

August 10, 2023

**CERTIFIED MAIL**

Marlena Marthaler  
21894 South Lake Shore Drive  
Glenwood, MN 56334-2351

License Number 1059301 FCC

## **ORDER TO PAY A FINE FOR MALTREATMENT**

Dear Ms. Marthaler:

Based on the recommendation of Western Prairie Human Services (Western Prairie), the Department of Human Services (DHS) is ordering you to pay a fine of \$1000 for a determination of maltreatment. Details of our findings are provided below. Our next steps and your options are also detailed.

### **REASON FOR FINE**

#### **Determination of Maltreatment**

It was reported that you exposed a child to a person responsible for their care, who has threatened serious harm.

Western Prairie investigated the report as alleged maltreatment by threatened injury. Based on the maltreatment investigation, Western Prairie, determined that you were responsible for threatened injury of a minor. Specifically, exposing a child to a person responsible for their care, who has threatened serious harm.

On November 17, 2022, Western Prairie notified you of the maltreatment determination and your right to request reconsideration. On December 12, 2022, you requested reconsideration. On December 19, 2022, Western Prairie, notified you that the maltreatment determination was correct and of your right to request a fair hearing. You did not request a fair hearing. The maltreatment determination is now final. If you appeal this fine order, as described below, the maltreatment determination will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 260E.30, subdivision 2(a)

## **Total Fine Amount**

Because Western Prairie determined that you are responsible for maltreatment of a minor, you must pay a \$1000 fine.

Legal Authority: Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c), subparagraph (4)(i).

## **Billing and Payment of the Fine**

DHS will send you an invoice for the \$1000 fine. Payment must be made as directed on the invoice.

If you request a contested case hearing, as described below, do not pay the fine at this time. Following the contested case hearing, the Commissioner of DHS will issue a final order on this matter.

Please note, you may not avoid payment of this fine by closing, selling, or otherwise transferring the license to a third party. If this occurs, you are personally responsible for payment.

If you do not pay the fine on or before the date specified on the invoice and you did not request a contested case hearing, as described below, the Commissioner may issue a second fine, may not issue or reissue a license, or may suspend the license until the license holder pays the fine.

## **YOUR RIGHT TO APPEAL**

You have the right to appeal the fine. 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 receive 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 receive 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.

### **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](http://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.

### **Posting of this licensing action**

You are required to place this Order to Pay a Fine in a place that is clearly noticeable to the people receiving services and all visitors to the facility for two years, even if you appeal.

### **Prohibition against providing legally unlicensed child care**

**As a result of this order, you are prohibited from providing legally unlicensed child care. A child care provider who has received a fine order that has not been reversed on appeal may not provide legally unlicensed child care to non-relatives. Operating a prohibited unlicensed family child care program is a misdemeanor offense.**

### **Legal authority for this licensing action**

- This action is taken under Minnesota Statutes, section 245A.07, subdivision 1, paragraph (a), which describes under which conditions DHS may impose a fine against a license.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(4)(i) provides that DHS shall impose a \$1000 fine for each determination of maltreatment for which the license holder is determined responsible.
- When a fine order is based on a maltreatment determination for which reconsideration was timely requested and which was not set aside, the scope of the contested case hearing for the fine shall also include the maltreatment under Minnesota Statutes, section 245A.08, subdivision 2a.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(5) states that license holders may not avoid payment of a fine by closing, selling, or transferring a license.

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- Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d)(4), states that DHS shall not issue or reissue a license if the applicant, license holder, or controlling individual has an outstanding debt related to a license fee, licensing fine, or settlement agreement for which payment is delinquent.
- Minnesota Statutes, section 245A.07, subdivision 3, paragraph (c)(2), states that that the license holder shall pay the fine assessed on or before the payment date specified, and if the license holder does not do so the commissioner may issue a second fine or suspend the license until the license holder complies.
- 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.
- Minnesota Statutes, Chapter 245A.03, subdivision 2b, subdivision 1 states that a child care provider who has received a Fine Order under Minnesota Statutes, Section 245A.07 that has not been reversed on appeal may not provide unlicensed child care to non-relatives.
- The requirement to post this order in a clearly visible location is required under Minnesota Statutes, section 245A.07, subdivision 5.

## Questions

If you have any further questions regarding this matter, you may contact me at 651-431-6565.

Sincerely,



Beth Donahue, Supervisor  
Licensing Division  
Office of Inspector General

cc: Kim Gulbrandson, Western Prairie Human Services