

October 11, 2024

Becky L Garivay, Authorized Agent  
Minnesota Home Health Services LLC  
1635 Oak Street  
Hastings, Minnesota 55003-2930

License Number: 1109603 (245D – HCBS)

### **CORRECTION ORDER**

Dear Becky L Garivay:

On August 6, 2024, a licensing review of Minnesota Home Health Services LLC, located at 1635 Oak Street, Hastings, Minnesota, was conducted to determine compliance with state and federal laws and rules governing the provision of home and community-based services to persons with disabilities and age 65 and older under Minnesota Statutes, Chapter 245D. As a result of this licensing review a Correction Order is being issued.

#### **A. Reason for Correction Order**

Pursuant to Minnesota Statutes, section 245A.06, if the Commissioner of the Department of Human Services (DHS) finds that the license holder has failed to comply with an applicable law or rule and this failure does not imminently endanger the health, safety, or rights of the persons served by the program, the Commissioner may issue a Correction Order to the license holder.

The following violation(s) of state or federal laws and rules were determined as a result of the licensing review. Corrective action for each violation is required by Minnesota Statutes, section 245A.06 and is hereby ordered by the Commissioner of Human Services.

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

Violation: For one of three persons whose records were reviewed (P2), the license holder did not provide orientation to internal and external reporting procedures for alleged or suspected maltreatment of vulnerable adults as required.

P2's service initiation for respite was on May 1, 2024. P2's service initiation for individualized home supports with family training was on June 24, 2024. The license holder failed to provide P2's legal representative an orientation to the internal and external reporting procedures of alleged or suspected maltreatment of vulnerable adults within 24 hours of service initiation for either service.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- provide P2's legal representative an orientation to the internal and external reporting procedures of alleged or suspected maltreatment of vulnerable adults;
- audit all person served records to ensure the orientation has been provided to each person, or their legal representative; and
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

2. Citation: Minnesota Statutes, section 245A.65, subdivision 2, paragraph (b).

Violation: For two persons whose records were reviewed (P1 and P3), the license holder did not meet the requirements for individual abuse prevention plans (IAPP) as required.

- a. The license holder assessed P1 as susceptible to sexual abuse, physical abuse, self-abuse and financial exploitation. The license holder failed to document statements of the specific measures to be taken to minimize the risk of abuse for each area of susceptibility.
- b. The license holder assessed P3 as not being susceptible to abuse, however this information was not consistent with information provided by the license holder that P3 was susceptible to physical aggression.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- review and revise P1's IAPP to include statements of specific measures to be taken to minimize the risk of abuse for each area of susceptibility;
- review and revise P3's IAPP to document all areas P3's is susceptible to abuse;
- audit all person served records to ensure the above has been completed for each person; and
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

3. Citation: Minnesota Statutes, section 245D.04, subdivision 1.

Violation: For one person whose record was reviewed (P2), the license holder did not meet the requirements for service recipient rights as required.

The license holder failed to provide P2's legal representative with a written notice that identified the service recipient rights in Minnesota Statutes section 245D.04, subdivisions 2 and 3, and an explanation of those 5 days of service initiation for individualized home supports with family training or respite.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- provide a written notice and explanation of the service recipient rights to P2's legal representative;
- audit all person served records to ensure the above has been provided to each person;
- maintain documentation of the audit results.

On an ongoing basis, you must maintain compliance as required in this subdivision.

4. Citation: Minnesota Statutes, section 245D.05, subdivision 1, paragraph (b).

Violation: For two persons whose records were reviewed (P1 and P2), the license holder did not maintain documentation on how health needs would be met as required.

The license holder was assigned responsibility for meeting health service needs for P1 and P2, however, the license holder failed to document how those health needs would be met, including a description of the procedures the license holder will follow in order to assist with or coordinate medical, dental, and other health service appointments.

Corrective Action Ordered: Within 60 days of this order, you must:

- document how P1 and P2's health needs would be met;
- audit all person served records to ensure a description of how each person's health needs will be met has been documented; and
- document the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

5. Citation: Minnesota Statutes, section 245D.07, subdivision 2, paragraph (b).

Violation: For one person whose record was reviewed (P2), the license holder did not complete a preliminary support plan addendum based on the support plan as required.

The license holder failed to complete the preliminary support plan addendum for P2 within 15 calendar days of service initiation for respite.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- complete a preliminary support plan for P2 for respite;
- audit all person served records to ensure the above has been completed for each person;
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

6. Citation: Minnesota Statutes, 245D.07, subdivision 2, paragraph (c).

Violation: For two persons whose records were reviewed (P1 and P3), the license holder did not review and revise the preliminary support plan addendum as required.

- a. The license holder failed to review and revise P1's preliminary support plan addendum as needed to document how, when and by whom services will be provided, and the person responsible for overseeing the delivery and coordination of services.

- b. The license holder failed to review and revise P3's preliminary support plan addendum as needed to document how services will be provided and the person responsible for overseeing the delivery and coordination of services.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- review and revise P1 and P3's support plans to document the above;
- audit all person served records to ensure the above has been completed;
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

7. Citation: Minnesota Statutes, section 245D.071, subdivision 3, paragraphs (a), (c), and (d).

Violation: For one person whose record was reviewed (P2), the license holder did not meet the requirements for initial service planning as required.

