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METRO EAST REGIONAL HUMAN RIGHTS AUTHORITY

REPORT OF FINDINGS

HRA CASE # 10-070-9020

ALTON MENTAL HEALTH CENTER

NOVEMBER 11, 2010

INTRODUCTION

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of complaints at Alton Mental Health Center (the Center), a state-operated mental health facility that has 125 inpatient beds in Alton. The allegation states that the Center violated a consumer's rights when it did not provide adequate and humane services.

If substantiated, the allegation would be a violation of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/102) and Alton Mental Health Center's Policies.

Specifically, the allegation states that the Center required a consumer to achieve perfect class attendance before it allowed him the privilege of enrolling in college classes (through the internet). The consumer missed one class in a month and the Center started a new goal requiring 100% attendance for an additional thirty days before becoming eligible for that privilege.

METHODOLOGY

To pursue the investigation, an HRA team visited the Center and interviewed the consumer, who is court ordered to the facility as not guilty by reason of insanity and resides on a forensics unit, and his Case Manager. With consent, the HRA reviewed the consumer's record.

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE

Under the following Sections of the Code:

"Adequate and humane care and services" means services reasonably calculated to result in a significant improvement of the condition of a recipient of services confined in an inpatient mental health facility so that he or she may be released or services reasonably calculated to prevent further decline in the clinical condition of a recipient of services so that he or she does not present an imminent danger to self or others. ((405 ILCS 5/1-101.2)

"Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, hospitalization, partial hospitalization, outpatient services, examination, diagnosis, evaluation, care, training, psychotherapy, pharmaceuticals, and other services provided for recipients by mental health facilities. (405 ILCS 5/1-128)

"Mental illness" means a mental or emotional disorder that substantially impairs a person's thought, perception of reality, emotional process, judgment, behavior, or ability to cope with the ordinary demands of life.... (405 ILCS 5/1-129)

(a) 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. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible.... In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. (405 ILCS 5/2-102).

a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services. (405 ILCS 5/2-107)

POLICY/PROCEDURE

Pursuant to Alton Mental Health Center Policy 2 A.04.702:

It is the policy of the Alton Mental Health Center (AMHC) that the care, treatment, and rehabilitation of a patient is planned to ensure that a patient's needs are met, and that the care is appropriate, based on assessments that have been conducted and reviewed by the interdisciplinary treatment team. The effectiveness of the treatment

provided to a patient, as well as the clinical progress displayed by a patient is regularly evaluated, and the plan of care is changed when indicated. The plan of care and treatment, as well as the proposed outcome of the treatment, along with the reviews of the effectiveness of the treatment, are to be available as written documents in the patient's clinical record.

PROCEDURE:

Each patient will have a written, comprehensive individualized treatment/habilitation plan that is based on an ongoing assessment of the patient's clinical needs, and which is regularly reviewed and updated as needed. The plan is developed and implemented by an interdisciplinary team, with each member documenting his/her involvement in the following document under the direction of the patient's psychiatrist...

Short Term Goal (STG) - Smaller steps which will result in reaching the long term goal. Goals should be written in a way that allows changes in the patient's behavior to be measured. A Short Term Goal would be a realistic, concise statement/phrase or group of statements which is/are understandable to both the patient and staff, is provided by each of the appropriate discipline professionals and indicates an expected patient report, result and/or behavior which is measurable. Include date each goal was established.

FINDINGS

The consumer stated that he cooperates with all aspects of his treatment including the administration of medication and other treatment and education programs and that his behavior has never required restraint or seclusion. He said that he maintains a good relationship with most staff and residents. The consumer explained that he has lost privileges several times in the past six months when the Center conducted room searches and required him to adhere to urine and blood tests after staff suspected him of using smokeless tobacco that is considered contraband. According to the consumer the Center has retaliated against him by imposing unattainable goals, including the expectation that he must attend one hundred percent of the Center's classes. The consumer explained that he asked, and was excused from attending one class session after he became ill with a severe headache. He later discovered that his privilege level was reduced from unsupervised grounds pass to staff escort and that he was required to begin another thirty day period of perfect attendance prior to being eligible to enroll in college courses offered through the Center's computer laboratory.

The consumer said that he attends all of his treatment team meetings and listens to staff recommendations; however, his input in treatment planning is not requested by staff. According to the consumer he has not been offered a copy of his treatment plan and he did not understand that his contributions were considered when his plan was developed.

The Case Manager stated that the consumer is a model patient; however, he believes breaking small rules should be inconsequential. The Manager said, for example, while tobacco is not illegal, it is considered contraband at the Center. The consumer has been caught with tobacco in his possession and tested positive for tobacco use in the past. Therefore, when tobacco is found or suspected on the unit, the consumer may be a person of interest. The Manager explained that the consumer feels unfairly targeted by staff.

