the form for your records and return the original to the MN Department of Health, Division of Compliance Monitoring, Office of Health Facility Complaints; 85 East Seventh Place, Suite 220, P.O. Box 64970, St. Paul, Minnesota 55164-0970.</p>	0 000	<p>Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota state Statutes/Rules for Home Care Providers. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state Statute/Rule number and the corresponding text of the state Statute/Rule 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.</p> <p>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.</p> <p>THERE IS NO REQUIREMENT TO SUBMIT A PLAN OF CORRECTION FOR VIOLATIONS OF MINNESOTA STATE STATUTES/RULES.</p>	
0 605	<p>626.557 Subd.3 Timing of report</p> <p>Subd. 3. Timing of report (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not</p>	0 605		

Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

[Handwritten Signature] RN

TITLE
COO

(X6) DATE
8/22/14

Minnesota Department of Health

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0 605	<p>Continued From page 1</p> <p>reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless:</p> <p>(1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or</p> <p>(2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, clause (4).</p> <p>(b) A person not required to report under the provisions of this section may voluntarily report as described above.</p> <p>(c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point.</p> <p>(d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency.</p> <p>(e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this subdivision. If the reporter or a facility, at any time believes that an investigation by a lead agency will determine or should determine that the reported error was not neglect according to</p>	0 605		

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0 605	<p>Continued From page 2</p> <p>the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead agency shall consider this information when making an initial disposition of the report under subdivision 9c.</p> <p>This MN Requirement is not met as evidenced by: Based on interview and document review, the licensee failed to ensure that an incident of possible exploitation was reported immediately to the common entry point for one of one clients (C1) reviewed.</p> <p>The findings included:</p> <p>A document titled incident report from the police department was reviewed and it indicated an incident of theft involving C1 was reported to them on June 8, 2014 at 9:31 p.m. by family member-(H)</p> <p>Family member-H was interviewed on July 23, 2014 at 10:53 a.m. and said she noticed money belonging to C1 was missing upon her return from an outing on June 8, 2014. She said home health aide-(I) from the facility was the only person in the house with C1. Family member-H said she reported the incident to the police and to scheduler-(C) on June 8, 2014.</p>	0 605		

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0 605	<p>Continued From page 3</p> <p>On-call scheduler-C was interviewed on July 22, 2014 at 1:26 p.m. and said she was notified by family member-H on the evening of June 8, 2014 that C1 was missing money that was to be used to pay cash for private caregivers for C1. Family member-H reported that home health aide-I was the only person in the home during family member-H's absence. On-call scheduler-C called scheduler supervisor-(G) and informed her of the allegation.</p> <p>Scheduling supervisor-G was interviewed on July 24, 2014 at 10:40 a.m. and said she notified chief operating officer-(A) of the allegation on June 8, 2014.</p> <p>Chief operating officer-A was interviewed on July 21, 2014 at 12:30 p.m. said he advised family member-H to call the police on June 8, 2014. Chief operating officer-A assisted the police in the investigation. Chief operating officer-A admitted he was aware of the incident on June 8, 2014 and admitted he never notified the common entry point. Chief operating officer-A admitted to being notified by subordinate staff members and that he is the chief operating officer for the facility. Chief operating officer-A said reporting is typically done by the registered nurse. He said registered nurse-(E) was the person responsible for ensuring reporting to the common entry point.</p> <p>Registered nurse-E was interviewed on July 22, 2014 at 12:50 p.m. and said that she was not involved in the investigation and was made aware of the possible exploitation on June 9, 2014 at a morning meeting. She said director of clinical services and registered nurse-(B) was the person responsible for reporting to the common entry point or chief operating officer-A.</p>	0 605		

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0 605	<p>Continued From page 4</p> <p>Director of clinical services and registered nurse-B was interviewed on July 23, 2014 at 11:27 a.m. She first learned of the incident at a morning meeting on June 9, 2014. She said case managers are responsible for reporting to the common entry point. She said she supervises the case managers and admitted the incident did not get reported to the common entry point. She said she was not involved in the investigation and admitted she should've ensured reporting was made. She said she will review common entry point reporting requirements with all staff in accordance with state statute in the future.</p> <p>The undated facility policy titled Vulnerable Adult/Child, indicates facility staff will report all suspected or actual cases of adult maltreatment internally to their supervisor and the supervisor will review and report to the common entry point within 24 hours.</p> <p>TIME PERIOD FOR CORRECTION: Thirty (30) days.</p>	0 605		

State Form: Revisit Report

(Y1) Provider / Supplier / CLIA / Identification Number H21550	(Y2) Multiple Construction A. Building B. Wing	(Y3) Date of Revisit 9/8/2014
Name of Facility VISITING ANGELS	Street Address, City, State, Zip Code 5871 CEDAR LAKE RD EDINA, MN 55416	

This report is completed by a State surveyor to show those deficiencies previously reported that have been corrected and the date such corrective action was accomplished. Each deficiency should be fully identified using either the regulation or LSC provision number and the identification prefix code previously shown on the State Survey Report (prefix codes shown to the left of each requirement on the survey report form).

(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date
ID Prefix <u>00605</u> Reg. # <u>626.557 Subd.3</u> LSC _____	Correction Completed <u>09/08/2014</u>	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed
ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed	ID Prefix _____ Reg. # _____ LSC _____	Correction Completed

Reviewed By _____	Reviewed By _____	Date: _____	Signature of Surveyor: _____	Date: _____
Reviewed By _____	Reviewed By _____	Date: _____	Signature of Surveyor: _____	Date: _____
State Agency _____				
CMS RO _____				

Followup to Survey Completed on: <u>7/28/2014</u>	Check for any Uncorrected Deficiencies. Was a Summary of Uncorrected Deficiencies (CMS-2567) Sent to the Facility?
	YES NO