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STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1562

In the Matter of the Petition of Minnesota Association of Residential Services Homes (MARSH) under Minn. Stat. § 14.381, subd. 1, for a Declaration that the Minnesota Department of Human Services Is Enforcing Unadopted Rules.

Filed July 14, 2025
Affirmed
Connolly, Judge

Office of Administrative Hearings
File No. 22-1800-39881

Jason Steck, St. Paul, Minnesota (for petitioner Minnesota Association of Residential Services Homes)

Keith Ellison, Attorney General, R.J. Detrick, Assistant Attorney General, St. Paul, Minnesota (for respondent Minnesota Department of Human Services)

Considered and decided by Connolly, Presiding Judge; Ross, Judge; and Wheelock, Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

This is an appeal from the decision of an administrative-law judge (ALJ) under Minn. Stat. § 14.381 (2024). Petitioner argues that the ALJ erred in determining that (1) respondent-department has not enforced an unpromulgated rule in defining the "primary residence" and "primary caregiver" requirements in relation to adult-foster-care programs, and (2) even if respondent was enforcing unpromulgated rules related to the terms “primary residence” and “primary caregiver,” respondent’s interpretations of those rules are consistent with the plain language of the relevant statutes and rules. We affirm.

FACTS

Under Minnesota law, “[f]oster care for adults” is “a program operating 24 hours a day that provides functionally impaired adults with food, lodging, protection, supervision, and household services in a residence.” Minn. Stat. § 245A.02, subd. 6c (2024). Adults needing foster care can choose to live in a family adult foster care home or a corporate adult foster care home. A “‘[f]amily adult foster care home’ means an adult foster care home: (1) that is licensed by [respondent] Department of Human Services [(department)]; (2) that is the primary residence of the license holder; and (3) in which the license holder is the primary caregiver.” Minn. Stat. § 245A.02, subd. 6f (2024).

The department has designated county agencies to “perform licensing functions” for family adult-foster-care providers. Minn. Stat. § 245A.16, subd. 1(a) (2024). County agencies oversee the initial licensing process and conduct reviews and investigations of licensed programs to ensure ongoing compliance with licensing rules and statutes. *Id.*, subds. 1(a), 2(a) (2024). County agencies may also make recommendations to the department regarding licensing actions. *Id.*, subd. 1(a). But the ultimate decision of whether to grant or deny a license, make a license conditional, or sanction a license holder, rests with the department. Minn. Stat. §§ 245A.07, .16, subds. 2-4 (2024).

In 2009, the legislature instituted a moratorium on corporate adult-foster-care settings. *See* 2009 Minn. Laws ch. 79, art. 8, § 8, at 848. Pursuant to this legislation, a license holder who was issued an adult-foster-care license during the moratorium is required to reside at the foster home. *Id.* The legislation also provided that, subject to a few exceptions, "[i]f a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the [department] shall revoke the license according to section 245A.07." *Id.* at 848-49.

In February 2021, the department sent a "policy clarification" guidance document to all county adult-foster-care licensing staff "[i]n order to provide support to licensing workers." The information in the guidance document contained "applicable statutes and rules, as well as guidance, to determine whether or not a home can be or should be licensed as a family adult foster care home." Specifically, the guidance document outlined the department's interpretation of the requirement that adult-foster-care license holders must maintain the licensed adult-foster-care home as their "primary residence," and that the adult-foster-care license holder must also be the "primary caregiver" in the home. The guidance document provided a list of "[f]actors to consider in determining primary residence" and defined the "primary caregiver" requirement to mean that the license holder must personally provide a "majority of the care to residents receiving services in the home."

Two years later, the department's interpretations of "primary residence" and "primary caregiver" were addressed again in a letter sent by foster-care licensing manager Mary Kelsey to all adult-foster-care license holders. This letter reminded adult-foster-care license holders that they "are required to operate within the guidelines outlined in this letter, as well as" Minnesota statutes and rules. The letter also stated that, if a license holder is "currently out of compliance, [the license holder] must take corrective actions immediately, or consider closing your [adult-foster-care] license if you are unable to come into compliance."