- a. The license holder failed to complete a preliminary support plan for P2 within 15 days of service initiation for individualized home supports with family training on April 15, 2024.
- b. The license holder failed to meet with P2, P2's legal representative and P2's case manager within 45-days of service initiation on April 15, 2024 to determine the following:
  - the scope of the services to be provided to support the person's daily needs and activities;
  - the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;
  - the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;
  - whether the current service setting is the most integrated setting available and appropriate for the person;
  - how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person;
  - a discussion of how technology might be used to meet the person's desired outcomes. The coordinated service and support plan or support plan addendum must include a summary of this discussion. The summary must include:
    - a statement regarding any decision that is made regarding the use of technology; and
    - a description of any further research that needs to be completed before a decision regarding the use of technology can be made.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- meet with P2, P2's legal representative, and P2's case manager to determine the above;
- audit all person served records to ensure the above has been completed for each person;
- maintain documentation of the audit results.

This compliance will be monitored at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

8. Citation: Minnesota Statutes, section 245D.071, subdivision 3, paragraph (b).

Violation: For one person whose record was reviewed (P2), the license holder did not complete assessments as required.

The license holder failed to complete assessments in the following areas for P2:

- the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening and medical and dental appointments;
- the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and
- the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- complete the above assessments for P2;
- audit all person served records to ensure the above has been completed for each person; and
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

9. Citation: Minnesota Statutes, section 245D.071, subdivision 4, paragraph (b).

Violation: For one person whose record was reviewed (P2), the license holder did not complete service outcomes and supports as required.

The license holder failed to develop a service plan that documents service outcomes and supports for P2.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- document service outcomes and supports for P2;
- audit all person served records to ensure the above has been completed for each person; and
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

10. Citation: Minnesota Statutes, section 245D.10, subdivision 4, paragraph (b).

Violation: For three persons whose records were reviewed (P1-P3), the license holder did not provide written or electronic copies of policies and procedures as required.

The license holder failed to inform P1's case manager, P2's legal representative and P2's case manager, and P3's case manager of following policies and procedures that affect a person's rights within five working days of service initiation:

- grievance policy;
- service suspension;
- service termination;
- emergency use of manual restraints; and
- data privacy.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- inform and provide copies of the policies mentioned above to P1's case manager, P2's legal representative and P2's case manager and P3's case manager;
- audit all person served records to ensure the above has been provided;
- maintain documentation of the audit results.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

11. Citation: Minnesota Statutes, 9544.0030, subpart 1.

Violation: For three persons whose records were reviewed (P1-P3), the license holder did not meet the requirements for positive support strategies as required.

For P1-P3, the license holder failed to incorporate in writing, positive support strategies to an existing treatment, service or other individual plan required of the license holder. Additionally, the license holder failed to, at least every six months, evaluate with the person whether the identified positive support strategies currently meet the standards in subpart 2.

Corrective Action Ordered: Within 60 days of receiving this order, you must develop and incorporate positive support strategies for P1-P3, in writing to an existing treatment, service, or other individual plan. This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

12. Citation: Minnesota Statutes, section 245D.095, subdivision 3.

Violation: For three of three staff persons whose records were reviewed (SP1-SP3), the license holder did not maintain personnel records as required.

- a. The licensed holder failed to maintain documentation in SP1-SP3's personnel records or elsewhere, sufficient to determine the date of the employee's first supervised and unsupervised contact with a person served by the program.
- b. The license holder failed to document the date training was completed and the number of hours per subject area in SP1 and SP2's personnel record.

Corrective Action Ordered: On an ongoing basis, you must maintain compliance as required in this subdivision.

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

Violation: For two staff persons whose records were reviewed (SP1 and SP3), the license holder did not provide and ensure completion of orientation training as required.

The license holder failed to provide the following orientation training to SP1 and SP3 within 60 days of hire:

- o data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;
- o the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;
- o sections 245A.65, 245A.66, and 626.557 and chapter 260E governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;
- o the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;
- o the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;
- o staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;
- o basic first aid; and
- o strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities.

Additionally, the license holder failed to provide SP1 with orientation to the license holders policies and procedures under this chapter, including their location and access, and staff responsibilities related to the implementation of those policies and procedures.

Corrective Action Ordered: Within 60 days of receiving this order you must:

- provide the above training to SP1 and SP3; and
- audit all staff personnel records to ensure the above has been provided to each staff person.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

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

Violation: For one staff person whose record was reviewed (SP3), the license holder did not provide and ensure completion of annual training as required.

