OAH 80-1800-38111

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the SIRS Appeal by Global Health Link, Inc.	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION**

This matter came on for hearing before Administrative Law Judge LauraSue Schlatter on July 13, 2022, at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota. The record closed with the submission of the parties' written closing arguments on July 27, 2022.

Sarah Doktori, Assistant Attorney General, appeared on behalf of the Minnesota Department of Human Services (Department). Patrick D. Boyle appeared on behalf of Global Health Link, Inc. (Appellant). Interpreters Sagal Kalif and Shukri Sheikh were qualified through questions on voir dire. The parties accepted both interpreters.

STATEMENT OF THE ISSUE

Did the Department properly issue an Amended Notice of Overpayment to Appellant, dated December 21, 2021 (Amended Notice), seeking to recover $145,976.15 in payments made from the Minnesota Health Care Programs (MHCP), pursuant to Minn. Stat. §§ 256B.064, .0625, .0641, .0659 (2022) and Minn. R. 9505.0180, .0210, .0335, .0465, .0475, and 9505.2160 through .2245 (2021)?

SUMMARY OF RECOMMENDATION

The Administrative Law Judge respectfully recommends that the Commissioner of the Department of Human Services (Commissioner) **AFFIRM** the Amended Notice requiring Appellant to repay $145,976.15 in claimed overpayments.

Based on the evidence in the hearing record, the Administrative Law Judge makes the following:

FINDINGS OF FACT

I. Regulatory Background and Requirements

1. Minnesota participates in the Medicaid program,[1] which funds medical assistance (MA)[2] for eligible individuals who are unable to pay for their medical care.[3] The Department is charged with administering and overseeing this program through the MHCP.[4]

2. The Department created an internal unit, called the Surveillance and Integrity Review Section (SIRS) unit, to review and monitor compliance with federal and state law related to the payment for MA-eligible services by service providers and recipients participating in the MHCP.[5] The SIRS unit is directed to identify and investigate "fraud, theft, abuse, or error by vendors or recipients of health services through" the MHCP, and in such cases impose "sanctions against vendors and recipients of health services."[6] SIRS conducts post-payment reviews and seeks recovery of amounts that have been overpaid - whether because of fraud, abuse, or error.[7]

3. Personal care assistance is one of the services available to MA recipients through the MHCP.[8] Eligible personal care assistance services may include assistance with activities of daily living such as dressing, grooming, bathing, eating, and toileting, among others.[9] Recipients may also receive assistance with health-related procedures and tasks, including exercises, assistance with self-administration of medication, and seizure intervention.[10]

4. Each recipient must be assessed to determine the type and amount of personal care assistance services for which the person qualifies.[11] A public health nurse conducts this assessment and creates a service plan.[12]

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[1] *See generally* 42 U.S.C. § 1396-1396v (2018); Minn. Stat. §§ 256B.01-.85 (2022).
[2] *See* Minn. Stat. § 256B.02, subd. 8.
[3] *See* 42 U.S.C. § 1396-1; 42 C.F.R. § 430.0 (2020).
[4] Minn. Stat. § 256B.04; Minn. R. 9505.0011 (2021); *see also* Minn. Stat. §§ 256B.01-.85; Minn. R. 9505.0295, .0335 (2021).
[5] Minn. Stat. § 256B.04, subd. 10; Minn. R. 9505.0180, .2160-.2245 (2021).
[6] Minn. R. 9505.2160, subp. 1.
[7] Minn. R. 9505.0180.
[8] Minn. Stat. § 256B.0659; Minn. R. 9505.0335.
[9] Minn. Stat. § 256B.0659, subds. 1(b), 2(a)-(b).
[10] *Id.*, subds. 1(h), 2(c).
[11] *Id.*, subds. 3a(a), 4.
[12] *Id.*, subds. 3a(a), 6, 1(q) (defining a service plan as a "written summary of the assessment and description of the services needed by the recipient").

