

April 26, 2023

CERTIFIED MAIL

Feyisa Elmo, Authorized Agent
Joyfull Adult Foster Care
504 Crestview Drive South
Saint Paul, MN 55119

Feyisa Elmo
504 Crestview Drive South
Saint Paul, MN 55119

License Number: 1097876 (245D – Home and Community-Based Services)
License Number: 1057434 (Adult Foster Care)

ORDER OF LICENSE REVOCATION

Dear Feyisa Elmo:

The Department of Human Services (DHS) is revoking your licenses to provide home and community-based services (HCBS) and family adult foster care (AFC) at 504 Crestview Drive South, Saint Paul, Minnesota. This revocation is based on, failure to comply with family adult foster care laws and rules, and failure to comply HCBS licensing laws and rules. Details of our findings are provided below. Our next steps and your options are also detailed.

The revocation goes into effect on May 9, 2023, at 5:00pm to allow time for delivery of this order and ten days for you to inform the Commissioner whether you intend to appeal the license revocation explained below.

REASON FOR LICENSE REVOCATION

1. Commissioner's evaluation of program

In determining whether a licensing action is warranted, DHS evaluated the facts, conditions, and circumstances concerning your program's operation. This includes consideration of the well-being of persons served by your program, and information about the qualifications of staff persons that are working in your program. DHS has determined that revocation of your license is appropriate based on the violations identified below and the program evaluation.

The Commissioner is required to revoke your license. You were initially licensed to provide family adult foster care on May 1, 2010. Under the foster care licensing moratorium, if a family adult foster care license is issued during the moratorium and the license holder changes their primary residence away

from the physical location of the foster care license, the Commissioner is required to revoke the license. See Minnesota Statutes, section 245A.03, subdivision 7. You are also not the primary provider of care in the AFC, as required under Minnesota Statutes, section 245A.02, subdivision 6f.

On November 29, 2022, DHS licensors conducted an HCBS licensing review at your program located at 504 Crestview Drive South, Saint Paul, Minnesota, resulting in seven violations. Your Ramsey County family adult foster care licensor was also present at this visit. As a provider of intensive support services, you are required to work with each service recipient and their support teams to complete critical assessments and to then develop and implement service plans. This ensures that the vulnerable adults in your care receive person-centered planning and services that meet his/her physical, mental, and emotional needs. The most recent licensing review identified seven licensing violations, including four repeat violations. When these violations occurred, your program was operating under a conditional license.

In December 2022, Ramsey County initiated a licensing investigation and has determined that the family adult foster home ("family AFC") is not your primary residence, nor are you the primary provider of care to the persons served.

Because your primary residence is not in the physical location of the family adult foster care license that was issued during the moratorium on new foster care programs that are not the primary residence of the license holder; and due to the serious and chronic nature of licensing violations which impact the health and safety of persons served in your care, your licenses to provide home and community-based services and family adult foster care services are revoked. Your licenses to provide home and community-based services and family adult foster care services are revoked because your primary residence is not in the physical location of the family adult foster care license that was issued during the moratorium on new foster care programs that are not the primary residence of the license holder and due to the serious and chronic nature of licensing violations which impact the health and safety of persons served in your care.

Legal Authority: Minnesota Statutes, section 245A.04, subdivision 6.

2. Failure to comply with family adult foster care laws and rules

You failed to comply with the laws and rules that apply to licensed family adult foster care. DHS has considered the nature, chronicity, or severity of these violations that lead to the revocation of your license.

1. Your licensed AFC program at 504 Crestview Drive S., Maplewood, Minnesota, does not meet the definition of a family adult foster care home because the home is not your primary residence, and you are not the primary caregiver.

- a. Not your primary residence. In November 2022, DHS received information indicating that 504 Crestview Drive South, Maplewood, Minnesota was not your primary residence. During a licensing visit on November 29, 2022, you admitted that you did not sleep at the family adult foster home two to three nights per week. When asked where you stayed on those nights, you said that you stayed with "friends" and "family." Ramsey County has determined that 504 Crestview Drive South, Maplewood, Minnesota was not your primary residence

In December 2022, Ramsey County initiated a licensing investigation. In December 2022, Ramsey County met with P1 and P1's case manager. On January 18, 2023, Ramsey County made an unannounced visit to the family adult foster home and spoke with SP4, P1, P2 and P4. Multiple individuals stated that you stayed at the family adult foster home one to three nights per week, and that hired staff stayed overnight when you were not there.