In March 2024, petitioner Minnesota Association of Residential Services Homes (MARSH) filed a petition under Minn. Stat. § 14.381, requesting a declaration that the department is enforcing or attempting to enforce unadopted rules to define the terms "primary residence" and "primary caregiver" contained in the statutes governing adult-foster-care programs. MARSH claimed that previous administrative actions related to licensing sanctions demonstrated that the department treated the primary-residence factors outlined in the guidance document as mandatory rather than merely advisory or as tools in a case-by-case analysis. MARSH also alleged that the department applied its definition of "primary caregiver" as if it were an enforceable rule by revoking licenses whenever it determined that its interpretation of "primary caregiver" had been violated.

At the hearing on the petition, the ALJ requested that the parties provide supplemental briefing to identify the department's actions that best support their positions. Each party then provided a list of 17 actions supporting their positions. Of those, 13 were cited by both parties.

The ALJ determined that, "[a] review of [adult-foster-care] licensing actions, together with other evidence provided with the [p]etition, does not show [that] the [d]epartment has attempted to enforce unadopted rules. Rather, it shows that the [d]epartment has acted to enforce existing laws and rules relating to the challenged terms on a case-by-case basis." The ALJ also determined that, even if the department were attempting to enforce the guidance document and subsequent correspondence as duly adopted rules, MARSH's petition would fail because the department's interpretations as stated in those documents were consistent with and authorized by the plain meaning of the applicable statutes and rules. The ALJ, therefore, denied the petition.

MARSH filed a petition for a declaratory judgment pursuant to Minn. Stat. §§ 14.381, .44-.45 (2024), appealing the ALJ's decision. MARSH asks this court to enter a declaratory judgment reversing the ALJ's decision and declaring that the department is enforcing an unpromulgated rule by defining the "primary residence" and "primary caregiver" requirements in relation to adult-foster-care programs.

DECISION

"Administrative agencies generally formulate policy by promulgating administrative rules." *In re PERA Salary Determinations Affecting Retired & Active Emps.*, 820 N.W.2d 563, 570 (Minn. App. 2012) (*PERA*). The Minnesota Administrative Procedure Act (MAPA) governs an agency's authority to engage in administrative rulemaking. *See* Minn. Stat. §§ 14.001-.69 (2024). An agency must generally adopt administrative rules in accordance with specific procedures established in MAPA. *In re Shakopee Mdewakanton Sioux Cmty.*, 988 N.W.2d 135, 141 (Minn. App. 2023) (*SMSC*). Administrative rules that went through MAPA's procedural requirements are referred to as "promulgated rules." *Id.*

An administrative "rule" is "every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by that agency or to govern its organization or procedure." Minn. Stat. § 14.02, subd. 4. Given this definition, an agency must promulgate legislative rules (those that are "promulgated pursuant to delegated powers to make substantive law") as well as interpretive rules (those that "make specific the law enforced or administered by the agency"). *Cable Comms. Bd. v. Nor-West Cable Comms. P'ship,* 356 N.W.2d 658, 667 (Minn. 1984) (quotations omitted).

An administrative rule that is properly promulgated, whether legislative or interpretive, "shall have the force and effect of law." Minn. Stat. § 14.38, subd. 1. In contrast, an interpretive rule that has not been properly promulgated[1] may nonetheless be valid in two situations: "if the agency's interpretation of a [statute] corresponds with its plain meaning, or if the [statute] is ambiguous and the agency interpretation is a longstanding one." *Cable Comms. Bd.*, 356 N.W.2d at 667. "In either situation, the agency is not deemed to have promulgated a new rule, and the agency's interpretation is not invalid, although it does not have the force and effect of law." *PERA,* 820 N.W.2d at 570 (citations and quotations omitted). Instead, the "reviewing court proceeds to determine the degree of deference that is appropriate." *Id.* Finally, if an agency's interpretation of a statute is not properly promulgated, and it is not within either of the above-stated exceptions for a valid interpretation of a statute, the rule is "invalid and cannot be used as the basis for agency action." *In re Contested Case of Good Neighbor Care Ctrs., Inc. v.*

[1] Notably, when discussing rulemaking that has not been through MAPA's procedures, the supreme court uses the term "unpromulgated," while section 14.381 uses the term "unadopted" rules. *See, e.g., In re Contested Case of St. Otto's Home v. Minn. Dep't of Hum. Servs.,* 437 N.W.2d 35, 45 (Minn. 1989). We understand these terms to be interchangeable.