5. Services are then provided by a personal care assistant (PCA), who is employed by a personal care assistance provider agency.[13] Services provided by PCAs are supervised by a qualified professional (QP).[14]

6. PCAs provide services to recipients pursuant to a care plan, which is a "written description of personal care assistance services developed by the personal care assistance provider according to the service plan."[15] Each recipient "must have a current personal care assistance care plan based on the service plan . . . that is developed by the [QP] with the recipient and responsible party."[16] The care plan must be completed within the first week after a provider agency begins providing services, and then updated as needed and at least annually.[17]

7. Care plans contain certain specific information, including a description of the "recipient's individualized needs for assistance with activities of daily living, instrumental activities of daily living, health-related tasks, and behaviors."[18] The care plan must be signed and dated by the recipient or responsible party and the QP.[19] A copy must be kept in the recipient's home and in the recipient's file at the provider agency.[20]

8. Care plans are required to include:

A. Start and end date of the care plan;

B. Recipient demographic information, including name and telephone number;

C. Emergency numbers, procedures, and a description of measures to address identified safety and vulnerability issues, including a backup staffing plan;

D. Name of responsible party and instructions for contact;

E. Description of the recipient's individualized needs for assistance with activities of daily living, instrumental activities of daily living, health-related tasks, and behaviors; and

F. Dated signatures of recipient or responsible party and qualified professional. [21]

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[13] *Id.*, subd. 1(m); Minn. R. 9505.0335, subp. 1(C).
[14] Minn. Stat. §§ 256B.0625, subd. 19c, .0659, subds. 1(k), 14(a).
[15] Minn. Stat. § 256B.0659, subds. 1(a)(n),12(b).
[16] *Id.*, subd. 7(a).
[17] *Id.*, subd. 7(c).
[18] *Id.*, subd. 7(b)(5).
[19] *Id.*, subd. 7(b)(6).
[20] *Id.*, subd. 7(a).
[21] Minn. Stat. § 256B.0659, subd. 7(b).

9. A QP may be a mental health professional, registered nurse, licensed social worker, or a qualified designated coordinator.[22] The QP works for the provider agency, and must train, supervise, and evaluate PCAs.[23] Among their duties, QPs develop and monitor the recipient's care plan, and document all training, communication, evaluations, and actions needed to improve the performance of the PCAs who provide services.[24] The QP documents the services provided in the agency's recipient and employee files and in the recipient's home, including completing documentation related to the care plan, the results of the QP's evaluations, and communications with the recipient and agency staff.[25]

10. PCAs are required to document the services they provide to recipients on a daily basis on a timesheet form. The timesheet form must be submitted on a monthly basis to the provider and then kept in the recipient's health record.[26] The services identified on the timesheet must correspond to the care plan, and the timesheet must also contain specific information required by law. [27]

11. Certain required documentation must be completed and kept in the PCA provider agency file, at the recipient's home, or both.[28] Such required documentation includes employee files containing applications, background study documents, verification of training completion, supervisory visit information, and employment evaluations; recipient files containing the service plan and care plan; and agency policy manuals documenting employment-related policies and policies related to the provision of care; timesheets for each personal care assistant along with completed activity sheets for each recipient served; and agency marketing materials.[29]

12. To obtain payment for services provided, the provider must document each time a health service is provided to a recipient.[30] Providers must maintain certain specific documents, identified as health service records, related to the provision of and billing for PCA services, including the recipient's care plan, daily timesheets containing all required items of information, and documentation of supervision of PCA services by a QP.[31] Providers are also required to maintain certain financial records, including employee timesheets.[32] Health service records and financial records related to a service for which a provider billed or received payment must be retained for at least five years after the initial date of billing, though in years four and five after the billing date, the records may be stored on microfilm or in an electronic format.[33]

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[22] Minn. Stat. §§ 256B.0625, subd. 19c, .0659, subd. 1(k).
[23] Minn. Stat. § 256B.0659, subds. 13(a)-(b), 14.
[24] *Id.*, subd. 13(b)(1), (5).
[25] *Id.*, subd. 14(f).
[26] *Id.*, subd. 12(a).
[27] *Id.*, subd. 12(b)-(c).
[28] *Id.*, subd 28(a).
[29] *Id.*
[30] Minn. R. 9505.2175, subp. 1.
[31] *Id.*, subps. 1-2, 7(B), (H), (L).
[32] Minn. R. 9505.2180, subp. 1(H).
[33] Minn. R. 9505.2190, subp. 1.

