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Office of Health Facility Complaints Investigative Report
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Facility:

Homeward Bound Maple Grove
6769 East Fish Lake Road
Maple Grove, Minnesota 55369
Hennepin County

Report #: HG449001

Date: November 9, 2009

Date of Visit: June 29, 2009

Time of Visit: 8:00 a.m.

By: Michelle Ness, R.N.

Special Investigator

Nature of Visit:

An unannounced visit was made at Homeward Bound Maple Grove, an ICF/MR in order to investigate the following allegation of abuse in accordance with federal regulations for ICF/MR specifically 42 CFR 483.420 the Condition of Participation: Client Protections and state licensing rules and the Vulnerable Adults Act (VAA), which occurred in the client's home at Homeward Bound Maple Grove.

The allegation is: It is alleged that, on May 26, 2009, client #1 was physically abused by employee (C)/alleged perpetrator (AP) when the AP pushed the client's forehead up, forced food into the client's mouth, and then let the client's head fall forward. The client cried and pushed the AP's hand away.

Investigative Findings:

All employees and persons were interviewed in private as desired and given the Tennessee Statement.

During the course of the investigation, the following tasks were completed:

- Client #1's medical record was reviewed.
- An onsite visit was made at the client's day program.
- Client #1 was observed eating a snack.
- The AP's personnel file was reviewed.
- The AP and client #1 were interviewed.

Medical Record: Client #1's medical record was reviewed and revealed the following:

- She has resided at the facility since January of 2001. She has diagnoses of mental retardation and Cerebral Palsy.
- According to her risk management plan dated April 7, 2009, she requires a wheelchair for ambulation, assistance with transfers, dressing, and grooming. She has swallowing difficulties and is at risk for choking during meals. She receives thickened liquids, blender chopped meats, vegetables, and fruits, and all other foods are prepared in small bite sizes. She has a built-up spoon and a scoop plate.

- According to her Individual Service Plan dated April 7, 2009, staff feed the client breakfast, lunch, and dinner. She is able to independently eat snacks, such as chips, throughout the day with staff monitoring. She is non-verbal. She is able to communicate her needs by nodding and shaking her head to yes and no questioning and by using her computerized communication device. If she gets upset she may yell, scream, or bite her hand. The client's likes and dislikes are listed on her mealtime card.
- According to client #1's Meal Time Card, client #1 likes to pick where she wants to eat, and may prefer to wait and eat with certain individuals in the house. She needs to be encouraged to take small bites the size of half a teaspoon and swallow twice after each bite. If client #1 refuses to eat or accept food, staff are to attempt a variety of food for 10 minutes. Reheat the meal and try after 10 minutes. After two attempts, staff are to offer an alternative meal. After several attempts to get client #1 to eat independently, staff may then feed her. If she continues to refuse, she should be offered Carnation Instant Breakfast. Client #1 will let staff know when she is finished eating.
- The Verification of Record Review forms between 2006 and 2009 were reviewed. The form stated, "Before you go any further have you reviewed and do you understand the information contained in this record. When you sign on the line you are stating that you have read, understand and are accountable for supporting this person as outlined in the following documents." Some of the documents listed included the Individual Service Plan, Program Abuse Prevention Plan, Bill of Rights, Formal and Action Objectives, Individual Program Plan, and Daily Schedule and Procedural Approaches. The (AP) signed client #1's form on May 12, 2006, May 30, 2007, March 13, 2008, and February 18, 2009.

Observations: Client #1 was observed at her day program on June 29, 2009, eating a snack. Client #1 lifted her head independently and opened her mouth. Then the staff person put the food in her mouth. The client lowered her head to her neutral position (chin close to chest) to chew her food. When client #1 was ready for another piece of food she raised her head and opened her mouth until the food was placed in her mouth by the individual feeding her. This process was continued. The individual feeding her did not have to assist client #1 to lift her head at any time during the process.

Video Recording of the Allegation:

The video recording was viewed and the following was observed.

