

March 12, 2025

CERTIFIED MAIL

Amanda Bernick
553 Merriman Drive
Delano, MN 55328-9431

License Number 1125224 FCC (In Application)

ORDER OF LICENSE DENIAL

Dear Ms. Bernick:

Based on the recommendation of Wright County Health and Human Services (Wright County), the Department of Human Services (DHS) is denying your application for a family child care license. This denial is based on details of our findings provided below. Our next steps and your options are also detailed.

REASON FOR LICENSE DENIAL

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 children who would be served by your program, available evaluations from consumers of your program, and information about the qualifications of caregivers who would be working in your program. Specifically, because you are responsible for maltreatment, because you failed to protect children, and because there is a household member that is disqualified. DHS has determined that denial of your license application is appropriate based on the violations identified below and the program evaluation.

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

2. Determination that an applicant was responsible for maltreatment

September 17, 2024, Maltreatment Determination

On September 17, 2024, Wright County determined that you were responsible for maltreatment of a minor by neglect for failure to protect. Specifically, Wright County determined that you failed to protect a child in your care when you were seen on video footage not intervening when an altercation took place between two children. You sat watching the altercation and video recorded it on your phone.

You were informed of your right to request reconsideration of the maltreatment determination. Because you did not make a timely request for reconsideration, the agency's maltreatment determination is final. If you appeal this denial order, as explained below, the underlying maltreatment determination will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 245A.05, paragraph (a), subparagraph (2).

3. Disqualification of a household member/affiliated person

On January 21, 2025, DHS notified a household member of a disqualification, and of the right to request reconsideration.

The disqualified individual did not make a timely request for reconsideration, so the correctness of the disqualification is final and will not be reviewed as part of the contested case hearing if you appeal this denial order, as described below. In addition, the issue of whether the disqualified individual poses a risk of harm to children served by the program will not be reviewed as a part of the contested case hearing.

Legal Authority: Minnesota Statutes, section 245A.05, paragraph (a), subparagraph (5); Minnesota Statutes, section 245A.04, subdivision 7, paragraph (h).

Because it was determined you were responsible for maltreatment of a child, because an affiliated person is disqualified from any position allowing direct contact with, or access to, persons served by DHS-licensed programs, and in order to protect the health, safety, and rights of children who would be in your care, your application to provide family child care is denied.

YOUR RIGHT TO APPEAL

You have the right to appeal the denial. 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 20 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 20 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 a license for two years.

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.

Prohibition against providing legally unlicensed child care

If the action is not reversed on appeal, you will not be allowed to provide legally unlicensed child care to unrelated children. Operating an unlicensed family child care home is a misdemeanor offense.

Legal authority in this licensing action

- This action is taken under Minnesota Statutes, section 245A.05, subdivision (a), which describes under which conditions DHS may deny a license.
- "Applicant" is defined under Minnesota Statutes, section 245A.02, subdivision 3.
- Minnesota Statutes, section 245A.04, subdivision 7 states that the commissioner shall not issue a license if the applicant or a household member has a disqualification which has not been set aside and no variance has been granted.
- Minnesota Statutes, section 245C.29, subdivision 1 states that a maltreatment determination is final if the commissioner has issued a final order following an appeal, the individual did not request reconsideration of the maltreatment determination, or the individual did not request a hearing of the maltreatment determination.
- Minnesota Statutes, section 245C.29, subdivision 2 states that a disqualification is final if the commissioner or court has issued a final decision, the individual did not request reconsideration on the

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basis the disqualification was incorrect, or the individual did not timely request a hearing after being given the right to do so.

- Applicants 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, section 245.095 defines which programs administered by DHS are included in the exclusion provision, and further defines "excluded," "individual," and "provider."
- 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.
- Minnesota Statutes, section 245A.03, subdivision 2a provides that an applicant for licensure who has received a license denial that has not been reversed on appeal may not operate as a legally unlicensed child care provider.
- Operating an unlicensed family child care is a misdemeanor under Minnesota Statutes, section 245A.03, subdivision 3.

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: Becky Domjahn, Wright County Health and Human Services