13. PCA provider agencies are required to provide investigators with immediate access to their offices during business hours, without prior notice, and must provide investigators with documents and records related to services provided and claims submitted.[34] Health service and financial records must be available at the provider's place of business on the day on which investigators request access.[35] A provider must store records in a manner that allows review by investigators at the provider's place of business during business hours.[36]

II. SIRS Investigation of Appellant

14. Appellant is a personal care provider organization (PCPO) participating in the MHCP.[37]

15. On September 26, 2017, the Department's SIRS unit received a call on its hotline regarding PCA services alleging that R.J., one of Appellant's PCA providers, was providing PCA services to his spouse, T.J.[38]

16. Pamela Steffens is a senior investigator in the SIRS unit.[39] Following an investigation of PCA services provided to by R.J. to T.J., Ms. Steffens determined that the Department had improperly paid claims to Appellant in connection with R.J.'s services. R.J. was married to T.J. from November 7, 2014, through at least August of 2020.[40]

17. In connection with her investigation, Ms. Steffens requested records from Appellant, including the complete recipient file for T.J. from November 1, 2014, to July 31, 2019, timesheets for services provided to T.J. during that time, and documentation of R.J.'s hours billed during that same time period.[41] Appellant produced care plans for T.J. covering the entirety of the requested time period in response to the request,[42] and timesheets for R.J. through July 15, 2019, but not July 16 through 31, 2019.[43]

18. None of the care plans contained emergency procedures or provided for back-up staffing.[44] Various care plans lacked a recipient or responsible party signatures,

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[34] Minn. Stat. § 256B.0659, subd. 31.
[35] Minn. R. 9505.2185, subp. 2.
[36] Minn. R. 9505.2190, subp. 1.
[37] Testimony (Test.) of Pamela Steffens.
[38] Ex. 3 at DHS 0001774.
[39] Test. of P. Steffens.
[40] Test. of P. Steffens. Exs.2, 4 through 7. There was no evidence regarding R.J. and T.J.'s marital status after August 2020.
[41] Test. of P. Steffens. Ex. 9.
[42] The Department alleges the date range for the care plan at Ex. 10, DHS 000597 is barely legible. The Administrative Law Judge disagrees. The date range for that care plan is clearly 3/10/14 through 2/28/15. Thus, there are no dates missing a care plan.
[43] Test. of P. Steffens. Exs. 2,11.
[44] Test. of P. Steffens. Ex. 10.

and demographic information.[45] Additional care plans had undated recipient or responsible party signatures.[46]

19. R.J. was also employed by Smith Foundry Company during the relevant time period. SIRS investigator Becky McNeil sent a subpoena to Smith Foundry requesting Mr. Johnson's timecards from January 1, 2017, through October 11, 2017.[47] Ms. Steffens compared the timecards produced by Smith Foundry to the timesheets produced by Global and determined that, on 45 (later corrected to 30) dates for which Global billed the Department for R.J.'s PCA services, R.J. punched in or out at Smith Foundry Co. at times he claimed he was providing services to T.J.[48]

20. On February 3, 2021, Ms. Steffens discussed her findings with SIRS' legal manager Corrie Oberg, manager Amanda Novak and supervisors Tinna Welter, Kim Ralidak and Melanie LaBrie. Following that meeting, Ms. Steffens opened an investigative file on Appellant, moving the investigative materials concerning R.J. into an investigative file on Appellant.[49]

21. Ms. Steffens then reviewed eight care plans, covering the following periods of time:

- March 14, 2014 – February 28, 2015[50]
- March 1, 2015 – February 29, 2016[51]
- March 4, 2016 – February 28, 2017[52]
- March 1, 2017 – February 28, 2017[53]
- March 1, 2018 – February 28, 2019[54]
- August 16, 2018 – July 31, 2019[55]
- October 10, 2018 – July 31, 2019[56]
- February 2, 2019 – January 31, 2020[57]

[45] Ex. 10 at DHS 000597-598, 000580-581. Several of the care plans were duplicates. Duplicates are not considered repeat errors.
[46] Ex. 10 at DHS 000688, 000677.
[47] Test. of P. Steffens. Ex. 12.
[48] Test. of P. Steffens. *See also* Ex. 18.
[49] Test. of P. Steffens. Ex. 3 at DHS 1774.
[50] Ex. 10 at DHS 000597-598.
[51] Ex. 10 at DHS 000580-581.
[52] Ex. 10 at DHS 000778-779.
[53] Ex. 10 at DHS 000726-727.
[54] Ex. 10 at DHS 000708-709.
[55] Ex. 10 at DHS 000688-689.
[56] Ex. 10 at DHS 000676-677.
[57] Ex. 10 at DHS 000657-658. Ms. Steffens reported that she reviewed eight plans. *See* Ex. 3. Exhibit 10 includes 11 care plans, but the plans at pages 000800-801 and 000500-501 are duplicates of 000580-581 and 000778-779. respectively. While they do not appear identical, the plans at pages 000748-749 and 000726-727 both cover the time period from 3/1/17 through 2/28/18. The information provided and missing, for purposes of this matter, is the same. There are eight plans, excluding the duplicates.

