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HUMAN RIGHTS AUTHORITY-NORTH SUBURBAN REGION

REPORT 21-100-9005
ELGIN MENTAL HEALTH CENTER

Introduction
On October 6, 2020, the North Suburban Regional Human Rights Authority (HRA) opened an investigation of possible rights violations regarding the Forensic Program at Elgin Mental Health Center (EMHC). The complaint alleged that EMHC was confiscating and returning the recipient's packages from his family without explanation. The complaint also alleged that the recipient has been continually harassed by a specific nurse on the unit. Substantiated findings would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5).

Section 5/2-102 (a) of the Illinois Mental Health and Developmental Disabilities Code states that 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 of the Illinois Mental Health and Developmental Disabilities Code 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.

Section 5/2-104 of the Illinois Mental Health and Developmental Disabilities Code states that Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section.

Clients receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the Illinois Department of Human Services (DHS) 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 several 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 approximately 290 beds.

Method of Investigation
To proceed with this investigation, the HRA reviewed the recipient's clinical record (with authorization) for 2019 and 2020. The HRA obtained additional case information through an interview with the recipient's psychiatrist and the unit nursing director, on April 9, 2021. The HRA also reviewed relevant EMHC policies. The HRA acknowledges and appreciates the full cooperation of EMHC personnel in this investigation.

Record Summary
The recipient was Adjudicated NGRI on 02/01/2017 and admitted to EMHC with a Thiem date of 8/20/2023. The records indicate that the recipient's current primary diagnosis is Delusional Disorder, and medical diagnosis is obesity and eczema.

According to the case record, in November 2019 the recipient's treatment team became aware that the recipient was refusing to eat food provided by the hospital. A social work progress note from 11/25/2019 indicated that the recipient's grandmother called the social worker to ask why EMHC was "starving" the recipient. The social worker documented that the treatment team "hadn't been aware of this issue before" the phone call.

The earliest mention in the record of the recipient's reason for refusing hospital food is found in a social work progress note from 1/7/2020, which states: "He is now refusing . . . dietary trays because he believes that the hospital is putting 'poison' and 'pesticides' in the food – per reported to the psychology intern." Other Social work progress notes from 1/7/2020, 3/4/2020, and 4/15/2020 also note that the patient's refusal to eat unsealed hospital food is "because he believes the hospital is putting 'poison' and 'pesticides' in the food." However, a progress note from the patient's psychiatrist on 7/10/2020 states that the recipient ". . . gives no explanation at present why he will only eat food from home or sometimes pre-packaged state food."

During the HRA interview on April 9, 2021, the recipient's psychiatrist confirmed that the recipient will only eat the food his family provides or food from the hospital or vending machines that is pre-sealed. The recipient's psychiatrist also confirmed that he has never been certain of the reason why the recipient has refused to eat un-sealed hospital food because the recipient has never directly told him.

The record mentions that the recipient receives many packages of snacks from his family (mainly ramen and oatmeal) and that these foods are the only ones that the recipient will eat. The record and interviews with staff indicate that on a few occasions, the food sent by the recipient's family violated the snack food policy, and on such occasions, the recipient was explained why the packages were being sent back. The HRA reviewed the EMHC FTP Policy 804, which restricts snacks to single-serve sizes, and restricts food for each patient to a total of what can fit in two shoe boxes. Staff explained that these restrictions are for hygiene and storage issues. Staff told the HRA in the interview that the recipient's family was sending more food than could be safely stored and that they were also sending large packages of food instead of single service sizes.

The recipient's doctor told the HRA in the interview that the hospital tried to contact the recipient's family to inform them about allowable food items, however the recipient would not sign a release to allow contact with family. The doctor told the HRA that in February 2021 the recipient signed

a limited consent to allow EMHC to talk to his mother and grandmother to provide them with guidelines for sending food. Staff reported in the interview with HRA that there have been no concerns since then.

The doctor's progress notes throughout the record state that the recipient "has lost a significant amount of weight since admission. [The recipient is now] probably within ideal body range, but he is not eating healthy, eating mostly noodles and other snack foods . . ." The recipient's doctor confirmed in the interview that there were nutritional concerns because the recipient's diet has been lacking in nutritional diversity. A Problem-Intervention Form 1175A from 10/06/20 completed by an RN suggests that the recipient has been showing signs of malnutrition: the Long Term Goal on this form is "[Recipient] will show no signs of malnutrition while in the EMHC until discharge".