Minn. Dep't of Hum. Servs., 428 N.W.2d 397, 402 (Minn. App. 1988), *rev. denied* (Minn. Oct. 19, 1988).

This court has also recognized that an agency may formulate policy when it makes decisions on a case-by-case basis, meaning the "agency applies a law 'to a specific party.'" *SMSC*, 988 N.W.2d at 144 (quoting *In re Hibbing Taconite Co.*, 431 N.W.2d 885, 894 (Minn. App. 1988)). And the legislature has specifically stated that an agency does not engage in rulemaking when it "enforces a law . . . by applying the law . . . to specific facts on a case-by-case basis." Minn. Stat. § 14.381, subd. 1(b).

MAPA allows a party to petition to have an ALJ "determin[e] that an agency is enforcing or attempting to enforce a policy, guideline, bulletin, criterion, manual standard, or similar pronouncement as though it were a duly adopted rule." *Id.*, 14.381, subd. 1(a); *see SMSC*, 988 N.W.2d at 141 ("Procedurally under MAPA, when challenging an agency's enforcement of an unpromulgated rule, a party must first seek a determination from an ALJ."). The ALJ's decision may then be appealed under sections 14.44 and 14.45. Minn. Stat. § 14.381, subd. 2.

As an initial matter, the parties disagree on the applicable standard of review when an ALJ's decision is appealed pursuant to sections 14.381 and sections 14.44-.45. Indeed, as MARSH points out, we have not expressly stated a standard of review for an ALJ's determination under section 14.381. But MARSH asserts that we should "review such a determination de novo because it involves a legal determination of whether a particular agency 'pronouncement' constitutes an unadopted rule." Conversely, the department asserts that we should review the ALJ's findings for clear error, and the ALJ's legal decisions de novo.

In *Minn. Ctr. for Envt. Advoc. v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 461 (Minn. 2002) (*MCEA*), an environmental group brought a declaratory-judgment action in district court related to a determination made by the Minnesota Pollution Control Agency. On appeal, the supreme court recognized the "bedrock separation of powers principle that the legislature may not delegate to the courts duties which are essentially administrative in character." *MCEA*, 644 N.W.2d at 464 (quotation omitted). The court then stated that, "in an area such as environmental review, uniquely involving application of an agency's expertise, technical training, and experience, the standard of review set forth in MAPA is appropriate." *Id.* The court concluded that, "despite the fact that a contested case[2] proceeding was not held in this case, . . . application of the MAPA standards is appropriate." *Id.*

Because the circumstances here involve circumstances similar to those in *MCEA*, we conclude that the standard of review for an agency's decision in a contested case proceeding under MAPA would be applicable. *See* Minn. Stat. § 14.69. Under that standard, this court may reverse or modify the ALJ's decision when MARSH's substantial rights may have been prejudiced because the decision was:

[2] A contested case is defined by MAPA as a "proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing." Minn. Stat. § 14.02, subd. 3. Here, there was no contested case; rather the petition sought a declaration under Minn. Stat. § 14.381, subd. 1.

> (a) in violation of constitutional provisions; or
> (b) in excess of the statutory authority or jurisdiction of the agency; or
> (c) made upon unlawful procedure; or
> (d) affected by other error of law; or
> (e) unsupported by substantial evidence in view of the entire record as submitted; or
> (f) arbitrary or capricious.

Id.

Here, MARSH contends that the department has been enforcing its definitions of "primary residence" and "primary caregiver" as unpromulgated rules as they relate to adult foster care. The department disagrees, arguing that the ALJ's order should be affirmed because it is not enforcing or attempting to enforce an unadopted rule, but even if it were, that conduct would be permissible because it is consistent with the plain and unambiguous language of the relevant statutes. We address these arguments in turn.

I. The ALJ's decision that the department has not enforced an unpromulgated rule is supported by substantial evidence and not based on legal error.

