OAH 60-1800-36775

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF HUMAN SERVICES

In the Matter of the Appeal by Lina Nyaronge of the Maltreatment Determination and Order of License Revocation of her Child Foster License

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION

This matter came before Administrative Law Judge James E. LaFave for an evidentiary hearing on August 12, 2020. The record closed that day at the conclusion of the hearing.

Catherine Miller, Assistant Rice County Attorney, appeared on behalf of the Minnesota Department of Human Services (Department). David L. Ludescher, Grundhoefer & Ludescher, P.A., appeared on behalf of Lina Nyaronge (Ms. Nyaronge or Appellant).

STATEMENT OF THE ISSUES

1. Did the County properly determine that Ms. Nyaronge was responsible for maltreatment of minors by neglect under Minn. Stat. § 626.556, subds. 2(g)(2), 2(g)(3), 10e(e), (f) (2020)?

2. Did the Department correctly determine that Ms. Nyaronge knowingly provided false or misleading information during a licensing investigation in violation of Minn. Stat. § 245A.07, subd 3(a)(3) (2020)?

3. Did the Department correctly determine that Ms. Nyaronge committed the two licensing violations set forth in the Order of License Revocation, under the applicable law cited for each violation?

4. Did the Department properly revoke Ms. Nyaronge's license for the reasons detailed in the Order and under Minn. Stat. § 245A.07, subds. 1, 3 (2020)?

SUMMARY OF RECOMMENDATION

The Administrative Law Judge concludes that the Department demonstrated, by a preponderance of the evidence, that the County properly determined Appellant committed maltreatment by neglect and the Department demonstrated reasonable cause to revoke Appellant's child foster care license. Further, Appellant failed to demonstrate that she complied with the laws and rules of the Department. Therefore, the Administrative Law Judge recommends that the Commissioner of the Department of

Human Services (Commissioner) **AFFIRM** the maltreatment determination and the order revoking Appellant's family child foster care license.

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

FINDINGS OF FACT

I. Background

1. Ms. Nyaronge lives in Northfield, Minnesota with a good friend, Olivia Frey.[1]

2. Ms. Nyaronge has a daughter, Monique Krotzer.[2] Monique and her husband, Daniel Krotzer, have two daughters, Miriam and Mickayla.[3]

3. In January and February of 2019, Daniel Krotzer committed multiple acts of domestic violence.[4] In addition to inflicting fear of death, Mr. Krotzer held his wife against her will for weeks and deprived her of transportation and communication.[5]

4. Mr. Krotzer left the state of Minnesota with his daughter Miriam for a week and refused to return her.[6]

5. Monique Krotzer applied for and, on March 9, 2019, the Rice County District Court issued an Order for Protection barring Daniel Krotzer from having any contact with Monique, Miriam, and Mickayla Krotzer.[7]

6. On August 7, 2019, the Rice County District Court granted temporary legal and physical custody of Miriam and Mickayla Krotzer to Rice County Social Services (Rice County) for placement in licensed foster care.[8]

7. On January 9, 2019, Rice County placed the girls with their grandmother, Ms. Nyaronge.[9] The Department issued Ms. Nyaronge a child foster care license on June 30, 2019.[10]

8. Rice County informed Ms. Nyaronge that the two girls were only allowed to have supervised visitation with their father, Danial Krotzer.[11]

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[1] Testimony (Test.) of Olivia Frey.
[2] Exhibit (Ex.) 8 at 1.
[3] Ex. 3 at 1.
[4] Ex. 2 at 1.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] Ex. 3 at 4.
[9] Test. of Tamara Larsen; Ex. 12 at 1.
[10] Ex. 12 at 1.
[11] Test. of T. Larsen.

