



wisconsin department of  
**children & families**

201 East Washington Avenue, Room E200  
P.O. Box 8916  
Madison, WI 53708-8916

Governor Scott Walker  
Secretary Eloise Anderson

Division of Safety and Permanence

---

**HAND-DELIVERED**

January 23, 2013

Community Care Resources, Inc.  
Mr. Daniel Simon, Licensee  
6716 Stone Glen Drive  
Middleton, WI 53562

RE: NOTICE OF REVOCATION OF CHILD PLACING AGENCY LICENSE

FACILITY NAME: Community Care Resources, Inc.  
FACILITY ID NUMBER: 22566

Dear Mr. Simon:

This is a notice of revocation of the child placing agency license issued to Community Care Resources, Inc. (hereafter CCR), to operate Community Care Resources, Inc., a licensed child placing agency located at 6716 Stone Glen Drive, Middleton, WI 53562, effective February 7, 2013. This action is taken pursuant to § 48.715(4)(b) Wis. Stats. and DCF 54, Wis. Administrative Code.

As the bases for this revocation, the Department finds:

On November 29, 2011 the Department commenced a financial audit pursuant to § 49.34(5m)3(f), Wis. Stats. Due to the scope and complexity of the audit, and the difficulty the Department encountered obtaining complete and detailed records from CCR, the audit was not completed until January 11, 2013.

As a result of the audit, the Department determined that CCR used public funds for multiple and substantial unallowable costs, mostly for the personal use of the licensee.

Pursuant to § 48.715(4)(b) Wis. Stats., in pertinent part, the Department may revoke a license if the licensee or a person under the supervision of the licensee has committed a substantial violation, as determined by the department, of a rule promulgated under § 48.67, a provision of licensure under § 48.70(1) or an order under this section.

T 608.266.8787 F 608.266.5547 [dcf.wi.gov](http://dcf.wi.gov)

DCF-F-16-E (R. 4/2011)

- (a) **DCF 54.01(3m) states, "A person who is licensed under this chapter shall operate the agency in compliance with this chapter, the provisions of the license, and applicable state, federal, and local law."**

Contrary to DCF 54.01(3m), the licensee failed to operate the agency in compliance with DCF Chapter 54, the provisions of the license, applicable state and federal regulations, and county contracts when it used public funds for multiple and substantial unallowable costs, mostly for the personal use of the licensee. In doing so, the licensee violated DCF 54.06(8)(c), § 49.34 Wis. Stats., and the Code of Federal Regulations, including but without limitation, 48 CFR 31. A detailed description of those violations is set forth below in section 1(b).

As the licensee for Community Care Resources, you are responsible for ensuring that CCR follows all applicable state and federal laws and regulations. As the signator to county contracts, you are responsible for adhering to all of the terms of those contracts.

- (b) **DCF 54.06(8)(c) states, "A licensee shall be responsible for the secure and judicious use of the funds of the child-placing agency. Policies and practices shall be in accord with sound budgeting, disbursement, and audit control procedures."**

Sec. 49.34 Wis. Stats. regulates the purchase of care and services by the Department and county agencies for child placing agencies. It requires all services purchased to meet standards established by the Department and other requirements specified by the purchaser in the contract.

Attached hereto and incorporated by reference are the following documents:

1. The contract between Waukesha County and CCR for the provision of child placing agency services for calendar year 2009.
2. The contract between Kenosha County and CCR for the provision of child placing agency services for calendar year 2010.
3. The contract between Kenosha County and CCR for the provision of child placing agency services for calendar year 2011.
4. The Department of Health and Family Services' Accounting Principles and Allowable Costs Policies Manual.
5. The Department of Children and Families' Allowable Cost Policy Manual.

Contrary to DCF 54.06(8)(c), the licensee failed to ensure the judicious use of the funds of the child-placing agency and failed to have policies and practices in accord with sound budgeting, disbursement, and audit control procedures when the following occurred:

1) **Travel - \$64,087**

Foster care programs were charged for trips that the licensee and the licensee's wife, Mary Simon, took that appear to be personal in nature. Between 2009 and 2011, the program was charged for \$33,300 incurred by the licensee and the licensee's wife on multiple trips

to Hawaii and Alaska. In 2009, travel expenses of \$3,500 related to a trip to Maine and Canada were charged to the program. In 2010, travel expenses of \$9,042 related to a trip to Florida were charged to the program. In 2011, the licensee's wife competed in the Boston Marathon. The lodging and transportation of the Boston trip, amounting to \$2,763, was charged to the program. The unallowable travel also includes other miscellaneous travel expenditures that do not appear to be allowable business expenditures. Personal travel expenditures may not be charged as program expenses and are unallowable according to 48 CFR 31 and DCF's Allowable Cost Policy Manual.