As noted previously, Minnesota law requires that adult-foster-care license holders maintain the licensed facility as their "primary residence," and that the license holder be the "primary caregiver" in the residence. *See* Minn. Stat. § 245A.02, subd. 6f. Although neither term is defined in chapter 245A, or elsewhere as it pertains to adult foster care, the department issued the guidance document in order to provide "guidance" with respect to these terms. MARSH contends that the guidance document, "particularly as partially reiterated and reinforced by . . . Kelsey's 2023 letter, clearly meets the definition of an unpromulgated interpretive rule because on their faces they have the purpose of 'mak[ing] specific' the 'primary residence' requirement in section 245A.02, subd. 6f." (Alteration in original).

The department argues that it "does not now and has never claimed" that the guidance document or subsequent letter "carry the full force and effect of law." The department's position is persuasive. Under Minnesota law, the department is required to provide counties with technical assistance and to ensure that applicable rules and statutes are enforced uniformly throughout the state. Minn. Stat. §§ 245A.09, subd. 5(4), .16, subds. 5, 6 (2024). And the commissioner of human services has discretion to issue interpretive guidelines, which "do not have the force and effect of law and have no precedential effect, but may be relied on by consumers, providers of service, county agencies, the [department], and others concerned until revoked or modified." Minn. Stat. § 245A.09, subds. 8-9, 11 (2024).

Here, the guidance document states: "*In order to provide support to licensing workers*, the information in this memo contains applicable statutes and rules, as well as *guidance*, to determine whether or not a home can be or should be licensed as a family adult foster care home." (Emphasis added.) This language indicates that the department is providing county licensing workers with technical assistance as required by Minnesota law. *See* Minn. Stat. §§ 245A.09, subd. 5(4), .16, subds. 5, 6. And the language indicates that the department is providing county licensing workers with interpretive guidelines, which is within its discretion under Minnesota law. *See* Minn. Stat. § 245A.09, subds. 8-9, 11.

In addition, the guidance document sets forth certain statutory adult-foster-care license requirements and provides "information" to "help in determining" if a home is "the primary residence of the applicant or license holder." The guidance document also sets forth certain clarifications related to a "primary caregiver." But nowhere in the guidance document does the department claim that the document carries the full force and effect of law. Nor is there anything in the record indicating that the department has taken a licensing action based upon a licensee's failure to comply with the guidance document or subsequent letter from Kelsey. And although Kelsey's letter states that "you are required to operate within the guidelines outlined in this letter," the guidelines referred to in the letter appear to refer to the statutory requirements related to adult foster care. As such, the guidance document and subsequently issued letter are not being enforced as duly adopted rules.

We also conclude that substantial evidence supports the ALJ's determination that the department enforced adult-foster-care statutes and rules by applying them to specific facts on a case-by-case basis. As the department points out, the guidance document "calls for case-by-case enforcement of the 'primary residence' requirement and does not announce any one-size-fits-all definition of that requirement." The department's position is supported by the plain language of the guidance document, which includes a list of 12 "[f]actors" that "may" be considered in determining primary residence. These factors include:

> • What is the address on [the applicant's] driver's license/state ID?
>
> • Where [does the applicant] live and sleep the majority of the time?

> • Where [does the applicant] spend time with other immediate family members?
>
> • Where [does the applicant] have their clothing and personal objects? Having a bedroom, some clothing and some personal effects in a home, does not necessarily indicate that it is their primary residence.
>
> • What is [the applicant's] primary residence as indicated on their tax return?
>
> • Where [does the applicant] receive their mail?
>
> • Where [is the applicant] registered to vote?
>
> • What is [the applicant's] homestead status with the county assessor's office?
>
> • Who owns the home as indicted on property tax records?
>
> • If the applicant owns more than one home, where do they spend more of their time? Ownership of a home in and of itself, does not indicate primary residence.
>
> • If the home is a duplex, where [does the applicant] sleep and spend more of their time?
>
> • If the applicant is married, what is the status of the current relationship? For example, is it reasonable that a married couple would live in two separate dwellings?

The guidance document states that these factors "*will help* in determining" if the home of the applicant or license holder is the "primary residence." (Emphasis added.)