9. Later in August of 2019, the Rice County District Court ruled Mr. Krotzer was forbidden to have any contact with his children.[12] Rice County informed Ms. Nyaronge of that ruling and instructed her that Mr. Krotzer was not allowed to visit Miriam and Mickayla.[13]

10. In August of 2019, Rice County also informed Ms. Nyaronge of the visitation plan that was in place for the children's mother, Monique Krotzer.[14] Under that plan, Mrs. Krotzer was allowed liberal visitation, but was not allowed to have the children overnight.[15]

11. Ms. Nyaronge was expected to keep track of Monique Krotzer's visits and was instructed to report to Rice County if something happened that was not allowed, such as overnight visits.[16]

12. Ms. Nyaronge told Rice County that because of Mr. Krotzer's violent history she feared for the safety of the children and herself.[17] Rice County reviewed the Order of Protection with Ms. Nyaronge and instructed her to call the police if Mr. Krotzer ever came to her residence.[18]

II. The Investigation

13. On September 11, 2019, Rice County Case Manager Tamara Larsen received an email from a mandated reporter at Greenvale Park Elementary School that Daniel Krotzer escorted his daughter Miriam into the school in violation of the Order for Protection.[19]

14. Ms. Larsen immediately filed a child protection report and then contacted Ms. Nyaronge and Monique Krotzer.[20]

15. Ms. Nyaronge told Ms. Larsen that her neighbor and the neighbor's husband took Miriam to school that morning.[21]

16. Fearing for the safety of the children, Rice County removed Miriam and Mickayla from Ms. Nyaronge's custody on September 11, 2019.[22] Because Mr. Krotzer violated the Order for Protection, Rice County did not believe that Ms. Nyaronge could safely care for the children.[23]

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[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.*
[22] *Id.;* Test. of Alexis Benjamin; Ex. 12 at 1.
[23] Test. of T. Larsen.

17. Ms. Larsen called Ms. Nyaronge's neighbor to verify the information given by Ms. Nyaronge.[24] The neighbor told Ms. Larsen she had driven Miriam and her father Daniel Krotzer to school that morning and that Miriam's father walked Miriam into school.[25]

18. Ms. Nyaronge was with the neighbor when Ms. Larsen called. Ms. Larsen could hear Ms. Nyaronge whispering in the background but could only make out that Ms. Nyaronge was saying the word "husband."[26]

19. Rice County Child Protection worker Alexis Benjamin then contacted the Northfield Police Department.[27] Ms. Benjamin and Officer Brian Kraemer went to Greenvale Elementary School to speak with Miriam Krotzer and school staff.[28]

20. Miriam stated during her interview that when she woke up that morning she was at Appellant's home, and that her Mom, Dad, Grandma, and sister were there.[29] Miriam confirmed that her father, Daniel Krotzer, took her to school that morning.[30]

21. Ms. Benjamin then contacted school staff and obtained a copy of the security video taken by the school.[31] The video showed Daniel Krotzer walking with his daughter, Miriam, in the halls of the school.[32]

22. Ms. Benjamin interview Ms. Nyaronge on September 16, 2019.[33] Ms. Nyaronge stated she knew of the Order for Protection and that she knew Daniel Krotzer was not to have contact with his two girls.[34]

23. Ms. Nyaronge also told Ms. Benjamin that Monique Krotzer took the girls for three days on August 26, 27, and 28, 2019.[35] Ms. Nyaronge did not know where the children were and, contrary to child foster care rules, did not notify Rice County that Monique had taken the two girls.[36]

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[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] Test. of A. Benjamin*;* Ex. 1 at 5.
[28] Ex. 1 at 5.
[29] Test. of A. Benjamin; Ex. 8 at 3; *see* Ex. 6 (audio recording of interview with Miriam Krotzer).
[30] Test. of A. Benjamin; Ex. 8 at 3; *see* Ex. 6 (audio recording of interview with Miriam Krotzer).
[31] Test. of A. Benjamin; *see* Ex. 7 (Greenvale Elementary School Video, Sept. 11, 2019).
[32] Test. of A. Benjamin; *see* Ex. 7 (Greenvale Elementary School Video, Sept. 11, 2019).
[33] Test. of A. Benjamin.
[34] *Id.*
[35] *Id.;* Ex. 8 at 5.
[36] *Id.*

III. Procedural History

24. By letter dated October 21, 2019, Rice County informed Ms. Nyaronge, that as a result of their investigation, they found a preponderance of the evidence supported a finding of inadequate supervision and that maltreatment had occurred.[37]

25. On October 29, 2019, Ms. Nyaronge requested reconsideration of the maltreatment determination.[38]

26. After a review, Rice County upheld the maltreatment determination.[39]

27. The Department, based on a recommendation from Rice County, revoked Ms. Nyaronge's child foster care license on February 26, 2020.[40]

28. On March 4, 2020, Ms. Nyaronge appealed the Order of License Revocation.[41]

29. Any finding of fact contained in the Memorandum is hereby adopted as such.

Based on these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Administrative Law Judge and the Commissioner have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 245A.08 (2020).