No documentation was submitted by the Agency that supported these expenditures as business related. As a result, no portion of them can be charged to DCF programs. These costs should have been recorded as shareholder distributions since they are personal in nature.

## **2) Payment of Personal Expenses - \$123,394**

Program funds were charged for expenses related to the personal residences of the licensee and licensee's wife. The residences are located in Oregon, WI; Marinette, WI and Peshtigo, WI. The expenses paid for by CCR and charged to program expense include cable television, landline telephone service, internet service, building insurance, building repair, building remodeling and landscaping.

Expenses related to personal vehicles and boats owned by the licensee and the licensee's wife were charged to program costs. These expenses included fuel purchases, car washes, vehicle and marine insurance and vehicle maintenance costs. These vehicles included a 1997 BMW Z3, a 2003 Audi TT Quattro, a 2005 Ford Expedition, a 2005 Ford F150, a 2007 BMW 650, a 2010 Lexus RX 350, and three boats.

Charging personal expenses to programs is expressly prohibited by 48 CFR 31 and the DCF Allowable Cost Policy Manual. Allowable automobile expense for non-agency owned vehicles is limited to costs associated with business use and actual mileage, and does not include personal or commuter miles. Business owned vehicles may not be driven for personal use. Supporting documentation and mileage logs should be maintained.

The "satellite offices" referred to in the agency response are personal residences of the licensee and his wife. Outfitting these residences to accommodate business obligations is not a necessary expense of the program, but rather, is done for the licensee's convenience. These costs include furniture, cabinetry, remodeling, and landscaping done to personal residences. These are not allowable costs.

DCF programs have been charged for all of the property/casualty insurance related to these properties, including insurance on vehicles and boats. The charges related to communications equipment and services are not necessary costs of the program, but have been incurred for the licensee's convenience. These are not allowable costs.

DCF programs are being charged for the six vehicles being used by the licensee and his wife. These vehicles include four luxury automobiles, an SUV and a truck. These vehicles do not appear to be used by other employees of the agency. The costs charged to DCF programs include all costs associated with the vehicles including registration, licensing, gasoline, repairs, insurance and maintenance. Costs are not allocated between personal and business use. It is unreasonable and unnecessary for the DCF programs to be charged for the total costs of six vehicles used by two people, including personal use of these vehicles.

**3) Donations - \$27,165**

During the period reviewed, CCR made donations to various entities including The Salvation Army, Ducks Unlimited, Trout Unlimited, Second Harvest Food Bank, Special Olympics, Catholic Relief Services, the American Cancer Society, and the Cystic Fibrosis Foundation. The contributions to these charitable organizations were charged to program expense. Donations totaled \$10,330, \$6,634 and \$9,662 in 2009, 2010 and 2011, respectively. Donations are expressly prohibited by both 48 CFR 31 and DCF's Allowable Cost Policy Manual as allowable costs.

Agencies are not prohibited from incurring unallowable costs; however, they cannot charge unallowable costs to DCF programs. Donations are unallowable costs, expressly prohibited in both state and federal guidelines. Unallowable costs cannot be made part of expense pools that are applied to contracts through overhead charges or cost allocation plans.

**4) Rent and Associated Costs - \$190,471**

CCR charged the program annual rent of \$168,000, \$156,000 and \$162,000 in 2009, 2010 and 2011, respectively. According to the Lease Value Analysis conducted by Helm Commercial Real Estate and provided to DCF by CCR, the rent that CCR paid to Wisconsin Realty Investment (owned by the licensee, Dan Simon) is gross rent, which includes payments for base rent, real estate taxes, building insurance, common area maintenance and repairs and public utility service. However, the above-mentioned costs were separately charged by CCR to the program in addition to the rent payments. In effect, the program was charged twice for the same expenses. Please see details below:

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Snow Removal	\$ 5,156	\$ 4,747	\$ 3,572
Commercial Cleaning	6,203	7,467	5,937
Landscaping	4,913	3,504	1,792
Waste Disposal	1,812	2,243	2,329
Property Tax	22,103	23,520	23,381

Commercial Property Insurance	7,969	9,962	9,016
Miscellaneous	6,325	3,243	5,251
Utilities	<u>10,326</u>	<u>10,404</u>	<u>9,296</u>
Totals	<u>\$ 64,808</u>	<u>\$ 65,090</u>	<u>\$ 60,573</u>

Therefore, the program was over charged by CCR in the amount of \$190,471.