The factors themselves point to a case-by-case analysis. For example, the factor related to where an applicant has their clothing and personal objects "does not *necessarily* indicate that it is their primary residence." (Emphasis added.) Another factor states that "[o]wnership of a home" may not *necessarily* indicate primary residence. Yet another factor asks if it is "reasonable that a married couple would live in two separate dwellings." And nothing in the guidance document indicates that the list of factors is exclusive or exhaustive, or that the factors are to be rigidly applied such that any one factor would necessarily result in revocation. Rather, the guidance document states that these factors are to be used in determining whether the "proposed site for the [adult foster care] home is the primary residence of the applicant."

MARSH argues that Kelsey's letter is indicative of an interpretive rule because it lists "several" of the factors as "specific 'expectations,' including several notions found nowhere in statute or rule such as the expectation that spouse and children, as well as the license-holder, reside at the [adult-foster-care] home," and the requirement that the adult-foster-care residents are included in the family's daily life and activities. But as the department points out, this letter "does not say that if the license holder's immediate family does not live in the home, then the home is necessarily not the license holder's primary residence and the license must be revoked." Instead, when the letter is read in conjunction with the guidance document, the thrust of the letter provides guidance with respect to determining the primary residence of a license holder when the residence of the license holder's immediate family is a factor. Although the letter states that it is "expected" that the license holder's immediate family "also live in the family home" and that residents "be included in and experience the family's daily life and activities," it does not say that a failure to abide by these expectations automatically requires the revocation of the license. In other words, as the ALJ determined, the letter "states an expectation and not an absolute requirement." In fact, such a rule would be absurd because the circumstances of license holders' immediate families, such as age and interests, may greatly vary, making it unreasonable to universally abide by this expectation.

MARSH further argues that the actions provided in the parties' supplemental filings demonstrate that the guidance document and subsequent letter are interpretive rules because they have the full force and effect of law. To support its position, MARSH asserts that the department "has purported violations of some of the factors listed in [the guidance document] as the basis for every single non-maltreatment-related [adult-foster-care] revocation and denial since the factors were announced in 2021." (Emphasis omitted.)

MARSH's argument is unavailing. The ALJ meticulously discussed the actions that the parties identified in the supplemental filings and determined that "although nearly every appealed licensing action has resulted in a judge recommending that the action be upheld, no judge recommended affirming the sanction or denial based upon the violation of an unadopted rule." The ALJ determined that, instead, the judge in each action "applied existing statutes and valid rules to determine whether the [d]epartment's action was warranted." The ALJ also determined that several of the decisions in the supplemental filings were decided based on facts that false information was provided by the applicant or license holder. And the ALJ determined that, in nearly every action involving the primary-residence requirement, the licensing action taken by the department was based on multiple, case-specific facts indicating that the license holder did not reside at the adult-foster-care home. The ALJ's determinations are supported by the record and demonstrate that the department enforced the relevant statutes and rules by applying them to specific facts on a case-by-case basis. In fact, there is nothing in the actions identified in the supplemental filings indicating that anything in the guidance document or subsequent letter was applied in a rigid manner as it related to the adult-foster-care licensing process.

In sum, the ALJ did not err by determining that the guidance document and subsequent letter are not being enforced as unpromulgated rules. Rather, the supplemental filings and plain language of the guidance document and letter demonstrate that the department enforced the relevant statutes and rules by applying them to specific facts on a case-by-case basis. Accordingly, the ALJ did not err in denying MARSH's declaratory-judgment petition.

II. The ALJ did not err in determining that, even if the department was enforcing unpromulgated rules related to the definitions of "primary residence" and "primary caregiver," the department's interpretations of those terms are consistent with the plain language of the relevant statutes and rules.

The department also argues that, even if it were attempting to enforce the guidance document or subsequent letter "as if they were duly promulgated rules with the full force and effect of law, . . . those documents would not be unpromulgated rules because their pronouncements are consistent with and authorized by the plain and unambiguous language of relevant statutes and rules." We agree. "When an agency's interpretation accords with a statute's plain language, the statute authorizes the agency's interpretation and, therefore, the agency did not promulgate a new rule subject to MAPA's rulemaking requirements." *SMSC*, 988 N.W.2d at 146.

