

State Rapid Response Investigative Public Report

Office of Health Facility Complaints

Maltreatment Report #: HL358337066M
Compliance #: HL358333451C

Date Concluded: August 30, 2023

Name, Address, and County of Licensee

Investigated:

Comforting Angels Home Care
202 Highway 10 East
Hawley, MN 56549
Clay County

Facility Type: Home Care Provider

Evaluator's Name: Jill Hagen, RN,
Special Investigator

Finding: Substantiated, individual responsibility

Nature of Visit:

The Minnesota Department of Health investigated an allegation of maltreatment, in accordance with the Minnesota Reporting of Maltreatment of Vulnerable Adults Act, Minn. Stat. 626.557, and to evaluate compliance with applicable licensing standards for the provider type.

Initial Investigation Allegation(s):

The alleged perpetrator (AP), facility owner, emotionally abused client #1 when the AP threatened to discontinue home services immediately for non-payment of services. In addition, the AP financially exploited client #2 when the AP withdrew unauthorized payments for services from the client's bank account.

Investigative Findings and Conclusion:

The Minnesota Department of Health determined emotional abuse was substantiated. The AP was responsible for the maltreatment. After approximately five months of services, the AP went to client #1's home unannounced demanding \$17,000.00 in payment for services and threatening to immediately discontinue client #1's home services. At a second visit approximately one week later, the AP demanded \$40,000.00 in a cash payment or the AP would discontinue services immediately. A few days later, the AP told client #1 to prepay for two weeks of services and threatened to discontinue client #1's services in two days for

non-payment. The AP stopped sending staff two days later to assist client #1 with twice a day mechanical lift transfers and assistance with activities of daily living. The AP gave client #1 two days to find twice a day services that client #1 depended on for care. The sudden discharge from services caused client #1 unnecessary anxiety and anguish.

The Minnesota Department of Health determined financial exploitation was not substantiated. When client #2's family questioned the variable amounts of withdrawals from client #2's banking account, the AP provided client #2 with invoices and charges for services and adjusted the amount charged for services agreed to by client #2.

The investigator conducted interviews with facility staff members, including administrative staff. The investigator contacted law enforcement. The investigation included review of the clients' records, invoices for services, and billing statements. Also, the investigator observed the homes of client #1 and client #2.

Client #1 received comprehensive home care services in her home. Client #1's diagnoses included paraplegia (paralysis of the lower extremities and trunk). Client #1 was able to make her own decisions and made her needs known to others. Client #1 used an electric wheelchair for all mobility, required assistance from staff for mechanical sling lift transfers from bed to commode and wheelchair and assistance with completing activities of daily living. Client #1 had a suprapubic catheter (tube inserted through the abdomen to drain urine from the bladder) with nursing to change the catheter monthly and required assistance with a suppository every other day for a bowel program.

Client #1's service agreement indicated the client required one and one-half hours staff assistance two times a day, morning, and evening, seven days a week. The agreement indicated the agency would submit the total cost of client #1's services to her insurance company. The agreement did not include an amount owed for services by client #1 to the AP.

During an interview, client #1 stated when she began services, the AP told client #1, her insurance company would pay 100% for the services provided by the agency. After receiving services for approximately five months, the AP initially asked client #1 for \$17,000.00 to make the AP's payroll. About a week later, the AP presented client #1 with a bill for \$40,000.00, requesting an immediate cash or check payment and threatened to discontinue services. Client #1 said prior to that time, the AP never provided an amount for services or a bill or invoices for services. Client #1 contacted her insurance company and was told the AP had not requested payment. Client #1 stated the AP sent all the invoices for payment at one time to client #1's insurance company about five months after the start of care. Client #1 received the insurance denial letters for payment at one time just prior to client #1's discharge from services. Client #1 stated during another call to her insurance company, client #1 was told the AP was incorrectly billing for services. Client #1 stated one day the AP called and told client #1 to pay for two weeks of services that day or in two days services would be discontinued. Client #1 stated two days later, the AP stopped sending staff to assist with her cares during a weekend leaving client

#1 to find services to provide her own care. The AP did not provide client #1 with agencies available that provided services in the area. Client #1 contacted a previous caretaker and between the caretaker and family members, was provided care until client #1 was able to plan for another agency to provide care.

Client #2 received comprehensive home care services in his home. Client #2's diagnoses included Parkinson's disease. Client #2 made his own decisions and was able to make his needs known. Client #2 used a wheelchair and walker for mobility. Client #2 received services including assistance with bathing, dressing, grooming, meal preparation, housekeeping, companionship, and providing transportation to appointments. Client #2 required staff for six to eight hours a day, five days a week.