2. The Amended Notice and Order for Prehearing Conference and Hearing is proper in all respects, and the Department complied with all substantive and procedural requirements of law and rule.

3. Ms. Nyaronge timely appealed the maltreatment determination and the Order of Revocation.

4. When a licensing sanction under Minn. Stat. § 245A.07 (2020) is based upon a maltreatment determination, the scope of the contested case hearing shall include the maltreatment determination and the licensing sanction.[42]

I. Maltreatment by Neglect

5. Maltreatment of a child includes physical abuse, neglect, sexual abuse, and mental injury.[43]

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[37] Ex. 9 at 1.
[38] Ex. 10.
[39] Ex. 11.
[40] Ex. 12.
[41] Amended Notice and Order for Prehearing Conference and Hearing at Ex. 2 (May 19, 2020).
[42] Minn. Stat. § 245A.08, subd. 2a.

6. The Department has the burden of proving by a preponderance of the evidence that Ms. Nyaronge is responsible for maltreatment of a child by neglect under Minn. Stat. § 626.556, subds. 2(g)(2), 2(g)(3), 10e(e).[44]

7. "Neglect" is defined as:

> Failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so . . .[45] [and the]
>
> Failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors such as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care.[46]

8. A "preponderance of the evidence" means that the ultimate facts must be established by a greater weight of the evidence.[47] "It must be of a greater or more convincing effect and . . . lead you to believe that it is more likely that the claim . . . is true than . . . not true."[48]

9. The Department demonstrated that on September 11, 2019, Ms. Nyaronge failed to protect Miriam Krotzer from conditions that seriously endangered her physical health, when Miriam had contact with her father, Daniel Krotzer. Further, the Department demonstrated that by allowing this contact, Ms. Nyaronge failed to provide the necessary supervision or childcare arrangements for Miriam on September 11, 2019. Thus, the Department has established that maltreatment by neglect occurred as defined in Minn. Stat. § 626.556, subd. 2(f)(2), (3)

II. Revocation of the Child Foster Care License

10. At a hearing on the sanctions to be imposed upon a child foster care license, the Commissioner may demonstrate reasonable cause for the action taken by submitting statements, reports, or affidavits to substantiate the allegations that the license holder failed to fully comply with applicable law or rule. If the Commissioner demonstrates that reasonable cause existed, the burden of proof shifts to the license holder to demonstrate by a preponderance of the evidence that the license holder was in full compliance with those laws and rules.

11. Minn. Stat. § 245A.07 states, in part:

> Subdivision 1. **Sanctions; appeals; license.** (a) In addition to making a license conditional under section 245A.06, the commissioner may

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[43] Minn. Stat. § 626.556, subd. 10e(f).
[44] Minn. R. 1400.8608 (2019).
[45] Minn. Stat. § 626.556, subd. 2(g)(2).
[46] *Id.* at subd. 2(g)(3).
[47] 4 *Minnesota Practice*, CIVJIG 14.15 (2006).
[48] *State v. Wahlberg*, 296 N.W.2d 408, 418 (Minn. 1980).

suspend or revoke the license, impose a fine, or secure an injunction against the continuing operation of the program of a license holder who does not comply with applicable law or rule. When applying sanctions authorized under this section, the commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.

. . . .

Subdivision 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules.

12. Minn. Stat. § 245A.04, subd. 6 (2020), states:

Commissioner's evaluation. Before issuing, denying, suspending, revoking, or making conditional a license the commission shall evaluate information gathered under this section. The commissioner's evaluation shall consider facts, conditions, or circumstances concerning the program's operation, the well-being of persons served by the program, available consumer evaluations of the program, and information about the qualifications of the personnel employed by the applicant or license holder.

13. Minn. Stat. § 245A.07, subd. 3(a)(3), provides that the Commissioner may suspend or revoke a license or impose a fine if a license holder knowingly withholds relevant information form or gives false or misleading information to the Commissioner in connection with an application for a license . . . during an investigation, or regarding compliance with applicable laws or rules.

