

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF HUMAN SERVICES

In the matter of the Appeal of the Order of
License Revocation of Lake Superior
Treatment Center

**ORDER GRANTING THE
DEPARTMENT'S MOTION TO DENY
ISSUANCE OF SUBPOENAS**

This matter is pending before Administrative Law Judge James E. LaFave.

On March 11, 2014, the Minnesota Department of Human Services (Department) filed a motion to deny the issuance of subpoenas that Lake Superior Treatment Center (LSTC) planned to direct to the Center for Alcohol and Drug Treatment (CADT) and Valhalla Place. LSTC responded by letter dated March 12, 2014. The Department replied by letter dated March 13, 2014. LSTC sent a rebuttal by letter dated March 13, 2014. The record on this motion closed on March 17, 2014, when the letters dated March 13, 2014 were filed with the Office of Administrative Hearings.

Cynthia B. Jahnke and Marsha Eldot Devine, Assistant Attorneys General, appeared on behalf of the Department. David M. Aafedt and Christianna L. Finnern, Winthrop & Weinstine, appeared on behalf of Respondent, LSTC.

Based upon all of the files, records, and proceedings in this matter, and for the reason set forth in the attached Memorandum,

IT IS HEREBY ORDERED:

1. The Department's Motion to Deny the Issuance of Subpoenas is **GRANTED.**

Dated: March 20, 2014

s/James E. LaFave

JAMES E. LAFAVE
Administrative Law Judge

MEMORANDUM

Issue

Under the Revenue Recapture Rules, a party may request a subpoena for the production of documents relevant to the issues in the case. Here, LSTC seeks documents from two treatment facilities, unrelated to this proceeding, for documents memorializing conversations with the Department. The documents sought, however, do not relate to the claims or defenses presented by the Department's order to revoke LSTC's license. Should the subpoenas be issued?

Facts

The Department seeks to revoke the license of LSTC due to the nature, severity, and chronicity of the alleged violations, as well as LSTC's noncompliance with its Conditional License dated March 26, 2013.

On February 12, 2014, based on information developed during discovery, LSTC submitted Subpoena Request Forms asking for the issuance of subpoenas directed to the CADT and Valhalla Place. The requests were for the production of documents regarding the Department's plans or intentions to purchase or take-over LSTC or any plans to develop a medication assisted treatment clinic in Duluth. The Subpoena Request Forms were resubmitted on March 6, 2014, because the return date on the original subpoenas had lapsed. On March 11, 2014, the Department moved that the Administrative Law Judge deny the issuance of the subpoenas.

The parties' positions

LSTC claims that records produced by the Department show that CADT and Valhalla Place communicated with the Department about providing treatment to patients displaced in the event of LSTC's closing under the license revocation order.¹ It claims that the documents sought are relevant because they relate to the Department's communications regarding the revocation order. Implicit in the claim is the allegation that the documents might reveal the Department acted improperly in ordering the revocation of LSCT's license.

The Department argues that documents concerning those communications would not lead to the discovery of any evidence admissible at the hearing in this case.

¹ See, Subpoena Request Forms (Mar. 6, 2014).

Discussion

Under the Revenue Recapture Rules, “a party may obtain a subpoena to compel the ... production of documents.”² The subpoena request must state the relevance of the documents sought.³

“Relevant evidence” means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.”⁴

Evidence developed through prior discovery shows the Department communicated with CADT and Valhalla Place about providing services to LSTC’s patients in the event LSTC closed. Those conversations, however, do not go to the substance of the Department’s claims against LSTC. Given that LSTC serves over 300 patients, the Department took precautions to make sure plans were in place to ensure LSTC’s patients receive proper care in the event LSTC’s license is revoked.

LSTC did not demonstrate that any of the communications between the Department and CADT and Valhalla Place related to the facts and circumstances surrounding the issues raised in the revocation order. Also, LSTC did not show that the documents requested could provide or lead to “relevant evidence” in this case. The Department’ motion to deny the issuance of the subpoenas is therefore GRANTED.

J. E. L.

² Minn. R. 1400.8601, subp. 1.

³ *Id.*

⁴ Minn. R. Evid. 401.