22. Of the care plans Ms. Steffens reviewed, none documented emergency procedures or backup staffing plans.[58] Two of the eight care plans did not include any recipient or responsible party signature.[59] Of the remaining six care plans, five were either dated late, or the responsible party's signature was undated, or both.[60] One of the care plans lacked the recipient telephone number, which is required demographic information.[61] Five of the care plans lack a timely dated qualified professional's (QP) signature.[62]

23. In addition, there was no documentation to demonstrate R.J. provided services from July 16 through July 29, 2019.[63] 30 dates of service overlapped with dates and times R.J. was working shifts for his other employer, Smith Foundry.[64]

24. After further discussion with supervisor Tinna Welter, based in part on Appellant's change of ownership, and on the fact that the overpayment related to only one recipient, SIRS added a corrective action to the overpayment, but did not sanction Appellant. The Department mailed the Notice of Agency Action to Appellant on September 22, 2021.[65]

25. The Department received Appellant's appeal of the overpayment on October 14, 2021.[66]

26. Ms. Steffen conducted a line-by-line review of her earlier analysis on November 29, 2021. During this review, Ms. Steffen found errors with the earlier review of overlapping dates of T.J.'s time sheets for Appellant and his shifts for his other employer, Smith Foundry. Steffen reduced the overlap instances from 45 to 30. This did not change the total overpayment, because all dates of service were disallowed based on R.J.'s ineligibility to provide services for his spouse, and because no date of service had a sufficient care plan.[67]

27. Appellant changed ownership in approximately April 2018, when Ahmed Issa and Ali Bahar became the new owners.[68]

28. Appellant billed with the same provider number throughout the entire period under review.[69]

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[58] Test. of P. Steffens. Ex. 10.
[59] Ex. 10 at DHS 000598, 581.
[60] Ex. 10 at 000779, 727, 709, 677, 658.
[61] Ex. 10 at 580.
[62] Ex. 10 at 000779, 727, 709, 677, 658.
[63] Exs. 2 and 11. Test. of P. Steffens.
[64] Ex. 3 at DHS 0001775.
[65] Ex. 3 at DHS 0001775.
[66] Ex. 3 at DHS 1775.
[67] Ex. 3 at 1775.
[68] Test. of Ahmed Issa.
[69] Test. of P. Steffens.

29. Mr. Issa understood that when he purchased Appellant, he took responsibility for Appellant's liabilities.[70] Mr. Issa executed a statement acknowledging that Appellant's new owner accepted the same responsibilities for Appellant's obligations to the Department the former owner had.[71]

30. Any Conclusion of Law more properly considered a Finding of Fact is adopted herein.

31. Any portion of the Memorandum more properly considered as a Finding of Fact is incorporated herein.

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Commissioner have jurisdiction to consider this matter pursuant to Minn. Stat. §§ 14.50, 256B.04, subd. 15(c), .064, subd. 2 (2022).

2. The Department has complied with all relevant procedural requirements of statute and rule. Appellant received due and proper notice of the Department's determinations in this matter and timely appealed. Therefore, this matter is properly before the Administrative Law Judge and the Commissioner.

3. Appellant is a "personal care assistance provider agency,"[72] and a "vendor of medical care."[73]

4. The Department may obtain monetary recovery from a vendor who has been improperly paid as a result of error, even if the error was not intentional.[74]

5. "Personal care assistance services may not be reimbursed if the personal care assistant is the spouse" of the recipient of the services.[75]

6. A recipient of PCA services must have a current personal care assistance plan, or care plan, developed by the QP with the recipient or the RP. Copies of the care plan must be kept in the recipient's home and the recipient's file at the provider agency.[76]

7. The care plan is based on the service plan completed on a form determined by the Commissioner.[77]

8. Providers must maintain certain specific documents, identified as health service records, related to the provision of and billing for PCA services. The health service