According to Washington County property tax records, you and your spouse own a home at 7687 Teal Alcove, Woodbury, Minnesota. This is the home where your minor children reside and as their parent you are responsible for their daily care and supervision. Therefore, it was determined that 504 Crestview Drive South, Saint Paul, Minnesota is not your primary residence.

- b. You are not the primary caregiver. It was determined that you are not the primary provider of care in your family adult foster home because hired staff persons provide most of the care to the persons served because you are not present the majority of the time. In addition, a licensor indicated that at the licensing visit, the medication administration records show you rarely, if ever, administered medications to the person served.

Legal Authority: Minnesota Statutes, section 245A.02, subdivision 6f, paragraphs 2 and 3; Minnesota Statutes, section 245A.03, subdivision 7.

2. You failed to notify Ramsey County of household member changes in your family adult foster home.
 - a. A background clearance letter dated April 21, 2020, showed that SP4 identified 504 Crestview Drive South, Maplewood, Minnesota as their home address.
 - b. A background clearance letter dated November 28, 2022, showed that SP1 identified 504 Crestview Drive South, Maplewood, Minnesota as their home address.

You did not report these household member changes to Ramsey County, as required.

Legal Authority: Minnesota Rules, part 9555.6175, subpart 3, item A.

3. Failure to comply with HCBS licensing laws and rules

You failed to comply with the laws and rules that apply to licensed home and community-based services and family adult foster care. DHS has considered the nature, chronicity, or severity of these violations that lead to the revocation of your license.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 1 and 3(a)(1).

New violations determined

Licensing violations resulting from November 29, 2022, licensing review

On November 29, 2022, DHS conducted a licensing review at your program. The following are new violations that have not been the subject of a previous correction order. If you appeal this order, the following violations *will* be reviewed as a part of the appeal. DHS considered these violations, well as the violations described above, determining that revocation of your license is appropriate.

Service Recipient Violations

1. Citation: Minnesota Statutes section 245A.65, subdivision 2.

Violation: For one person of three persons whose records were reviewed (P1), the license holder did not meet the requirements for an individual abuse prevention plan (IAPP) as required.

- a. In an IAPP for P1 dated August 31, 2022, the license holder assessed P1 as being at risk of self-abuse and documented that P1 has a history of cutting themselves. The license holder documented in the IAPP that P1 and P1's legal representative requested that all sharps, including knives, be kept in a locked cabinet away from P1. The license holder failed to implement the specific measures that would be taken by the program to reduce P1's risk of self-abuse. At the licensing review, the license holder stated that the sharps were not locked in a cabinet and that P1 had access to sharps.
- b. The license holder's program abuse prevention plan (PAPP) dated March 10, 2022, stated that knives and sharps would be secured and out of direct access of the service recipients. The PAPP also stated that the person will not have independent access to knives or sharps. The license holder did not have the knives secured, giving service recipients direct and independent access to the knives, therefore, the license holder failed to enforce the program's PAPP.
- c. In P1's IAPP, the license holder indicated specific measures for the assessed area of risk of sexual abuse; however, the program did not indicate measures to minimize risk. In the area of sexual abuse, the document stated, "staff will implement [P1's

previous program's] reporting policies and procedures." The license holder did not have access to the previous program's policies and procedures.

Repeat Violation: The license holder was cited for a similar violation in an order of conditional license dated September 22, 2021, and correction orders dated March 1, 2022, and August 3, 2022.

2. **Citation:** Minnesota Statutes, section 245D.095, subdivision 3, paragraph (b), clause (7).

Violation: For three persons whose records were reviewed (P1-P3), the license holder did not maintain documentation in the service recipient record as required.

The license holder failed to maintain progress or daily log notes in P1-P3's records. In an interview with the license holder during the licensing review, the license holder stated that they did not maintain progress or daily log notes in P1- P3's records.

3. **Citation:** Minnesota Statutes, section 245D.07, subdivision 1a.

Violation: For one person whose records were reviewed (P2), the license holder did not provide services in response the person's identified needs, interests, preferences and desired outcomes as specified in the coordinated service and support plan and support plan addendum as required.

According to P2's support plan addendum, P2's service outcomes and supports were documented as:

- P2 wants to continue to work once a week at Walgreens stocking candy. P2 will work at least 50 weeks and will accomplish this at 80%.
- P2 wants to continue to attend college. P2 will attend college weekly and will accomplish 80% attendance.