- Client #1 and the AP were outside. The video was taken from inside the building, through a window. The side view of the AP feeding client #1 is observed.
- The client's neutral posture is observed. The client's face is parallel to the lap tray that rests on her wheelchair.
- Five seconds into the video, the AP takes the palm of his left hand and raises the head of client #1 up so the client's head is up and back slightly. With the AP's right hand, he takes a mounded white spoonful of food and puts it in the client's mouth. Then the AP removes his hand and the client's head abruptly returns to her neutral position. Approximately 11 seconds later the AP brings the client's head up again with the palm of his hand, but does not put the spoon in the client's mouth.
- Approximately 7 seconds later, the AP repeats the process and puts another heaping spoonful of food in the client's mouth, again allowing the client's head to abruptly return to her neutral position.
- Approximately 16 seconds later, the process is repeated.
- Approximately 16 seconds later the AP lifts the client's head up with the palm of his hand, he does not feed her but lets the client's head abruptly move to her neutral position.

- Approximately 16 seconds later, the AP lifts the client's head up by placing the palm of his left hand on her forehead. The client is observed to move her head to the side and her body to twist slightly. It takes approximately 6 seconds until the AP puts a mounded spoon of food into the client's mouth. Then the AP removes his hand and the client's head abruptly moves to her neutral position.
- Approximately 16 seconds later the AP repeats the above process and places another mounded spoonful of food in the client's mouth. Then the video recording ends.

Interviews:

Client #1 was interviewed on June 29, 2009 at 8:05 a.m., using yes and no questioning and the following was elicited from client #1 by asking specific questions:

- She is able to communicate to staff when she wants to eat. She is able to feed herself, when she wants to eat. If she does not want to eat, she will not feed herself.
- She shakes her head no and screams/vocalizes when she wants staff to stop doing something. When she has to vocalize, it hurts her head.
- She recalls the incident between her and the AP on May 26, 2009. On that particular day, she did not want to eat. The AP forced her to eat; it made her upset, scared, and angry. It took her more than one week to get over her feelings of sadness and being scared.
- The size of the spoon the AP used was not her normal spoon; normally a smaller spoon is used.
- When the AP fed her, she was having problems breathing and she does not normally have problems breathing when she eats. In addition, she indicated that her stomach hurt.
- She denied that the AP used more force than necessary to raise her head.
- Employee (D) tried to stop the AP from forcing her to eat, the AP did not stop, and he continued to feed her.
- She denied that the AP or anyone else had ever tried to force her to eat prior to this incident.
- She stated that prior to May 26, 2009; the AP was rough with her cares and had physically hurt her. A specific incident was unable to be elicited.

Employee (D) was interviewed on July 2, 2009 at 3:06 p.m., and stated the following:

- She was working on May 26, 2009. Sometime between 4:00 p.m. and 5:00 p.m., the incident occurred between the AP and client #1.
- Client #1 did not want to eat.
- She was in the dining room and had a clear view of the encounter. She observed the AP take client #1 outside with only a T-shirt on and it was cold outside. The AP pushed client #1's head back, forced food into the client's mouth, and let the client's head go allowing her head to swing forward.
- She intervened and told the AP that he could not feed client #1 in that manner, that it was illegal, and that client #1 has a right to refuse to eat. The AP told employee (D) that client #1 is losing weight and if she does not eat, he has to force her to eat.
- She could see client #1 fighting and resisting the feeding. The client was trying to turn her head away, she tried to use an arm to push the AP away, and she was trying to keep her mouth closed.
- The AP was using a spoon that looked larger than her rubber covered spoon staff are suppose to utilize when feeding client #1. In addition, the spoon had large heaping quantities of food on them.
- She could not hear if client #1 was vocalizing/screaming during the feedings because she was sitting next to a client that was making loud vocalizations. However, she could hear the AP tell client #1 in a loud and demanding tone to open her mouth.

- She had reported other concerns she had about the AP being overly aggressive with clients, it was always her word against his, and he always denied it. This time she recorded what she saw on her cell phone.

Employee (F) was interviewed on June 29, 2009 at 8:35 a.m., and stated the following:

- She is familiar with client #1. Client #1 is able to feed herself with a special spoon (teaspoon size) and plate, but her guardian prefers that staff feed her due to her weight loss. The client is able to tell staff if she wants to eat. Client #1 eats well at breakfast, but she frequently does not want to eat the dinner meal.
- If client #1 does not want to eat, staff offer her a meal three times and offer her different meal options. If she does not eat, her guardian is notified.
- If client #1 does not want something she will scream or cry to inform staff, then staff are to stop.
- If the client does need assistance to eat, once the client has lifted her head up, staff place the food in her mouth, and then the client will put her head down to chew. She does not need help raising her head up to eat. Sometimes she needs verbal reminders to lift up her head. However, she has problems breathing when her head is up.
- Client #1 may require assistance to keep her head up when taking her medications, because she cannot keep her head up for a long period of time. However, if the client does not want the staff to assist her to keep her head up she will shake her head no. If the client does not want us to assist her she will tell us no.