In addition, the commercial property insurance premium that CCR charged to the program provides coverage for three premises per the insurance policy: 6717 Stone Glen Dr, Middleton 53562; 6702 Stonefield Rd, Middleton 53562, and 735 London Rd, Deerfield, 53531. The other two properties are owned by the licensee and do not appear to be used for program purposes.

The lease agreement between Community Care Resources, Inc. and Wisconsin Realty Investments, LLC is a less-than arm's length transaction since the lessee and the lessor are one and the same. Because of this, it is imperative that the rental amounts charged to the agency be supported by objective, third-party analysis, such as the Helm Lease Value Analysis, or other documentation showing rental rates for comparable properties.

The cover page of the Helm Lease Value Analysis notes that it was "Prepared for: Community Cares Resources" and the cost of the analysis, \$225.00, was paid for by CCR, Inc. and charged to DCF programs.

The agency's response to the costs of lawn care, snow removal, waste disposal, insurance and other costs identified in the finding is that they were "not included in the lease." This does not provide valid justification for these costs in a less-than-arm's length transaction. The amount of rent charged to DCF funded programs must reasonable, regardless of the lease language.

The costs set forth above are unallowable pursuant to 48 CFR 31 and the DCF Allowable Cost Policy Manual.

**5) Purchase of 2010 Lexus - \$43,166**

In November, 2009, a cost was charged to the "Auto Reimburse – Admin" account for \$43,166. The expense account was debited with a corresponding credit to the Agency's cash account, which is typically used to record mileage reimbursement expenses incurred by staff located in the Middleton office. However, the charge appears to be related to the purchase of a 2010 Lexus RX350 that was added at the same time to the automotive insurance policy for personal vehicles owned by the licensee and his wife.

In response to DCF's inquiry, CCR stated the expense was classified incorrectly, and the vehicle should have been documented as an auto purchase.

Both federal and state allowable cost policy guidelines state that for expenses to be reimbursable by Department programs, they must be necessary and reasonable for proper and efficient program administration. The vehicle involved in this transaction is a Lexus RX350, a luxury vehicle that does not appear to be a reasonable and necessary cost. DCF programs are already being charged for five other vehicles used by the licensee and his wife.

**6) Payments to Employees - \$29,910**

On December 16, 2009, \$4,100 was disbursed to eleven employees in round dollar amounts ranging from \$300 to \$500. There was no supporting documentation and the expenditures were charged to "Auto Reimbursement," an account that is typically charged for mileage incurred by staff members who do not work out of the Middleton office. Similar payments were made in 2011, with \$7,000 disbursed to seven employees on September 27<sup>th</sup> and \$11,750 disbursed to twenty-seven employees on December 13<sup>th</sup> and 14<sup>th</sup>. Automobile reimbursement must be based on actual mileage and costs incurred, and there must be supporting documentation. These charges do not meet regulations established by federal and state guidelines pertaining to allowable costs.

In response to DCF's inquiry, CCR stated the expense was misclassified as auto reimbursement. Instead the payments were additional compensation. CCR stated it would report these amounts on Form 1099-MISC.

However, Forms 1099-MISC are generally used to report miscellaneous income to persons who are not employees. If the payments identified were compensation, they should have been included on the employees' W-2 statements, not on 1099s. DCF requested and received copies of 1099s issued by CCR for the period of the fiscal review. No 1099s were provided which correspond to these payments of these employees.

**7) Payments to licensee and licensee's wife - \$13,500**

CCR made payments to licensee's wife each pay period during 2009-2011 for \$150 in addition to her salaried amount. There was no documentation to support this additional charge. The \$150 was expensed to "Public Relations/Promos." The additional amount was added to her paycheck, and not reported or charged as salary. Federal and State cost guidelines require that expenditures charged to programs be reasonable, necessary, and show a benefit to the program. They also must be documented. These payments do not meet these criteria and have been classified as unallowable.

In addition, similar payments totaling \$1,500 were made to the licensee in 2009.

**8) Noah's Ark Outings - \$19,424**

In July each year, the Agency sponsors a day of entertainment for foster families and CCR staff at Noah's Ark in Wisconsin Dells. This outing includes passes to the water park, T-

shirts, food, snacks and a cookout. Both federal cost guidelines and the DCF Allowable Cost Policy Manual state that the “costs of entertainment, including amusement, diversion and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.” (2 CFR Part 225, Appendix B, Section 14.)