To determine whether an agency's unpromulgated rule applied the statute's plain language, we focus on the words of the law "to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2024); *see Minn. Transitions Charter Sch. v. Comm'r* *of Minn. Dep't of Educ.*, 844 N.W.2d 223, 227 (Minn. App. 2014), *rev. denied* (Minn. May 28, 2014). The first step in the analysis is to determine "whether the statute or regulation is clear or ambiguous on its face." *In re Minn. Living Assistance, Inc.*, 934 N.W.2d 300, 306 (Minn. 2019). In determining whether a statute is ambiguous, we construe "the statute's words and phrases according to their plain and ordinary meaning." *In re Fin. Responsibility for Out-of-Home Placement Costs for S.M.*, 812 N.W.2d 826, 829 (Minn. 2012). "A statute should be interpreted, whenever possible, to give effect to all of its provisions; no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000) (quotation omitted). "A statute is only ambiguous if its language is subject to more than one reasonable interpretation." *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013). "Multiple parts of a statute may be read together so as to ascertain whether the statute is ambiguous." *Id.*

A. Primary residence

As stated above, although Minnesota law requires a family adult foster care home to be the "primary residence of the license holder," the term "primary residence" is not defined by statute. *See* Minn. Stat. § 245A.02, subd. 6f(2). And "[w]hen the words are not defined in the statute, [appellate courts] may look to dictionary definitions to determine a term's plain and ordinary meaning." *State v. Powers*, 962 N.W.2d 853, 858 (Minn. 2021) (quotation omitted). The term "residence" is defined as "[t]he place in which one lives." *The American Heritage Dictionary of the English Language* 1493 (5th ed. 2018). And the term "primary" means "[f]irst or highest in rank or importance; principal." *Id.* at 1398-99.

The dictionary definitions indicate that a person's "primary residence" is where the person lives a majority of the time. This is consistent with the factors set forth in the guidance document, which are intended to help determine a person's primary residence by, among other things, considering where a person lives, sleeps, and spends the majority of their time. As such, the department's actions related to "primary residence" constitute lawful enforcement consistent with existing laws and rule.

B. Primary caregiver

Like "primary residence," Minnesota law requires family adult-foster-care license holders to be the "primary caregiver." Minn. Stat. § 245A.02, subd. 6f(3). And like "primary residence," the term "primary caregiver" is not defined in the adult-foster-care context. But the guidance document states that the "primary caregiver is responsible for providing the majority of the care to residents receiving services in the home." The guidance document further provides that the "requirement for the license holder to be the primary caregiver does not preclude household members, or outside caregivers from also providing adult foster care services in the home; however, they cannot be relied upon to provide the majority (or over half) of the care of residents."

MARSH argues that the ALJ erred in concluding that the department's "majority-of-care" rule set forth in the guidance document was consistent with the language of the statute because the ALJ failed to consider whether the "primary caregiver" requirement in section 245A.02, subdivision 6f, is ambiguous. MARSH then notes that the department has promulgated at least one rule providing a definition different from the one in the guidance document. Specifically, MARSH points to Minn. R. 9525.1800, subp. 20 (2023), which defines "primary caregiver" as "a person other than a member of the person's family who has primary responsibility for the assistance, supervision, or training of the person in the person's residence." MARSH contends that, based on this definition, the term "primary caregiver" in the adult-foster-care context could reasonably be interpreted to mean a person other than a member of the person's family who has primary responsibility for the assistance, supervision, or training of the person in the person's residence. Thus, MARSH asserts that the "primary caregiver" requirement is ambiguous.

MARSH's argument is unavailing. In the adult-foster-care context, "caregiver" is defined as "an adult who . . . gives care to a resident in an adult foster home." Minn. R. 9555.5105, subp. 8 (2023). Because "caregiver" in the adult-foster-care context specifically means someone who "gives care," it cannot mean someone who oversees and does not provide care. Moreover, as addressed above, the term "primary" means "[f]irst or highest in rank, quality or importance; principal." *American Heritage, supra,* at 1398-99. As such, it is consistent with this definition to conclude that a primary caregiver must provide the majority of the care.

Because the term "primary" means the majority, and "caregiver" is defined in the adult-foster-care context as one who "gives care," there is no reasonable interpretation of the "primary caregiver" requirement where the license holder does not provide the majority of the care. Therefore, the department's actions related to "primary caregiver" constitute lawful enforcement consistent with existing laws and rule.

Affirmed.