[70] Test. of A. Issa.
[71] Ex. 21.
[72] *See* Minn. Stat. § 256B.0659, subd. 1(l); Minn. R. 9505.0335, subp. 1(D).
[73] *See* Minn. Stat, § 256B.02, subd. 7(a); Minn. R. 9505.0175, subp. 50, .2165, subp. 16a (2021).
[74] Minn. Stat. § 256B.064, subd. 1c.
[75] Minn. Stat. § 256B.0625, subd. 19(a) .
[76] Minn. Stat. § 256B.0659, subd. 7(a) and (b).
[77] Minn. Stat. § 256B.0659, subd. 6.

records must be maintained consistent with the standards specified in 9505.2175, subp. 2 items A. through I, and subp. 7.

9. As a condition of payment by the MHCP, a vendor must document each occurrence of a health service rendered to a recipient.[78]

10. The care plan must contain the components listed in Minn. Stat. § 256B.0659, subd. 7(b).

11. PCA services provided to a recipient must be performed under the supervision of a QP.[79]

12. A vendor "shall make its records available" at the vendor's place of business or another agreed-upon location "on the day for which access was requested."[80]

13. Abuse by a vendor is defined as "a pattern of practices that are inconsistent with sound fiscal, business, or health service practices, and that result in unnecessary costs" to the MHCP.[81] Specific practices deemed by rule to be abuse by a vendor include failing to develop and maintain health service records as required under Minn. R. 9505.2175, and repeatedly failing to comply with the requirements of the provider agreement that relate to the programs covered by Minn. R. 9505.2160-.2245.[82]

14. The Department bears the burden of proof to show, by a preponderance of the evidence, that Appellant should be subject to monetary recovery under Minn. Stat. § 256B.064, .0659, subd. 7; Minn. R. 9505.0465, subp. 1, .2165, subp. 2(A)(1), (3), .2175, subp. 2, 7, and .2215, subp. 1. If the evidence is equally balanced, then that fact or issue has not been proven by a preponderance of the evidence.[83]

15. The Department established by a preponderance of the evidence that R.J. was married to T.J. from November 7, 2014, through at least July 31, 2019,[84] and that the Department was entitled to recover payments made to Appellant for PCA services provided by R.J. to T.J. during that period.

16. The Department established by a preponderance of the evidence that Appellant committed abuse by failing to maintain required health service records when it did not maintain care plans for T.J. in accordance with Minn. Stat. § 256B.0659, subd. 7.

17. The Department established by a preponderance of the evidence that it may recover an overpayment in the amount of $145,976.15.

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[78] Minn. R. 9505.2175, subp. 1.
[79] Minn. Stat. § 256B.0659, subd. 14.
[80] Minn. R. 9505.2185, subp. 2.
[81] Minn. R. 9505.2165, subp. 2(A).
[82] *Id.*, subp. 2(A)(7), (18).
[83] *Id.*
[84] Test. of P. Steffens. Exs.2, 4 through 7.

18. Any of the foregoing Findings of Fact more properly designated as Conclusions of Law are hereby adopted as such.

19. Any portion of the Memorandum that is more properly included in these Conclusions of Law is incorporated herein.

Based on these Conclusions of Law, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

RECOMMENDATION

The Administrative Law Judge respectfully recommends that the Commissioner **AFFIRM** the Department's Amended NOSPA requiring Appellant to repay $145,976.15 in overpayments.

Dated: September 16, 2022

LAURASUE SCHLATTER
Administrative Law Judge

Digitally Recorded
No transcript prepared

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Department of Human Services (Commissioner) will make the final decision after a review of the record. Under Minn. Stat. § 14.61 (2022), the Commissioner shall not make a final decision until this Report has been made available to the parties for at least ten calendar days. The parties may file exceptions to this Report and the Commissioner must consider the exceptions in making a final decision. Parties should contact Administrative Law Office staff at DHS_AdminLaw@state.mn.us to learn the procedure for filing exceptions or presenting argument.

The record closes upon the filing of exceptions to the Report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and Administrative Law Judge of the date the record closes. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this Report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a (2022). In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within ten working days to allow the Judge to determine the discipline to be imposed.