Employee (B) was interviewed on June 29, 2009 at 10:06 a.m., and stated the following:

- He supervises the employees at client #1's home and he was one of the employees who conducted the internal investigation.
- Client #1 feeds herself snacks during the day. She has a tilt wheelchair, which is tilted back to assist in positioning during meals. Sometimes he needs to ask the client to raise her head. Infrequently he holds the client's chin to assist her to keep her head up, but that is very rare.
- Feeding client #1 is a slow process. The client takes a long time to chew and swallow and it is important to wait for her to swallow before she gets another spoon of food.
- Although client #1 is non-verbal, she understands what you are talking about, and is able to answer yes and no questions.
- According to his interview with employee (D), on May 26, 2009, client #1 was observed refusing to eat, and the AP proceeded to take the client outside and force-feed the client her meal. Employee (D) intervened but the AP continued to feed the client.
- He interviewed the AP. The AP was adamant that he did nothing wrong. However, the AP did admit that he did not offer the client an alternative meal.
- He viewed the video recording of the AP feeding client #1. The client's mealtime plan was not followed. It was obvious that the AP used force to lift up client #1's head and put the food in her mouth. The client was forced to eat. The procedure the AP used was not the normal way to raise client #1's head. The time between bites was not enough. The AP pushed the client's head up, spooned in the food, and let her head fall forward. He was concerned that client #1 could have aspirated her food because there was not adequate time allowed for her to chew and swallow her food.
- Client #1 was heard to be crying on the video recording and that is not normal for her if she wants to eat.
- Since the AP's termination, they have noticed a positive change in the client's behavior during meals; she is happier and more willing to eat.

Employee (B) was re-interviewed at 1:32 p.m., and stated that on the video recording the AP was the individual feeding client #1 and that the client was trying to push the AP away with her hand.

Employee (E) was interviewed on July 1, 2009 at 12:44 p.m., and stated the following:

- She was involved with the internal investigation. She assisted with interviewing the individuals involved.
- During the interview with employee (D), they found out that employee (D) video taped the alleged incident. Employee (D) told them during her interview that she knew that she could be terminated for recording the incident; however, she had no choice but to show employee (B) and (E) what she witnessed.
- She viewed the video recording. The AP used a large spoon with a large amount of food that looked like mashed potatoes and pushed the food into the client's mouth several times. There was too much food in her mouth at one time, and very little time between the bites to allow her to properly chew or swallow.
- She could tell that the client even though she has limited ability to extend her arms, was trying to push the AP away.
- After watching the video recording and talking with human resources the AP was terminated and a police report was filed.
- She stated that the AP was not trained to feed the client in that manner, nor did it match client #1's feeding plan.
- When she interviewed the AP, she asked the AP to demonstrate how he fed client #1 on May 26, 2009. He demonstrated placing his fingers under her chin, he gently raised the client's head, but that is not what she saw on the video.
- Client #1's guardian did not want her to go outside the evening of May 26, 2009, because of the weather being cold. However, in the video client #1 was fed outside and all she had on was a T-shirt.

Individual (G) was interviewed on June 29, 2009 at 1:05 p.m., and stated the following:

- She works at the day program that client #1 attends. She has worked with the client for approximately four years.
- Client #1 is fed by staff per her guardian's request. The client's wheelchair is tipped back slightly and the spoon is brought up to her mouth.
- The client is able to tell people if she does not want to eat. She will avoid the staff, shake her head no, use her communication device to say no, or spit the food out. We do not force her to eat if she tells us no.
- The client does have a problem with food coming out of her mouth after it has been put in, when this happens the client is given a verbal cue to keep her head up. They do not lift her head up at all at the day program.