The license holder failed to provide the following training to SP2 annually in 2024 and to SP3 annually in 2022 and 2023:

- data privacy requirements according to sections 13.01 to 13.10 and 13.46, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), and staff responsibilities related to complying with data privacy practices;
- the service recipient rights and staff responsibilities related to ensuring the exercise and protection of those rights according to the requirements in section 245D.04;
- sections 245A.65, 245A.66, and 626.557 and chapter 260E governing maltreatment reporting and service planning for children and vulnerable adults, and staff responsibilities related to protecting persons from maltreatment and reporting maltreatment. This orientation must be provided within 72 hours of first providing direct contact services and annually thereafter according to section 245A.65, subdivision 3;
- the principles of person-centered service planning and delivery as identified in section 245D.07, subdivision 1a, and how they apply to direct support service provided by the staff person;
- the safe and correct use of manual restraint on an emergency basis according to the requirements in section 245D.061 or successor provisions, and what constitutes the use of restraints, time out, and seclusion, including chemical restraint;
- staff responsibilities related to prohibited procedures under section 245D.06, subdivision 5, or successor provisions, why such procedures are not effective for reducing or eliminating symptoms or undesired behavior, and why such procedures are not safe;
- basic first aid; and
- strategies to minimize the risk of sexual violence, including concepts of healthy relationships, consent, and bodily autonomy of people with disabilities.

Corrective Action Ordered: Corrective action for this violation is addressed in citation 13. On an ongoing basis, you must maintain compliance as required in this subdivision.

15. Citation: Minnesota Statutes, section 245D.09, subdivision 4a, paragraph (a).

Violation: For one staff person whose record was reviewed (SP1), the license holder did not provide orientation to the individual service recipient needs as required.

The license holder failed to provide SP1 orientation to the individual service recipient needs prior to having unsupervised direct contact with a person served by the program. This had not been provided at the time of the license review on August 6, 2024.

Corrective Action Ordered: Within 60 days of receiving this order, you must:

- provide P1 orientation to individual service recipient needs;
- audit all staff records to ensure orientation to service recipient needs has been provided to each staff person; and
- maintain documentation of the audit results.

16. Citation: Minnesota Statutes, section 245D.081, subdivision 2.

Violation: The license holder did not ensure the delivery and evaluation of services provided were coordinated by the designated staff person as required.

The designated coordinator identified by the license holder (SP3) failed to provide supervision, support, and evaluation of activities that include:

- oversight of the license holder's responsibilities assigned in the person's service and support plan and the service and support plan addendum;
- taking the necessary action to facilitate the accomplishment of the outcomes according to the requirements in section 245D.07;
- instruction and assistance to direct support staff implementing the support plan and the service outcomes; including direct observation of service delivery sufficient to assess staff competency; and
- evaluation of the effectiveness of service delivery, methodologies, and progress on the person's outcomes based on the measurable and observable criteria for identifying when the desired outcome has been achieved according to the requirements in section 245D.07

The failure to provide coordination and evaluation of individual service delivery is evidenced in citations 1 through 15.

Corrective Action Ordered: Within 30 days of receiving this order, you must:

- designate a person other than SP3 to be appointed as the designated coordinator, who is responsible for delivery and evaluation of services provided by the license holder;
- submit the name, contact information and qualifications of the person(s) you have designated and have ensured is competent to perform the duties of the designated coordinator as required in this section; and
- submit a signed acknowledgement that the newly designated person has reviewed and understands the responsibilities of a designated coordinator according to 245D.081, subdivision 2, paragraph (a).

On an ongoing basis, you must maintain compliance as required in this subdivision.

17. Citation: Minnesota Statutes, section 245D.081, subdivision 3.

Violation: The license holder did not ensure that the designated managerial staff person provided program management and oversight of the services provided as required.

The designated manager identified by the license holder (SP3) failed to provide program management and oversight of the services provided by being responsible for the following:

- maintaining a current understanding of the license requirements sufficient to ensure compliance throughout the program;
- ensuring the duties of the designated coordinator are fulfilled; and
- ensuring staff competency requirements are met.

The failure to provide program management and oversight of services provided is evidenced in citations 1 through 15.

Corrective Action Ordered: Within 30 days of receiving this order, you must:

- designate a person, other than SP3 to be appointed as the designated manager, who is responsible for delivery and evaluation of services provided by the license holder;
- submit the name, contact information and qualifications of the persons(s) you have designated and ensured is competent to perform the duties of the designated manager as required in this section; and
- submit a signed acknowledgement that the newly designated person has reviewed and understands the responsibilities of designated manager according to 245D.081, subdivision 3, paragraph (a).

On an ongoing basis, you must maintain compliance as required in this subdivision.

This compliance will be monitored onsite at an upcoming compliance monitoring visit. On an ongoing basis, you must maintain compliance as required in this subdivision.

#### **B. Right to Request Reconsideration**

If you believe any of the citations are in error, you have the right to request that the Commissioner of Human Services reconsider the parts of the Correction Order that you believe to be in error. The request for reconsideration must be in writing and received by the Commissioner within 20 calendar days after receipt of this report. Your request for reconsideration must be sent 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

Becky L Garivay

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Please note that a request for reconsideration does not stay any provisions or requirements of the Correction Order. The Commissioner's disposition of a request for reconsideration is final and not subject to appeal under Minnesota Statutes, chapter 14.

If you have any questions regarding this Correction Order, please contact me as soon as possible.

Robert Romani, HCBS Licenser

Licensing Division

Office of Inspector General

651-431-3658