14. The Department demonstrated reasonable cause to believe Ms. Nyaronge withheld or gave false or misleading information to the Commissioner.

15. Minn. R. 2960.3080, subp. 5(B) (2019), requires the license holder to "cooperate with the child's case manager and other appropriate parties to develop and implement the child's case plan during the child's stay at the foster home."

16. The Department demonstrated reasonable cause to believe that Appellant violated Minn. R. 2960.3080, subp. 5(B), when she allowed Miriam to have unsupervised contact with her father, Daniel Krotzer. At the time, Mr. Krotzer was not allowed to have any contact with the foster children. Monique Krotzer's visitation plan allowed her liberal visitation but did not allow her to keep the children overnight. The Department also demonstrated that Appellant violated that rule when she allowed Ms. Krotzer to care for the foster children on August 26, 27, and 28, 2019.

17. Minn. R. 2960.3080, subp. 6(E) (2019), mandates that the license holder "know the whereabouts of the child in the license holder's care. The license holder must be guided by the case plan or court order in determining how closely to supervise the

child. The license holder must immediately notify the placing agency if the child runs away or is missing."

18. The Department demonstrated reasonable cause to believe that Appellant violated Minn. R. 2960.3080, subp. 6(E), when Appellant allowed Ms. Krotzer to care for the children on August 26, 27, and 28, 2019. Appellant also violated the rule when she failed to notify Rice County when the foster children were missing for three days.

19. Appellant failed to demonstrate she was in full compliance with those laws and rules at the time that the Department alleges the violations occurred.

20. As set forth above, the Department has established by a preponderance of the evidence that Appellant is responsible for maltreatment by neglect. In addition, the Department has established that Appellant was in violation of licensing laws and rules. Appellant failed to demonstrate that she was in full compliance with those laws and rules at the time that the Department alleges the violations occurred. Accordingly, the Department has established reasonable cause for the revocation of Appellant's family child foster care license.

21. The Memorandum below is incorporated herein by reference.

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

RECOMMENDATION

IT IS HEREBY RECOMMENDED that the Commissioner of Human Services:

(1) **AFFIRM** the maltreatment determination by neglect; and

(2) **AFFIRM** the Order of Revocation of Ms. Nyaronge's child foster care license.

Dated: September 18, 2020

JAMES E. LAFAVE
Administrative Law Judge

Reported: Digitally Recorded
No transcript prepared

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of the Department of Human Services (the Commissioner) will make the final decision after a review of the record. Under Minn. Stat. § 14.61 (2020), 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 Debra Schumacher, Administrative Law Attorney, PO Box 64254, St. Paul, MN 55164-0254, (651) 431-4319 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 (2020). 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 imposed.

Under Minn. Stat. § 14.62, subd. 1 (2020), the Commissioner is required to serve her final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

MEMORANDUM

The Department seeks to revoke Appellant's child foster care license for three reasons. First, the County determined Appellant was responsible for the maltreatment of a minor. Second, the Department claims Appellant provided false or misleading information during the investigation. And third, the Department alleges that Appellant violated important licensing rules. Ms. Nyaronge appealed the maltreatment determination and the revocation of her child foster care license. This memorandum will address an important prehearing motion before analyzing the maltreatment determination and the Order of License Revocation.

I. Prehearing Motions

At the beginning of the hearing, the Administrative Law Judge, pursuant to Minn. R. 1400.8590 (2019), ruled on three prehearing motions, orally on the record. The Administrative Law Judge granted Appellant's motion to proceed in forma pauperis as to the $5 subpoena fees, denied Appellant's motions in limine, and denied Appellant's motion for accommodations. The motion for accommodations merits further discussion.

From the beginning of this proceeding, Appellant expressed concern about the hearing process.[49] Exercising her rights, Appellant requested an in-person hearing, and because she is from Kenya and as English is not her first language, she requested a Swahili interpreter. It was also important for Appellant to have her good friend, Ms. Frey, present at the hearing for support. The hearing date was set during a prehearing conference on June 24, 2020. Appellant was present on the call, as was Ms. Frey. The parties agreed to a hearing date of August 12, 2020, which was chosen largely to accommodate Ms. Frey's vacation schedule.