The AP was interviewed on September 3, 2009 at 3:20 p.m., with his attorney present, and stated the following:

- He denied force-feeding client #1 and denied using a large spoon to feed client #1 on May 26, 2009. He further stated that the way he fed client #1 was the way he had been practically trained, meaning hands on training. He further stated that three different employees had trained him.
- He stated that client #1 is not able to communicate verbally and her gesturing yes and no are not always correct.

- The client has a right to refuse to eat. If the client refused to swallow the food he put in her mouth, he would stop feeding her.
- Client #1 has a difficult time keeping food in her mouth and staff need to help her to swallow the food. He has to support her head to feed her. The client's guardian frequently asks staff to feed the client as much as possible and encourage her to eat.
- The AP demonstrated that he takes his hands and lifts client #1's head under her chin.
- He stated that his supervisor never watched him feed the client and never told him anything about the client.
- He further stated that he thought employee (D) reported him because she was always after him for something and one time she had told him that he was abusing another client. However, the AP would not discuss that alleged abuse.

After the AP's interview, attempts were made to obtain contact information and contact the three employees who trained the AP. However, all three of the employees no longer worked at the facility. Only one previous employee, individual (H) was able to be successfully contacted and interviewed.

Employee (H) was interviewed on September 28, 2009 at 3:37 p.m. and stated the following:

- He remembered client #1. He stated that the client's guardian liked her to eat a lot but sometimes the client would not want to eat. There were different techniques to get her to eat.
- He would allow client #1 to feed herself first. If she would get tired out then he would finish feeding her. Before he would feed client #1 he would tilt her wheelchair back.
- If the client wanted to eat, she would raise her head and open her mouth. If she did not want to eat, she would shake her head no.
- The only time he had to hold client #1's head, was when she was drooling, then he would support her under the chin with a towel or tissue.
- He recalled training the AP to feed client #1 as listed above.

Personnel Files: The AP's personnel file was reviewed and revealed the following:

- The AP was hired on September 6, 2005. He was oriented to client #1 on September 24, 2005.
- The AP was terminated on May 27, 2009, for a violation of the Vulnerable Adults Act/Bill of Rights for "excessive force."

Conclusion: The preponderance of evidence indicates that **abuse did occur** when the AP forced client #1 to eat on May 26, 2009.

Documentation, interviews, observations, and video recording revealed the following:

Client #1 is able to inform staff when she does and does not want to eat. The client is able to lift her head independently during meals. When the client needs assistance from staff, it is to put the spoon in her mouth or to lift her chin up during medication administration. On May 26, 2009, client #1 did not want the AP to feed her. The AP forced the client to eat. The AP took the palm of his left hand, placed it on the client's forehead, and lifted her head up. The AP then proceeded to put mounded spoonfuls of food into the client's mouth. Then the AP removed his hand from the client's head and allowed her head to abruptly return to her neutral position (chin close to her chest). This was video recorded and witnessed by employee (D).

The "mitigating factors" in Minnesota Statutes §626.557, subdivision 9c (c) were considered and it was determined that the perpetrator is responsible for the abuse, because the perpetrator had been trained on the correct technique to use when feeding the client. The perpetrator will be notified of the right to request reconsideration and/or appeal the maltreatment finding.

Since the allegation of abuse by an identified employee is substantiated, this report will be submitted to the nurse aide registry for possible inclusion of the finding on the abuse registry and/or to the Minnesota Department of Human Services for possible disqualification in accordance with the provisions of the background study requirements in State law. The employee will be notified of the right to request reconsideration and a hearing to challenge these findings.

During the course of the investigation it was determined that the facility took corrective action, by training and auditing the staff on each client and staff, conducting an internal investigation, reporting the allegations, and terminating the AP's employment. Therefore, no deficiencies or state licensing orders will be issued.

xc: Division of Compliance Monitoring - Licensing & Certification
Minnesota Ombudsman for Mental Health and Developmental Disabilities
Maple Grove City Police Department
Hennepin County Attorney
Maple Grove City Attorney

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

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FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 24G449	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 11/09/2009
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NAME OF PROVIDER OR SUPPLIER HOMEWARD BOUND - MAPLE GROVE	STREET ADDRESS, CITY, STATE, ZIP CODE 6769 EAST FISH LAKE ROAD MAPLE GROVE, MN 55369
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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W 000	<p>INITIAL COMMENTS</p> <p>A complaint investigation was conducted to investigate HG449001. No violations were noted.</p>	W 000		
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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.