**9) Miscellaneous Unreasonable Costs - \$195,967**

The fiscal review identified miscellaneous costs that appear to be both unreasonable and unnecessary as defined by both State and federal allowable cost guidelines. These costs totaled \$62,575 in 2009, \$34,278 in 2010 and \$95,049 in 2011. The majority of these costs were incurred in the following areas: marketing and printing of promotional materials, floral arrangements, gifts and bonuses, and legal fees. The details of these expenditures are contained in the spreadsheet included with this report.

These costs were identified and presented to the Agency to provide additional documentation justifying these costs as reasonable and necessary and providing benefit to the foster care program. DCF has reviewed the information provided by CCR and determined that it did not satisfy these requirements.

**10) Leasehold Improvements - \$178,880**

Leasehold improvements of \$178,880 were recognized in 2005 and were depreciated and charged to the program over the next five years. It appears that these expenditures relate to the office building at 6702 Stonefield Road. This building is owned by Wisconsin Realty Investments, LLC (the licensee, Dan Simon) and was previously occupied by CCR before the new building was built in 2006.

**11) Excess Salaries for licensee and licensee’s wife - \$531,240**

During our period of review, the wages paid to the licensee for the three year period totaled \$1,028,195. The licensee’s title is that of director of the agency.

State and federal cost guidelines state that compensation for personal services must “be reasonable for the personal services rendered.” The reasonableness of a salary can be determined through a variety of sources including publications and websites that track this information and by analyzing salary levels within the industry.

CCR has offered salary information from Salary.com showing the median CEO salary at over \$600,000. It should be noted that this category includes CEO salaries for companies of all sizes across the United States, including Fortune 500 companies and does not provide a relevant comparison for CCR and does not reflect geographic considerations.

Salary.com has a category for “non-profit and social services” which seems to more closely fit an agency that receives public funding to provide foster care placement services. Their research shows that the median salary for an agency executive in the Madison, Wisconsin

area is approximately \$208,000 annually. This is for agencies of all sizes, not just firms the size of CCR.

The licensee's wife received wages that totaled \$382,047 during our three year review. The licensee's wife's job title is program director for the agency.

Salary.com offers similar information for a position described as "Top Social Services Executive" for which the description closely parallels CCR's description of the licensee's wife's duties. The median salary for this position in Madison, Wisconsin is approximately \$85,000 per year.

Using Salary.com, which CCR cited in its response to DCF's draft audit, results in a reasonable total salary for licensee and his wife of \$293,000 per year, or a total of \$879,000 for the three-year audit period.

Costs charged to programs should be reasonable and necessary. The salaries paid are excessive, and the excess amount has been designated as unallowable costs.

#### **12) Miscellaneous Undocumented Costs - \$158,380**

The fiscal review identified miscellaneous costs charged to DCF programs that did not have supporting documentation. These costs totaled \$69,295 in 2009, \$38,184 in 2010 and \$50,901 in 2011. The majority of these costs were related to fees paid to a certified public accounting firm and payments made on two credit card accounts. Many of the credit card expenses did not appear to be business related. The details of these expenditures are contained in the spreadsheet included with the final audit report which is being provided to CCR on today's date.

These costs were identified and presented to the Agency to provide additional documentation justifying these costs as reasonable and necessary and providing benefit to the foster care program and to provide additional supporting documentation. DCF has reviewed this information and determined that it did not satisfy these requirements, therefore the licensee failed to provide information requested by the department.

#### **13) Miscellaneous Unallowable Costs – Meals & Training - \$84,130**

The fiscal review identified miscellaneous costs related to meals, training and staff expenses that appear to be both unreasonable and unnecessary as defined by both State and federal allowable cost guidelines. These costs totaled \$33,434 in 2009, \$19,868 in 2010 and \$30,828 in 2011. The majority of these costs were incurred in the following areas:

- Lunches and coffee for staff members
- Complimentary beverages and snacks for office staff
- Lunches for meetings that do not appear to be reasonable and necessary



- Purchases at Sam's Club identified as "staff expenses" for food items such as lobster tails, shrimp, meat and poultry that appear to be personal in nature and not an office expense.

The details of these expenditures are contained in the spreadsheet included with the final audit report. DCF did not receive the requested documentation.

#### **14) Payments from CCP to CCR - \$3,135,739**

During 2009, Community Care Programs (CCP) received payments from the counties for the foster care programs. CCP was a nonprofit agency. CCP recruited and trained foster families and made payments to them by acting as a conduit between the counties and these families.