In a support plan addendum dated May 4, 2022, a projected start date for both goals was June 1, 2022. P2's support plan addendum stated that staff would mark on a calendar the days that P2 attended work and college for data collection. From August 1, 2022 through November 29, 2022, the license holder failed to collect data on P2's outcomes. The license holder maintained a calendar titled "[P2's] Data Collection." The calendar did not list any dates P2 attended school or work from August 11, 2022 through November 29, 2022.

The license holder maintained a document in P2's record titled "Goal Tracking Sheet." This document listed the months of September, October and November 2022. The document did not list the dates P2 attended school or work. The form did state that both outcomes were met at 100% during that time period; however, it could not be determined how the license holder was supporting that conclusion without the required data collection.

Health Needs

4. Citation: Minnesota Statutes, section 245D.051, subdivision 1, paragraph (b).

Violation: For three persons whose records were reviewed (P1-P3), the license holder did not meet requirements for psychotropic medication use and monitoring as required.

Target symptoms refers to any perceptible diagnostic criteria for a person's diagnosed mental disorder, as defined by the Diagnostic and Statistical Manual of Mental disorders Fourth Edition Text Revision (DSM-IV-TR) or successive editions, that has been identified for alleviation.

P1-P3 were all prescribed several psychotropic medications. For P1-P3, the license holder failed to maintain documentation in each person's record that included a description of the target symptoms that each psychotropic medication was to alleviate.

Repeat Violation: The license holder was cited for a similar violation in an order of conditional license dated September 22, 2021, and correction orders dated December 27, 2019, March 1, 2022, and August 3, 2022.

Staffing Standards

5. Citation: Minnesota Statutes, section 245D.09, subdivision 4a.

Violation: For one staff person whose record was reviewed (SP2), the license holder did not provide orientation training as required.

SP2's hire date was August 1, 2022. The license holder failed to provide SP2 with instruction on medication setup, assistance, or administration procedures established for each service recipient. The license holder documented that SP2 received this training on May 23, 2021; however, this was prior to SP2's employment with the license holder. In addition, the license holder failed to incorporate an observed skill assessment to ensure unlicensed staff demonstrated the ability to safely and correctly follow medications procedures.

Repeat Violation: The license holder was cited for a similar violation in an order of conditional license dated September 22, 2021, and correction orders dated December 27, 2019, March 1, 2022, and August 3, 2022.

6. Citation: Minnesota Statutes, section 245D.09, subdivision 5.

Violation: The license holder failed to provide SP3 with training on the license holder program abuse prevention plan annually in 2022.

Repeat Violation: The license holder was cited for a similar violation in an order of conditional license dated September 22, 2021, and correction orders dated December 27, 2019, March 1, 2022, and August 3, 2022.

7. **Citation:** Minnesota Statutes, section 245D.095, subdivision 5, paragraph (b).

Violation: For one person whose record was reviewed (SP2), the license holder did not maintain personnel records as required.

The license holder failed to document SP2's date of first unsupervised direct contact with persons served by the program. The license holder documented SP2's date of hire, first supervised and unsupervised direct contact as August 1, 2022. When questioned about this timeline, the license holder stated that August 1, 2022, was not the date of first unsupervised direct contact because they did not occur on the same day. The license holder did not know the date of SP2's first unsupervised direct contact.

Nature, Severity, Chronicity

The nature, chronicity, and severity of the violations of laws and rules was considered as required by Minnesota Statutes, section 245A.07, subdivision 1(a).

Nature: Many of the violations cited in this Order of License Revocation are violations of law or rule affecting the health, safety, or rights of persons served by the program. The licensing violations include:

- o failure to provide services in compliance with the requirements of Minnesota Statutes, chapter 245D and Minnesota Rules, parts 9555.5050 – 9555.6265;
- o failure to develop individual abuse prevention plans;
- o failure to implement the program abuse prevention plan;
- o failure to maintain service recipient and personnel records;
- o failure to provide required staff orientation and training;
- o failure to report changes in household membership of the AFC; and
- o failure to report changes in primary residence and primary caregiver.

