

Date issued: October 27, 2023

Date reissued: June 24, 2024

CERTIFIED MAIL

Teshome Berisso, Authorized Agent
M and T Adult Foster Care
9325 28th Street Northeast
Saint Michael, MN 55376

License Application Number 1113847 (HCBS)

AMENDED ORDER OF LICENSE DENIAL

Notice: This Amended Order of License Denial supersedes the original Order of License Denial, dated October 27, 2023. This document is amended to include an additional reason for license denial. The original Order of License Denial dated October 27, 2023 must be destroyed.

Dear Teshome Berisso:

The Department of Human Services (DHS) is denying your application for a Home and Community-Based Services (HCBS) 245D license at 9325 28th Street Northeast, Saint Michael, Minnesota. This denial is based on failure to demonstrate competent knowledge of applicable licensing statutes and rules, a failure to submit a substantially complete application, and a controlling individual with a previous revocation of a license. Details of our findings are provided below. Our next steps and your options are also detailed.

REASON FOR LICENSE DENIAL

1. Failure to submit a substantially complete application

You submitted an application for a license to provide home and community-based services on April 14, 2022, at 9325 28th Street Northeast, Saint Michael, Minnesota. On July 7, 2023, DHS sent you a Notice of Incomplete Application, notifying you that your application was incomplete and that you had 45 days to submit additional information. As of October 9, 2023, DHS determined your application continued to be substantially incomplete in the following ways:

- You failed to provide a qualified Designated Manager (DM) as required by Minnesota Statutes, section 245D.081. DHS determined the individual you identified as your program's DM did not meet the required qualifications.
- You failed to identify your program's compliance officer as required by Minnesota Statutes, section 256B.04, subdivision 21, paragraph (g).

Legal Authority: Minnesota Statutes, section 245A.05, paragraph (a)(1).

2. Failure to demonstrate competent knowledge of applicable licensing statutes and rules

Based on communications with the you during the license application process, DHS determined that you were unable to demonstrate competent knowledge necessary to operate a HCBS 245D license in compliance with Minnesota statutes and rules. Without this knowledge, you are unable to ensure the safety and well-being of vulnerable adults who would be served by the program.

Your application is being denied because failed to demonstrate competent knowledge sufficient to identify a compliance officer and a qualified Designated Manager and after receiving assistance from DHS. The qualifications for the Designated Manager position were available to you on the DHS, HCBS the licensing application webpage, on the HCBS application materials, and on the DC/DM verification form. The DHS website, provided the application process, help with background studies, sample policies and procedures, and a link to the applicable Minnesota Statutes and Rules. A DHS licensor also provided you with assistance with your application on multiple occasions, including in a July 7, 2023, letter; emails on July 24, 2023, August 10, 2023, and September 12, 2023; and by telephone on August 15, 2023. Despite these resources you submitted documentation for two unqualified candidates for the Designated Manager position and you failed identify a compliance officer. Your inability to follow the laws and rules during the application process make it less likely you will be able to do so when operating a complex home and community-based services program.

Legal Authority: Minnesota Statutes, sections 245A.04, subdivision 1(e); and 245A.05, paragraph (a)(8).

3. Controlling individual with a previous revocation of a license

In your application, you identified one controlling individual (C1). C1 had also been identified as a controlling individual for Berisso Teshome Bushura (1111718), whose license was revoked on May 17, 2024. Based on this revocation, C1 cannot be granted a license for five years from the date of the revocation.

Legal Authority: Minnesota Statutes, section 245A.04, subdivision 7(d).

4. 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 program's operation, the well-being of persons that are served by your program, available evaluations of the program by persons receiving services, information about the qualifications of staff persons that are working in your program, and the applicant's ability to demonstrate competent knowledge of the applicable requirements of statutes and rules. DHS has determined that the denial of your license is appropriate based on the violations identified above and the program evaluation.

Your inability to submit a complete application over a three-month period calls into question your ability to follow the applicable laws and rules; to be able to operate a program; and to ensure the well-being of persons served. A qualified Designated Manager is required by Minnesota Statutes, section 245D.081, subdivision 3, and is critical as they provide program management, oversight of services, and required to maintain an understanding of licensing requirements sufficient to ensure compliance. You also failed to identify a compliance officer as required by Minnesota Statutes, section 256B.04, subdivision 21, paragraph (g). Compliance Officers are crucial because the law requires that they develop policies and procedures to ensure adherence to medical assistance laws; to train employees; to respond to allegations of improper conduct related to billing of medical assistance services; to monitor compliance with medical assistance laws and regulations and to report violations of medical assistance laws to the Commissioner. In addition, Minnesota Statutes, section 245C.03, subdivision 1, paragraph (a), requires all controlling individuals, which includes compliance officers to have a background study. Because you did not submit a compliance officer as required, DHS could not determine if their background study was completed, which is necessary to ensure the safety of the vulnerable people you seek to serve. Your failure to identify individuals for these positions indicates that you are either unable or unwilling to comply with the licensing requirements.

DHS has determined that the denial of your license is appropriate based on the Commissioner's evaluation of the program. The Commissioner has evaluated your program under application is concerned about the qualifications of personnel, your ability to demonstrate competent knowledge of applicable statutes and rules, and the well-being of the people you seek to serve.

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

Due to the serious and chronic nature of these violations, which impact the health and safety of persons served in your care, your license to provide HCBS 245D services is denied.

YOUR RIGHT TO APPEAL

You have the right to appeal the denial. You have already appealed the original Order of License Denial dated October 27, 2023, so you do not need to submit a new appeal request. Your case will 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 to find a local legal services program that may be able to help you.

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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.

Legal authority for this licensing action

- This action is taken under Minnesota Statutes, section 245A.05, subdivision (a), which describes under which conditions DHS may revoke a license.
- “Controlling individual” is defined under Minnesota Statutes, section 245A.02, subdivision 5a.
- 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.
- Under Minnesota Statutes, section 245A.04, subdivision 7, paragraph (d), clause (2), the commissioner shall not issue or reissue a license if the applicant, license holder, or controlling individual has been denied a license under this chapter within the past two years.

Questions

If you have any further questions regarding this matter, you may contact Brittany Raddatz, HCBS Unit Supervisor, at 651-431-6591.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill Slaikeu". The signature is fluid and cursive, with a large loop at the end of the last name.

Jill Slaikeu, HCBS Unit Manager
Licensing Division
Office of Inspector General