During this same time frame Community Care Resources (CCR) was a for-profit corporation that acted as the administrative company to CCP. CCR paid all related employee salaries for office staff and social workers, reimbursed employees for business related expenses, and performed all office functions for both companies.

In 2009, CCP made payments to CCR in the total amount of \$3,135,739. These payments were made in monthly increments, in varying amounts, and charged to an account labeled "Administrative Services." A review of both companies' records does not reveal any documentation related to these charges, including how the amounts were determined for each month. Therefore, we questioned the total of \$3,135,739 related to these charges from CCR to CCP.

Documentation was requested to support the costs charged to administrative services; however, none was submitted. Expenses charged to programs are required to have supporting documentation. DCF did not receive the requested documentation.

**(c) Section 49.35(5m)3(f) states, "All providers that are subject to this subsection shall comply with any financial reporting and auditing requirements that the department may prescribe."**

DCF 54.06(6) states, "A licensee shall promptly respond to requests for information from the department." Sec. 49.34 regulates the purchase of care and services by the Department and county agencies for child placing agencies. It requires all services purchased to meet standards established by the department and other requirements specified by the purchaser in the contract

Contrary to DCF 54.06(6), the licensee failed to promptly respond to requests for information from the department when the following occurred:

**A1) DCF Requested Information on Multiple Occasions**

DCF requested specific financial documentation by letters dated April 16, 2012 and May 25, 2012. While some documents were provided, they were not complete and were not totally responsive to DCF's requests.

DCF released its draft preliminary audit report to CCR on August 3, 2012. DCF gave CCR the opportunity to refute its findings and to provide documents in support thereof. CCR's responses were either false, incomplete or were not provided.

DCF sent a final request for information to CCR on October 2, 2012 and gave CCR until the close of business on October 16, 2012 to provide the documentation. CCR failed to provide requested documentation.

A2) As noted in Violation 1 above, CCR failed to provide requested documentation regarding its travel expenses.

A3) As noted in Violation 7 above, CCR failed to provide requested documentation supporting the payments added to the Don and Mary Simon's paychecks.

A4) As noted in Violation 12 above, CCR failed to provide requested documentation supporting the miscellaneous undocumented costs identified in DCF's audit.

A5) As noted in Violation 13 above, CCR failed to provide requested documentation supporting the miscellaneous unallowable costs related to meals and training identified in DCF's audit.

**(d) DCF 54.06(7) states, "A licensee shall ensure that information that the licensee submits to or shares with the department or any other governmental agency is current and accurate."**

As noted in Violation 6 above, CCR claimed it had issued Forms 1099 to employees for "additional compensation" which was originally identified as "auto reimbursement." As noted above, Forms 1099 should not be issued to employees; rather any "additional compensation" should be included in employees' Forms W-2. Notwithstanding this fact, CCR failed to provide either Forms 1099 or Forms W-2 documenting the "additional compensation" paid to employees, failing to submit current and accurate information to the Department.

**APPEAL RIGHTS**

Any person aggrieved by a Department action taken under § 48.715, Wis. Stats., has the right to an administrative hearing under § 227.44, Wis. Stats. To appeal this action, **your written request must be sent directly to and received by the Division of Hearings and Appeals no later than ten (10)**

days from the date of this notice; please attach a copy of this notice to your request for a hearing. Your written appeal request may be sent by mail, fax or hand-delivered to:

<b>Send your appeal request via U.S. Mail:</b> Division of Hearings and Appeals Department of Administration P.O. Box 7875 Madison, WI 53707-7875	<b>Hand-deliver your appeal request:</b> Division of Hearings and Appeals Department of Administration 5005 University Avenue Suite 201 Madison, WI	<b>Send your appeal request via facsimile:</b> Division of Hearings and Appeals (608) 264-9885
---	--	--

Please include a copy of this letter with your request for administrative hearing and send a copy of the request to this office at the address above.

Return your child placing agency license to your Licensing Specialist within fifteen (15) days of the date of this notice.

You should me immediately at 608-267-3832 if you have questions regarding this notice.

Sincerely,



Ron Hermes, Bureau Director  
Bureau of Permanence and Out of Home Care  
DIVISION OF SAFETY AND PERMANENCE  
DEPARTMENT OF CHILDREN AND FAMILIES

cc: Nancy Wettersten, DCF Office of Legal Counsel  
Diane Bloecker, Child Welfare Section Manager  
Katrina Nerge, Licensing Specialist  
Jonelle Brom, DCF Out-of-Home Care Specialist  
CWLS Office Coordinator  
Barbara Loescher, Fiscal Integrity and Audit Section Chief  
John Tuohy, Bureau of Regional Operations