Regarding the expectation that the consumer attend 100 % of his classes, the Manager stated that it was a very high expectation; however, she noted that the consumer signed the area asking if he agreed with the plan.

Case Progress Notes state:

03/01/10: Per a special treatment team meeting on 01/28/10 it was agreed that [the consumer] have 100% attendance in three classes as well as maintaining appropriate behavior. The three classes include substance abuse II [sa], conflict resolution and NGRI [not guilty by reason of insanity]. Needed to have 100% for one month before assessing as appropriate for internet use. For month of February 2010 attended 100 % of substance abuse and 75% of conflict resolution. No statistics available for NGRI since that class was late in starting...

03/05/10: [The consumer] met with social worker to let her know that he missed his 03/05/10 conflict resolution class. He stated he had a headache which he referred to as a migraine and stated he took some medication and slept. He wanted to know how this or if this, not going to class, would impact his time goal in the use of the internet. Advised him to speak with [his Physician].

03/08/10: The issue of missed class [conflict resolution] on Friday 03/05/10. It was the consensus that [the consumer] have four consecutive weeks of 100% attendance in three classes. Social Worker and [Physician] met with [the consumer] to inform him of this. The treatment team will assess [the consumer's] appropriateness for internet use on 04/05/10 pending class attendance and appropriate behaviors.

03/16/10: Special treatment team meeting, [the consumer] was informed that his recent serum tested positive for active nicotine use. [The consumer's] privilege level will drop from SGP [supervised grounds pass] to SBP [supervised building pass] as of today. It was the recommendation of the team that in order to obtain a UBP in one month he will need to have 100% attendance in his classes, have negative drug [random] screens and follow unit expectations. He will need two additional months of the same to be assessed by the team for having access to the

computer [internet].

According to treatment plan review dated May 14, 2009:

Short term Goals:

01/28/10: [The consumer] will have 100% attendance in three rehabilitation classes [sa, conflict resolution and NGRl class] up until early March [2010] the treatment team will assess his appropriateness of use of the internet in the computer lab.

03/16/10: Reinstate unsupervised ground privileges in one month pending 100% attendance in classes along with following unit rules and having negative random drug screens.

03/16/10: Assess appropriateness for access to computer/internet [for college] in visitor's room after maintaining 100% in classes. Follow unit rules and have random drug screens.

Summary of the Extent to which Patient is Benefiting from treatment (May 14, 2010):

[The consumer] is alert and oriented in all spheres. He denies any thoughts of harm of self/others. He denies experiencing auditory/visual hallucinations. No delusions elicited. He has not required any emergency medications, restraints or seclusions. He has good hygiene and grooming. He completes his activities of daily living without assistance or prompting. He attends some classes with appropriate participation. Interacts appropriately with staff and peers. Is enrolled in on-line college courses with the local community college and is doing well.

For the third month [the consumer] has not met his objective regarding active treatment participation....

The consumer's Plan update from 09/29/10 was signed by the consumer and he marked the section "patient brought a review of progress form to the meeting... agree with treatment goals; agree with treatment interventions." The section that states "I have reviewed the treatment plan/review as developed with my participation" was not marked and the corresponding box stating "refused" was not marked.

CONCLUSION

Pursuant to Section 2-102 of the Mental Health and Developmental Disabilities Code, "Treatment" means an effort to accomplish an improvement in the mental condition or related behavior of a recipient. Treatment includes, but is not limited to, examination, diagnosis, evaluation, care, training, psychotherapy, and other services provided for

recipients by mental health facilities. "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."

Alton Mental Health Center Policy describes a Short Term Goal as a realistic, concise statement/phrase or group of statements.

The HRA notes that the progress notes and treatment plan updates contain information requiring 100% class attendance, including NGRI class. The first goal was set in January 28, 2010 with review set for March 2010 requiring 100 % attendance without exception. The 03/01/10 progress note states in part that there were no statistics available to determine whether or not the consumer had attended that class 100% of the time. After the consumer missed one class due to illness and reported that information to his social worker the staff reduced his grounds status and any educational pursuits were ordered postponed until he achieved thirty days of perfect attendance.

Furthermore, case progress notes document the consumer's concern about missing a class due to illness and the impact on internet access, while the treatment plan does not specifically address the consumer's reservations regarding the goal/treatment plan.

Finally, the HRA believes that setting goals that require 100% achievement is not realistic, does not take into account absences due to illness or the consumer's right to refuse and is based on the use of negative versus positive reinforcement.

Based on the facts gathered, the allegation that the Center did not provide adequate and humane services when requiring 100% attendance class attendance is substantiated.

RECOMMENDATION

The HRA recommends that the Center convene the consumer's treatment plan and review the 100% attendance requirement to ensure realistic adjustments may be made regarding missed class time and that the plan reflects the consumer's input.

SUGGESTION:

Consider the recipient's successful completion of an on-line college class as a treatment goal.