



*Protecting, Maintaining and Improving the Health of All Minnesotans*

# State Rapid Response Investigative Public Report

*Office of Health Facility Complaints*

**Maltreatment Report #:** HL358337765M  
**Compliance #:** HL358334573C

**Date Concluded:** October 6, 2023

**Name, Address, and County of Facility**

**Investigated:**

Comforting Angels  
202 Highway 10  
Hawley, MN 56549  
Clay County

**Facility Type:** Home Care Provider

**Evaluator's Name:** James Larson, RN  
Special Investigator

**Finding:** Inconclusive

**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.

**Allegation(s):**

The facility owner/alleged perpetrator (AP) financially exploited the client when the AP billed the client for services which were not provided.

**Investigative Findings and Conclusion:**

The Minnesota Department of Health determined financial exploitation was inconclusive. Due to the incomplete and conflicting information provided, it could not be determined if maltreatment occurred.

The investigator conducted interviews with agency staff members, including the owner and nursing staff. The investigator also interviewed the client's family. The investigation included review of the client's medical record, nursing assessments, service plans, and progress notes. The investigation also included review of the client's records, invoices for services, and billing statements.

The client received home care services in his home. The client's diagnoses included colon cancer, diabetes, and chronic kidney disease. The client's service plan directed staff to provide assistance with activities of daily living.

Complaint documents identified concerns surrounding the agency's improper billing of services, including duplicate fees, over the previous two years.

Review of complaint documents, client billing statements, and provided facility information indicated the home care agency owner/alleged perpetrator (AP) informed the client and his family, of difficulties with obtaining reimbursement from one of the client's insurance companies. The AP billed the client for the amount unable to be collected by the insurance company for services provided.

It was unable to be established through a review of agency documents, client information, and billing statements, if services were billed for but not provided.

Despite concerns over billing inaccuracies and reimbursement issues, the family continued to pay the AP for the home care services.

During an interview with the AP, the AP stated she had conversations with the client's family member who handled the client's finances, and repeatedly informed them that her agency was not Medicare certified (this is a requirement under many commercial insurance policies for reimbursement of certain home care services). The AP stated she submitted initial claims for around-the-clock care and notified the client's family of the issue with claims being rejected for reimbursement from the commercial insurance carrier. The AP indicated she had multiple conversations with the client's family surrounding the claims issues, but the conflict was never resolved. The AP indicated the client no longer received care from the agency and a balance for care continued to remain unpaid.

The client's family was interviewed, who indicated they originally contacted the client's insurance company when they learned of reimbursement issues. The insurance company told the family that reimbursement was not provided due to the home care agency not being listed as a "registered" provider with the insurance company. The family indicated they had multiple conversations with the AP on their concerns regarding billing and reimbursement issues. The family stated they had additional concerns with staff training and staff availability and ultimately terminated services from the agency. However, the family reported they had no concerns with the actual care provided to the client while receiving services from the agency.

In conclusion, the Minnesota Department of Health determined financial exploitation was inconclusive.

**Inconclusive: Minnesota Statutes, section 626.5572, Subdivision 11.**

"Inconclusive" means there is less than a preponderance of evidence to show that maltreatment did or did not occur.

**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:** No

**Family/Responsible Party interviewed:** Yes.

**Alleged Perpetrator interviewed:** Yes.

**Action taken by facility:** None

**Action taken by the Minnesota Department of Health:**

The facility was found to be in noncompliance. To view a copy of the Statement of Deficiencies and/or correction orders, please visit:

<https://www.health.state.mn.us/facilities/regulation/directory/provcompselect.html>

If you are viewing this report on the MDH website, please see the attached Statement of Deficiencies.

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

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 09/11/2023
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 LICENSING 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>#HL358334622C/HL358337745M</p> <p>#HL358334573C/HL358337765M</p> <p>On September 11, 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 an unknown number of clients receiving services under the provider's Comprehensive license.</p> <p>The following correction orders are issued for #HL358334573C/HL358337765M, tag identification 1075.</p> <p>No correction orders were issued for HL358334622C/HL358337745M.</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 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.</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>	

Minnesota Department of Health

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

TITLE

(X6) DATE

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01075 01075 SS=D	<p>Continued From page 1</p> <p>144A.4794, Subd. 2 Access to Records</p> <p>The home care provider must ensure that the appropriate records are readily available to employees or contractors authorized to access the records. Client records must be maintained in a manner that allows for timely access, printing, or transmission of the records.</p> <p>This MN Requirement is not met as evidenced by: Based on interview and record review, the licensee failed to ensure the appropriate records were available and maintained in a manner that allowed for timely access for one of one clients (C5).</p> <p>This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety, but was not likely to cause serious injury, impairment, or death) and was issued at an isolated scope (when one or a limited number of residents are affected or one or a limited number of staff are involved, or the situation has occurred only occasionally).</p> <p>Findings include:</p> <p>The licensee failed to provide requested records for C5 and attempts to contact owner (O)-A were not successful.</p> <p>On September 19, 2023, at 1:20 p.m., the phone number listed on the licensee's website for their Hawley, Minnesota office was called, the number was not in service.</p> <p>The investigator called O-A on her personal cell phone and left a voicemail requesting a call back</p>	01075 01075		

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01075	<p>Continued From page 2</p> <p>to discuss the investigation. O-A did not call the investigator back.</p> <p>On September 19, 2023, the investigator emailed O-A a request for C5's medical record for the following information:</p> <p>Signed Service Plan Individual Abuse Prevention Plan Evidence of client receipt of Minnesota Home Care Bill of Rights ACH Authorization Form Admission paperwork/contract signed by client/representative. Admission Nursing Assessment Nursing assessments Nursing Notes /Progress notes Billing invoices Staff schedules for client visits Documentation of services provided. Documentation of Services Missed/ Unable to Provide Service dates. Evidence of invoices sent to client/representative. As well as copies of: Admission Policy Service Contract Policy Staffing and Scheduling Policy Individual Abuse Prevention Plan Policy Contract Termination Policy Provider unable to provide service/ missed visit Policy Billing Policy Refund Policy</p> <p>A reply with all the requested information was to be submitted by 4:30 p.m. CST Friday, September 22, 2023. O-A did reply to the email in an email stating, "Due to the circumstances, your time frame is unreasonable". None of the records</p>	01075		

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01075	<p>Continued From page 3</p> <p>request were sent within the required timeframe.</p> <p>After additional phone conversations it was agreed the investigator would meet office personnel at the Hawley, MN office on September 28, 2023, at 1:00 p.m. to retrieve the requested records.</p> <p>No further information was provided.</p> <p>TIME PERIOD FOR CORRECTION: TWENTY-ONE (21) DAYS.</p>	01075		