Illinois Guardianship & Advocacy Commission

FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Elgin Mental Health Center
HRA #10-100-9002

Case Summary: the HRA found no evidence to substantiate the allegation that a recipient's mail is being open by staff members without his presence. The HRA could either confirm or deny that the unit restriction was justified. The HRA's public record on this case is recorded below; the provider's response immediately follows the report.

The North Suburban Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation of alleged rights violations at Elgin Mental Health Center (EMHC), Forensic Treatment Program (FTP), Unit L. In August 2009, the HRA notified EMHC of its intent to conduct an investigation, pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaint accepted for investigation was that a recipient's mail is being opened by staff members without his presence and that this recipient received an unjust unit restriction. The rights of recipients receiving services at EMHC are protected by the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-103 and 5/2-102).

To pursue this investigation, on-site visits were conducted in September and October 2009 at which time the allegation was discussed with the recipient, his Case Manager and a Security Therapy Aide (STA). The HRA reviewed progress note documentation with written authority and reviewed polices and procedures pertaining to the allegations.

Background

Recipients receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the Illinois Department of Human Services under statutes finding them Unfit to Stand Trial (UST) and Not Guilty by Reason of Insanity (NGRI). Placement evaluations determine the most appropriate inpatient or outpatient setting for forensic treatment based on a number of factors including age, gender, mental health diagnosis, and security need. Unless a person is specifically ordered to receive services in an outpatient setting, court ordered referrals under state forensic statutes call for placement in a secure inpatient setting. The Forensic Treatment Program has 315 beds.

Findings

According to the recipient, he received a damaged piece of mail and he believed it was damaged because staff members had opened it. He believes his incoming mail is being read and that his outgoing mail is not being delivered. The recipient stated that mail he has received from

Illinois Guardianship & Advocacy Commission has not been opened; of note, the HRA Coordinator has received mail from this recipient. The recipient provided the HRA with the damaged envelope; it was stamped with a message saying that "Received Damaged in EMHC Post Office."

The Case Manager stated that there is a central post office at the Center. All mail is sorted at this post office and distributed to a central location where unit staff pick-up the mail and deliver it on a daily basis. It was stated that this recipient has expressed concern about his mail to the Case Manager in the past, thus the Case Manager takes all of the recipient's out-going mail and personally takes it to the drop-off location to be mailed. Regarding the damaged piece of mail, the Case Manager stated that the envelope was damaged before it got to the Center; the contents of the envelope were intact. The Manager stated that staff would have no reason to open his mail.

The Center's Patient Mail policy states (in part) that prior to handing mail to the patient receiving it, unit staff shall inform the patient that staff must check the mail for contraband and money in excess of the applicable program limits. If he or she agrees to allow the mail to be inspected for contraband or money, the patient shall open the mail in the presence of a staff member. If the patient refuses to open the mail in the presence of a staff member, it is held until the patient agrees to allow the mail to be inspected. If the mail is a package, the package must be opened in the presence of a Security Officer, or the patient's caseworker, or the Nurse Manager, or a staff member designated by the Nurse Manager. The policy states that all letters addressed by patients to the Governor; members of the General Assembly; Attorney General; judges; state's attorneys; Guardianship and Advocacy Commission; Protection and Advocacy, Inc.; Officers of the Department of Human Services; or licensed attorneys at law must be mailed at once to the persons for whom they are addressed without examination by staff, except to ensure that the out-going mail meets the minimum U.S. Postal Services standards.

Regarding the unit restriction allegation, the recipient stated that during breakfast another recipient offered to take up his empty food tray. The recipient accepted this offer and then a staff member said something to the effect of - what are your legs broke? The recipient later learned that it was reported that he had sworn at the staff member. The recipient was adamant about not being hostile or that he swore at this staff member. The recipient stated that he had an opportunity to tell his version of the incident to the treatment team, but he stated, of course the team believed the staff member and not him. The recipient expressed concern of being wrongly accused in the future.