[49] *See* Appellant's Motion for Summary Disposition (April 24, 2020); Appellant's Memorandum of Law Regarding Maltreatment Case Appeal (May 8, 2020); Motion to Determine Appellant's Right to Appeal to District Court (May 24, 2020); Appellant's Motion for Reconsideration (June 15, 2020).

Miriam Krotzer, Appellant's granddaughter, was placed in a foster home in Kansas after being removed from Appellant's care.[50] On or about July 4, 2020, Appellant went to Kansas to visit her daughter and granddaughter.[51] Appellant has been in Kansas ever since.[52]

At 4:13 p.m. on August 10, 2020, nearly the eve of the hearing, Appellant filed a motion requesting three accommodations.[53] First, because seven-year-old Miriam Krotzer was living with her aunt in Kansas, Appellant requested that Miriam be allowed to testify via Zoom.[54] Second, because Ms. Frey is "in the high-risk category" for COVID-19, Appellant asked that Ms. Frey be allowed to participate via Zoom. And finally, because Appellant "is also in the high-risk category" and because "she is in Kansas with her daughter and granddaughter" Appellant requested that she also be allowed to participate via Zoom.[55] The motion made no mention of an interpreter for Appellant.

At 10:50 a.m. on August 11, 2020, the Department filed a letter objecting to Appellant's late-filed request for accommodations.[56] The Department noted that Appellant was aware of the hearing date and location when she went to Kansas in early July.[57] The Department also stated that Miriam Krotzer had not been properly served with a subpoena so there is "no need for her to appear."[58] Finally, the Department observed that the hearing date was set to accommodate Ms. Frey's presence at the hearing and concluded that there was no reason for the motion to be filed so late when the hearing date had been set for seven weeks.[59] The Administrative Law Judge held a telephone hearing on Appellant's motion at 1:00 p.m. on August 11, 2020.[60]

The Administrative Law Judge must "see to it that all hearings are conducted in a fair and impartial manner."[61] To that end, the Administrative Law Judge is empowered to:

- Hear and rule on motions[62];
- Preside at the hearing[63];
- Grant or deny continuances[64];
- Make preliminary, interlocutory, or other orders to assure a fair hearing[65]; and

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[50] Statement by Assistant Rive County Attorney. (Digital Recording Prehearing Conference, Aug. 11, 2020) (on file with the Minn. Office of Admin Hearings).
[51] *Id.*
[52] *Id.*
[53] Letter from David L. Ludescher to the Hon. James LaFave (Aug. 10, 2020).
[54] *Id.*
[55] *Id.*
[56] Letter from Catherine M. Miller, Asst. Rice County Attorney to Judge James LaFave (Aug. 11, 2020).
[57] *Id.*
[58] *Id.*
[59] *Id.*
[60] Digital Recording of Motion Hearing (Aug. 11, 2020) (on file with the Minn. Office of Admin Hearings).
[61] Minn. Stat, § 14.50 (2020).
[62] Minn. R. 1400.8606, subp. 3(B) (2019).
[63] *Id.* at subp. 3(C) (2019).
[64] *Id.* at subp. 3(E) (2019).

- Do all things necessary and proper to the performance of the foregoing.[66]

Parties also have responsibilities in the hearing process. They are required to have "all evidence to be presented, both oral and written, available on the date of hearing."[67] In addition, "requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their need becomes evident to the requesting party."[68] Similarly, the Fourth Prehearing Order stated: "Requests for continuances of a hearing shall be granted only upon a showing of good cause. A request for a continuance filed within five (5) business days of the hearing shall be denied unless the reason for the request could not have been earlier ascertained."[69]

There are two primary basis underlying Appellant's request for accommodations-the COVID-19 pandemic and Appellant's presence in Kansas. Both have been known for some time.

COVID-19 has been present and an ongoing concern in this case from the beginning. A safe hearing has always been of paramount importance. Appellant specifically requested an in-person hearing, and after several discussions, the parties and the Administrative Law Judge agreed that the hearing could be held safely, in person, by maintaining social distancing guidelines.[70]

Moreover, there were other pertinent factors for holding an in-person hearing, including Appellant's need for an interpreter and the possible testimony of a child witness. In addition, because Appellant is from Kenya, the Administrative Law Judge sensed an undercurrent of cultural misunderstandings. Therefore, given these unique circumstances, an in-person hearing was far preferable to using some other platform.