Under Minn. Stat. § 14.62, subd. 1 (2022), the Commissioner is required to serve a final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

I. Overpayment Recovery

A. Parties' Arguments

The Department relied on the statutory prohibition against reimbursement for PCA care provided by a person to a spouse as its first basis for the claimed overpayment.[85] In addition, the Department offered evidence it alleged demonstrated Appellant committed abuse by engaging in "a pattern of practices . . . inconsistent with sound fiscal, business, or health service practices, and that result in unnecessary costs," resulting in payments subject to recovery. According to the Department, the practices that constituted abuse included incomplete care plans for T.J., services R.J. billed to the Department without supporting timesheets, and billed hours overlapping with R.J.'s additional employment, all during the period from November 7, 2014, through July 31, 2019.[86]

Appellant maintained that R.J. and T.J. were already married when Mr. Issa and Mr. Bahar assumed ownership of Appellant in July 2018, that R.J. and T.J. represented to the new owners that they were "just friends," and that certain documents in R.J.'s personnel file identified him as unmarried. Appellant argued that there was no legal requirement for Appellant's owners to investigate the relationship between R.J. and T.J. and that Appellant cannot be held responsible for R.J.'s dishonesty.

As for the other grounds for repayment, Appellant claimed that Mr. Issa and Mr. Bahar could not be held responsible for the overlap of hours because that was also due to R.J.'s dishonesty, and it occurred before they acquired Appellant. Appellant denied that care plans were missing any required elements. Finally, Appellant said that the Department could only claim repayment for the July 16 through July 29, 2019, dates for which it paid for services with no documentation of services provided, if the Department could prove that Appellant had received notice that the Department had terminated R.J.'s eligibility to provide services to T.J., and when the Appellant received such notice.

B. Analysis

1. Care Provided by Spouse

Appellant did not dispute that R.J. and T.J. are married, and have been since November 7, 2014. It is unfortunate R.J. was dishonest with Mr. Issa and Mr. Bahar. But that does not relieve them of the obligation to return money the Department paid based on false information because the false information led the Department to provide

[85] Minn. Stat. §256B.0625, subd. 19a.
[86] In the Matter of the SIRS Appeal by Nobility Home Health Care, Inc., (2022 WL 36590 Aug. 29, 2022).

reimbursement in violation of the law. R.J. provided PCA services to T.J., who was his spouse. Reimbursement is prohibited "if the personal care assistant is the spouse" of the recipient of the services.[87] Not only does the law not provide an exception if the PCA agency is unaware of the marriage, it explicitly allows the Department to recover improper payments even when the erroneous payments were obtained by the vendor unintentionally.[88]

2. Additional Basis for Overpayment

Mr. Issa affirmed at the hearing that he understood at the time he and Mr. Bahar purchased Appellant that the company remained liable for its existing liabilities.[89] He affirmed that in a signed statement addressed to the Department on August 21, 2018, shortly after the company changed hands.[90] He cannot now rely on an argument that this liability does not accrue to Appellant, which is the same provider that participated in the MCHP before Mr. Issa and Mr. Bahar acquired it. "[I]n purchasing Appellant, the new owner[s] also purchased the . . . provider's . . . liabilities."[91]

Appellant's bare assertions that the care plans were complete were unsupported by any evidence. None of the care plans had all of the elements required by statute.

Finally, there is no merit to Appellant's argument that the burden is on the Department to prove the date it notified Appellant that R.J. was no longer eligible to provide PCA services. Appellant did not dispute that it billed for R.J.'s services from July 16 through July 31, 2019, without supporting timesheets. Appellant's argument is irrelevant. Even assuming R.J. was eligible to provide care during the second half of July 2019, because of some failure on the Department's part to notify Appellant of his ineligibility, the Department cannot pay for hours which were not documented.

II. Conclusion

For all of the reasons discussed above, the Administrative Law Judge respectfully recommends that the Commissioner **AFFIRM** the Amended Notice requiring Appellant to repay $145,976.15 in overpayments.

L. S.

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[87] Minn. Stat. § 256B.0625, subd. 19(a).
[88] Minn. Stat. § 256B.064, subd. 1c. *See In the Matter of the SIRS Appeal of Community Involvement Programs-FSE*, 2021 WL 1344009 (June 2021).
[89] Test. of A. Issa.
[90] Ex. 21.
[91] *See In the Matter of the SIRS Appeal by Prof'l PCA Svces, LLC,* OAH 80-1800-37033 (Jan. 7, 2022), Comm'r. Decision at 10 (May 19, 2022).