Client #2's service agreement indicated client #2 signed and agreed to pay the AP \$30.50 an hour for a care giver and \$140.00 an hour for nursing assessments on day 14, 30, 90, and 120 following the first day of services. Client #2 agreed to pay the AP for services rendered by automatic withdrawals from an ACH (bank to bank transfer) account.

During an interview, client #2 stated when a family member (FM) visited him, they reviewed charges for services provided by the AP. Client #2 stated the FM pointed out a varied amount of money charged out of his debit account by the AP. Client #2 stated the FM attempted to obtain invoices for services from the AP however, the AP told the FM they needed to be client #2's responsible party in order to receive the information. Client #2 stated later, the AP came to visit client #2 and reviewed invoices. Client #2 stated the AP sometimes billed for a week of services, maybe two weeks of services, or a month of services so the amount billed to client #2 varied. After the visit by the AP, client #2 stated the AP agreed to bill \$1000.00 a week for services and to send weekly invoices. Client #2 stated about three weeks after the meeting with the AP, he has not received invoices for services from the AP but monitored his bank account frequently without issues.

In conclusion, the Minnesota Department of Health determined abuse was substantiated. In conclusion, the Minnesota Department of Health determined financial exploitation was not substantiated.

Substantiated: Minnesota Statutes, section 626.5572, Subdivision 19.

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

"Not Substantiated" means:

An investigatory conclusion indicating the preponderance of evidence shows that an act meeting the definition of maltreatment did not occur.

Abuse: Minnesota Statutes section 626.5572, subdivision 2.

"Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of an attempt to violate, or aiding and abetting a violation of:

- (1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;
- (2) the use of drugs to injure or facilitate crime as defined in section 609.235;
- (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322; and
- (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
- (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening;

Financial exploitation: Minnesota Statutes, section 626.5572, subdivision 9

"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;
- (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.

Vulnerable Adult interviewed: Yes, client #1 and client #2.

Family/Responsible Party interviewed: No, client #1 and client #2 were their own responsible party.

Alleged Perpetrator interviewed: Yes.

Action taken by facility:

The AP met with client #2 and agreed to a set a scheduled payment amount.

Action taken by the Minnesota Department of Health:

The facility was issued a correction order regarding the vulnerable adult's right to be free from maltreatment.

You may also call 651-201-4200 to receive a copy via mail or email.

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.

cc:

The Office of Ombudsman for Long Term Care

The Office of Ombudsman for Mental Health and Developmental Disabilities

Clay County Attorney

Hawley City Attorney

Hawley Police Department

Moorhead Sheriff's Office

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: H35833	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 07/24/2023
NAME OF PROVIDER OR SUPPLIER COMFORTING ANGELS		STREET ADDRESS, CITY, STATE, ZIP CODE 202 HIGHWAY 10 HAWLEY, MN 56549			
(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	<p>Initial Comments</p> <p>*****ATTENTION*****</p> <p>HOME CARE PROVIDER/ASSISTED LIVING PROVIDER CORRECTION ORDER</p> <p>In accordance with Minnesota Statutes, section 144A.43 to 144A.482, these correction orders are issued pursuant to a complaint investigation.</p> <p>Determination of whether a violation is corrected requires compliance with all requirements provided at the statute number indicated below. When a Minnesota Statute contains several items, failure to comply with any of the items will be considered lack of compliance.</p> <p>INITIAL COMMENTS:</p> <p>#HL358333451C/#HL358337066M</p> <p>On July 24, 2023, the Minnesota Department of Health conducted a complaint investigation at the above provider, and the following correction orders are issued. At the time of the complaint investigation, there were 12 clients receiving services under the provider ' s Comprehensive Home Care license .</p> <p>The following correction order is issued for ##HL358333451C/#HL358337066M, tag identification 0325.</p>	0 000	<p>The Minnesota Department of Health is documenting the State 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 Surveyor ' s and/or Investigators ' 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.</p> <p>THE LETTER IN THE LEFT COLUMN IS USED FOR TRACKING PURPOSES AND REFLECTS THE SCOPE AND LEVEL ISSUED PURSUANT TO 144A.474 SUBDIVISION 11 (b)(1)(2).</p>		
0 325	144A.44, Subd. 1(a)(14) Free From Maltreatment	0 325			

Minnesota Department of Health

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

Minnesota Department of Health

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0 325	<p>Continued From page 1</p> <p>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</p> <p>This MN Requirement is not met as evidenced by: The facility failed to ensure one of two clients reviewed (C1) was free from maltreatment..</p> <p>Findings include:</p> <p>The Minnesota Department of Health (MDH) issued a determination maltreatment occurred, and an individual was responsible for the maltreatment, in connection with incidents which occurred at the facility. Please refer to the public maltreatment report for details.</p>	0 325	No plan of correction is required for this tag.		