According to progress notes, the recipient was done with his food tray and another recipient emptied it and put it away for him. It was documented that the staff member asked if there was anything wrong that he could not put away his own tray. It was recorded that the recipient replied that she needed to mind her own business and "shut the fuck up". According to the note, the recipient could not be redirected and kept saying "shut the fuck up". During the special staffing held later that day with the treatment team, the recipient told the team that he told the staff member to get the hell out of his face- he denied using the word "fuck". He was subsequently given a 48-hour unit restriction for using inappropriately language to a staff member. This restriction is a privilege restriction, meaning that the recipient would lose the privilege of going off-unit for non-programming activities. When on a privilege restriction, the recipient is able to leave the unit for treatment programming.

The Case Manager's verbal account mirrored the progress note documentation, in that the restriction was imposed because the recipient used inappropriate language to a staff member.

When asked, the Case Manager stated that this has not been a reoccurring problem with this recipient (not taking up his own food tray) and that there is no hard and fast rule about this - but, the Center does strongly encourage each recipient to take care of his/her own effects.

The STA stated that recipients are expected to return their own individual food tray because staff members are instructed to monitor the tray to ensure that all eating utensils are accounted for and the tray is observed for food consumed. The STA stated that when the tray was brought up by the other recipient, she asked the recipient if something was wrong that he could not return his own tray. She stated that he told her to mind her own business and then proceeded to tell her to "shut the fuck up". She stated that she cannot impose a unit restriction; unit restrictions are the decision of the treatment team. She advised the nurse manager of the language used by the recipient and a meeting was held regarding a possible consequence. She stated that she explained to the treatment team what had transpired with her and the recipient. The STA also stated that she had no reason to fabricate what the recipient said to her. The STA provided the HRA with written documentation which outlines the unit rules and possible consequences for breaking those rules. She stated that both staff and recipients have access to this written document. The document states that verbal abuse of staff, such as threatening or swearing would warrant a 48-hour unit restriction.

The Center's Off-Unit Supervision of Forensic Patients policy states (in part) that the Center is a medium security program and specific procedures must be in place when escorting consumers without grounds pass privileges off the unit and within the fenced perimeter of the FTP complex. The policy indicates four levels of supervision needed whenever a consumer is taken off the unit, but not off grounds. The four levels include: 0 means two staff must provide an escort; 1 means one staff to one consumer; 5 indicates one staff member to five consumers; 10 means one staff member to ten consumers; P means that the consumer has a Pass for unsupervised on-grounds privileges. The policy states that prior to leaving the unit, the consumer shall be screened to determine 1) if they present an unauthorized absence risk; 2) if their clinical condition is appropriate as it relates to being in the areas; 3) if they are considered a behavior management problem; 4) if they have complied with the facility program and/or unit rules and regulations. The policy states that a review of the consumer's status is to be completed on a weekly basis.

Conclusion

Pursuant to Section 5/2-102 of the Mental Health and Developmental Disabilities Code, "A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan." Section 5/2-103 states that "a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation."

The envelope was damaged before it was delivered to EMHC; the HRA found no evidence to substantiate the allegation that a recipient's mail is being open by staff members without his presence. There are two versions as to what transpired with the breakfast tray - the recipient denies that he used the word "fuck"; the staff member maintained that he did. Thus, the HRA cannot either confirm or deny that the unit restriction was justified.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

Pat Quinn, *Governor*

Carol L. Adams, Ph.D., *Secretary*

Division of Mental Health - Region 2
Elgin Mental Health Center ▬ Singer Mental Health Center

RECOVERY IS OUR VISION
Recovery is a Personal Journey of Hope, Healing, Growth, Choice, and Change

December 21, 2009

Mr. Dan Haligas - Chairperson
North Suburban Regional Human Rights Authority
9511 Harrison Street, W-300
Des Plaines, IL 60016-1565

Re: HRA #10-100-9002

Dear Mr. Haligas:

Thank you for your recent visit. I am glad the allegations were found unsubstantiated. Staff at Elgin Mental Health Center take pride in the care we provide and are proactive in resolving consumer concerns.

I would request that his response be attached to the report and be included with any public release of your Report of Findings.

Sincerely,

Tajudeen Ibrahim, BA
Acting Hospital Administrator

TI/JP/aw

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