Chronicity: Your program received its home and community-based services license, number 1094150, on June 18, 2018, and AFC license, number 1087360, on March 12, 2018. Your program was operating on a conditional license when this Revocation Order was issued. Since the conditional license your program received two correction orders with a total of 26 violations and this Revocation Order with seven violations. You have demonstrated a history of noncompliance with applicable laws and rules. The information below summarizes this history:

- o April 26, 2023 Revocation (this order): 7 violations (4 repeat) related to HCBS
2 violations related to AFC
- o August 3, 2022 Correction Order: 8 violations (7 repeat)
- o March 1, 2022 Correction order 18 violations (11 repeat)

- o September 21, 2021 Conditional License: 15 violations (7 repeat)
- o December 27, 2019 Correction Order 11 violations

Severity: The violations that led to the revocation of your license relate to the health, safety, and rights of persons served. Additionally, revocation of your AFC license is required because your program no longer meets the definition of a family adult foster home under Minnesota Statutes, section 245A.02, subdivision 6f.

DHS determined this history demonstrates that a systemic problem exists in the operation of your program that puts the well-being of the vulnerable adult served by the program at risk. Based on this evaluation, and in consideration of the nature, chronicity, and severity of the licensing violations, DHS determined revocation of your Home and Community-Based Service License and Family Adult Foster Care license is warranted.

YOUR RIGHT TO APPEAL

You have the right to appeal the revocation. Your request must be in writing and clearly state that you are requesting a contested case hearing for this matter. Your request must be made before the deadlines provided below. If you do not meet this deadline, you lose your right to an administrative appeal. The timeline to appeal began when you received this order.

If you are mailing your request, it must be sent by certified mail and postmarked within 10 calendar days from when you received this order. Please send it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attention: Licensing Legal Unit
PO Box 64953
St. Paul, MN 55164-0953

If your request is being personally delivered, it must be received by DHS within 10 calendar days from when you received this order. Please bring it to:

Commissioner, Department of Human Services
Office of Inspector General
Legal Counsel's Office
Attention: Licensing Legal Unit
444 Lafayette Road North
St. Paul, MN 55155

Upon DHS' receipt of your timely appeal, your case would be scheduled for a contested case hearing in front of an Administrative Law Judge. Following this hearing, the Commissioner of DHS will issue a final order. If you do not appeal or if the order is affirmed by the Commissioner following a hearing, DHS is prohibited from issuing

you and the controlling individuals a license for five years. In addition, any additional licenses held by you or the controlling individuals shall also be revoked.

Legal representation at the contested case hearing:

You do not need a lawyer to appeal. However, a lawyer can help you with your appeal. The state or county will not get you a lawyer and will not pay for a lawyer. If you cannot afford a lawyer, you may be able to get free legal advice or help with your appeal. To find out if free help is available, contact: Volunteer Lawyers Network at 612-752-6677; Central Minnesota Legal Services at 612-332-8151; Southern Minnesota Legal Services at 651-222-4731; or go to www.lawhelpmn.org to find a local legal services program that may be able to help you.

You can also find information on contested cases from the Office of Administrative Hearings website at <https://mn.gov/oah/self-help>. Click on Administrative Law Overview, then click on Administrative Law Contested Case Hearing Guide for a list of frequently asked questions.

Operating the program pending the outcome of the appeal:

If you file an appeal within the timeframes described above, you may continue to operate pending the outcome of your appeal. If you continue to operate, you must do so in full compliance with all licensing laws and rules. Failure to follow a law or rule that may impact the health or safety of persons served by your program could result in the immediate suspension of your license.

Legal authority for this licensing action

- This action is taken under Minnesota Statutes, section 245A.07, subdivision 3, which describes under which conditions DHS may revoke a license.
- The timeline to appeal a revocation order is provided in Minnesota Statutes, section 245A.07, subdivision 3(b).
- “Controlling individual” is defined under Minnesota Statutes, section 245A.02, subdivision 5a.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c), clause (4)(iv) states that license holders shall pay a \$200 for each violation regarding health, safety, or supervision.
- License holders have a right to appeal licensing actions and request a contested case hearing, under Minnesota Statutes, chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612.
- If a license holder files a timely appeal of a revocation order, the license holder may continue to operate the program pending a final order of the appeal under Minnesota Statutes, section 245A.07, subdivision 1(b).
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (5), when a license issued under this chapter is revoked under clause (1) or (3), the license holder and controlling individual may not hold any license under chapter 245A for five years following the revocation, and other licenses held by the applicant, license holder, or controlling individual shall also be revoked.

Feyisa Elmo Authorized Agent

April 26, 2023

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Questions

If you have any further questions regarding this matter, you may contact Christala Culhane, HCBS Supervisor, at 651-431-6541.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Slaikeu", enclosed in a thin black rectangular border.

Jill Slaikeu, HCBS Unit Manager

Licensing Division

Office of Inspector General