Neither of the reasons cited by Appellant justified the late-filed motion. Concerns about COVID-19 are real and legitimate, but Appellant cited no facts as to why, the day before hearing, these concerns mandated participation via Zoom. Appellant agreed to the hearing date on June 24, and the date was set to allow her good friend to be present for support. Appellant has been in Kansas since the beginning of July and cites no reasons why she waited until this late date to inform this tribunal.

Appellant had the obligation to be ready on the day of the hearing. Appellant was required to notify the Administrative Law Judge about issues affecting the hearing within a reasonable time after they were learned. By law, the hearing needed to be conducted by September 7, 2020.[71] August 12 was one of the last available hearing dates.

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[65] *Id.* at subp. 3(H) (2019).
[66] *Id.* at subp. 3(J) (2019).
[67] Minn. R. 1400.8604, subp. 1 (2019).
[68] *Id.*
[69] Fourth Prehearing Order (June 26, 2020) at 2.
[70] *E.g.* The hearing room was wiped down with disinfectant before the parties arrived, everyone wore masks, and everyone seated at least six feet apart.
[71] *See* Minn. Stat. § 245A.07, subd. 7. (A hearing in this case must be conducted within 90 days. The Administrative Law Judge, as allowed by the rule, extended the time an additional 90 days for good cause. The 90-day extension period expired on September 7, 2020).

Appellant failed in her obligations to be ready on the date of hearing, she failed in her obligation to timely notify this tribunal of matters that effect the hearing, and she failed to articulate any basis that would amount to good cause for the accommodations. For these reasons, and for those given on the record at the hearing, Appellant's motion for accommodations is **DENIED**.

II. Analysis

A. The Maltreatment Determination

Minn. Stat. § 626.556 subd. 2(g)(2), defines "neglect", in part, as the failure to protect a child from conditions that might endanger the child's physical or mental health. Minn. Stat. § 626.556 subd. 2(g)(2), states that it is neglect when a foster provider fails to provide necessary supervision or childcare arraignments.[72]

On September 11, 2019, Appellant allowed Daniel Krotzer to take Miriam to school. She did so at a time when there was an Order for Protection in place prohibiting Mr. Krotzer from any contact with his children. This contact was confirmed by a neighbor who drove Mr. Krotzer and Miriam to school that morning, and by security video taken at the school. Miriam herself confirmed her father, Mr. Krotzer, took her to school and even told investigators that Mr. Krotzer had spent the night.

Mr. Krotzer is a serious threat to the safety of his children. Earlier in 2019, he had committed multiple acts of domestic violence, including holding people against their will and threatening to kill. The Rice County District Court entered an Order for Protection to keep Mr. Krotzer away from his wife and daughters. Appellant knew of the Order for Protection, she knew Mr. Krotzer was dangerous, and on multiple occasions, she told Rice County that she feared for the children's and her own safety because of Mr. Krotzer.

It is with this backdrop that one must view Appellant's actions on September 11, 2019. Appellant knew how dangerous a person Mr. Krotzer was, Appellant knew there was an Oder for Protection in place that barred Mr. Krotzer from seeing his children, and Appellant knew if Mr. Krotzer came to her home that she was supposed to call the police. Despite all of that, Appellant allowed Mr. Krotzer to take Miriam to school. By doing so, Appellant put Miriam in a very dangerous situation. Appellant failed to protect Miriam from a situation that could endanger her health and failed to provide adequate supervision. The Department established by a preponderance of the evidence that Appellant committed maltreatment. The maltreatment determination should be affirmed.

[72] The Department asserts Ms. Nyaronge's alleged violation of Minn. Stat. § 626.556, subds. 10(e)(e) and (f), as a basis for the County's maltreatment determination. The Administrative Law Judge notes that Minn. Stat. § 626.556, subds. 10e(e), pertains to investigations of neglect in "a facility" and so, is not applicable in this case.

B. Providing False or Misleading Information

As another basis for revoking Appellant's child foster care license, the Department claims she provided false or misleading information. Minn. Stat. § 245A.07, subd. 3(a)(3), authorizes the Commissioner to revoke a license if "a license holder knowingly withholds relevant information or gives false or misleading information" during an investigation.

Here, after receiving a report that Mr. Krotzer violated the Order for Protection by escorting Miriam to school, Rice County immediately began an investigation. They interviewed Appellant as part of that investigation. When asked how Miriam got to school on the morning of September 11, 2019, Appellant told investigators it was not Mr. Krotzer who took Miriam to school, but rather her neighbor and her neighbor's husband.

The information provided by Appellant was, at best, misleading. When the neighbor was interviewed as part of the investigation, she told the investigators that she drove Miriam and Mr. Krotzer to school and that Mr. Krotzer took Miriam into the school. The information provided by the neighbor was confirmed by the school security video and by information provided by Miriam. Also, when the neighbor was being interviewed, Appellant was heard whispering to the neighbor, coaching her to say "husband." The Department demonstrated reasonable cause to believe that Appellant provided false or misleading information to the Department as part of an investigation.

C. The Licensing Violations

The Order of License Revocation also cites Appellant for violating several rules governing child foster care when she gave Monique Krotzer sole custody of the two foster children on August 26, 27, and 28, 2019. As set forth in the Finding of Facts, while Ms. Krotzer had liberal visitation rights, she was not allowed to keep the young girls overnight. During those three days during the end of August, Appellant had no idea where the children were.

The rules governing child foster cases require that the licensed provider must "provide basic services" to the children in the provider's care.[73] "Basic services" include providing the foster child with shelter, safety, and adult supervision.[74] The licensed provider must also work with the child's case manager to implement the child's case plan.[75] The license holder is also required to know the whereabouts of the children in care.[76]

On August 26, 27, and 28, 2019, Appellant failed to provide "basic services" to Miriam and Mickayla when Ms. Krotzer had custody of the children. Allowing Ms. Krotzer to take custody violated the children's care plan as Ms. Krotzer was not allowed to have the children overnight. Further, during that time, Appellant failed to

[73] Minn. R. 2960.3080, subp. 5(A) (2019).
[74] Minn. R. 2960.3010, subp. 5 (2019).
[75] Minn. R. 2960.3080, subps. 5(B); 9.
[76] *Id.* at subp. 6(E).

provide the girls shelter or adult supervision; she did not even know where the girls were. The Department demonstrated reasonable cause to believe that Appellant violated the rules governing the provision of child foster care.

While the Department established reasonable cause to believe that Appellant violated foster care rules, Appellant failed to establish, by a preponderance of the evidence, that she was in full compliance with the rules.

III. Conclusion

During this case, from the placement of the children with Appellant, to the removal of the children from her care, to the Order of License Revocation, the sole focus of the Department and Rice County was the welfare of Miriam and Mickayla. The Order of License Revocation stems from two incidents: Mr. Krotzer taking Miriam to school on September 11, 2019; and Ms. Krotzer's unauthorized stay with the children on August 26, 27, and 28, 2019. The violations that stemmed from just those two incidents, however, are severe.

On September 11, 2019, Miriam was alone with a dangerous person, a person whom the Courts determined was barred from having such conduct. Appellant knew Mr. Krotzer was dangerous and was barred from having contact with the children, yet on September 11, 2019, Appellant allowed it to happen. By doing so, Appellant committed maltreatment of a child, allowed a violation of an Order for Protection, failed in her obligation to shield the child from dangerous situations, failed to properly supervise the child, and failed to follow the child's case plan. Similarly, by allowing Ms. Krotzer to have the children for three days in August of 2019, she failed to properly supervise the children, failed to follow the visitation plans, and failed to notify Rice County.

Appellant's actions put the children in danger, showed poor judgment and demonstrated an inability to keep the children safe. The Department established by a preponderance of the evidence that Appellant committed maltreatment. The maltreatment determination, the providing of false or misleading information, and the violation of child foster care licensing rules are sufficient to support the Department's revocation of Appellant's child foster care license. It is recommended that the Commissioner **AFFRIM** the maltreatment determination and the Order of License Revocation.

J. E. L.