According to the records the treatment team added twice daily Ensure to the recipient's diet plan to get protein into his diet, however this modification was successful only initially – notes indicate that the recipient only occasionally drank the Ensure. Beginning in June 2020, the recipient was prescribed three "brown bag" meals per day, which the recipient was willing to eat because the food inside originated from outside the hospital and was sealed. Hospital staff provided the following information to the HRA in a statement after the interview: "It appears that [the Brown Bag] modification has been successful in ensuring that he is getting proper nutrition."

The doctor repeated in the staff interview that although there are some nutrition concerns since the recipient's diet is not nutritionally diverse, the recipient is not underweight and does not have any current health concerns.

A review of the record did not reveal any incidents of harassment or other issues with a specific nurse, as alleged by the recipient. During the interview, staff explained what this issue could be: the nurse in question works the night shift, and the recipient is often out on the unit at night – therefore, the recipient happens to interact more with this nurse than with other staff. Clinical staff told the HRA that this nurse once "wrote up" the recipient for a minor rules infraction, which resulted in the recipient's privileges being revoked for a day. Clinical staff also told the HRA that this nurse has had to "set a boundary" with the recipient a number of times about the recipient's habit of closely following female staff around the unit at night. Clinical staff told the HRA that there have been no issues with this nurse in over a year.

Case Findings

Based on the information obtained from the record review and interview with clinical staff at EMHC, the allegations that Elgin Mental Health Center has been confiscating and returning the recipient's packages from his family without explanation, and that a particular nurse has been harassing him are ***unsubstantiated***. The Human Rights Authority (HRA) found that the recipient's packages from his family were confiscated and returned only because the packages did not adhere to EMHC's Snack Food policy, FTP Policy 804: "All snacks must be in individual . . . one-time consumption packages . . . limited to the amount of items [that can fit in two shoe-boxes]." The HRA also found no evidence of harassment by a nurse, only the possibility that a particular nurse

may have had more contact with the recipient than other staff, due to the nurse's overnight shift, and the recipient's habit of being out on the unit at night.

Although the recipient's specific complaints are unsubstantiated, analysis of the case record found that case documentation violates the Mental Health Code as well as EMHC's Policy *306: Treatment Plan Update* . Analysis of the case record also found that EMHC was in violation of their own *Policy 1520: Assessment of Patient Needs.* Specifics of these findings are presented in the analysis section of this report.

Analysis

During the interview portion of the investigation, clinical staff told the HRA that presumed issues with a specific nurse stemmed from an incident involving a DVD player out on the unit as well as incidents of inappropriate boundaries with female staff. While these incidents seemed to be minor, they were not found to be recorded in in the recipient's case record.

Other discrepancies were found in the record: social work notes from 12/10/2019 and 1/7/2020 indicate that the recipient "has been losing vending privileges frequently because he often refuses to exit his dorm in the morning". During the HRA interview, clinical staff (including the social worker who wrote the original notes) recalled that the recipient had not lost his vending privileges frequently, but that this had only occurred one time.

The record review also showed progress notes that appear to be copied verbatim from month to month. "Patient's Progress Since Last Staffing" sections on 1170-FTP Interdisciplinary Staffing reports are repeated verbatim from January through June, 2019. Additionally, three separate nursing staff repeat each of their "Progress Towards Short-Term Goals" sections on forms (1175-A) verbatim from month to month, for nearly all of their submissions.

Such documentation does not meet the standard stated in EMHC's Forensic Treatment Program Policy Manual om in the Mental Health Code. EMHC's *Policy 306: Treatment Plan Update* states that the Progress Since Last Staffing section should "be used as a progress indicator from one treatment update to the next." Language repeated from month to month does not indicate progress over time.

Section 5/2-102 (a) of the Illinois Mental Health and Developmental Disabilities Code states that a recipient of services shall be provided with adequate and humane care and services . . ., pursuant to an individual services plan." This requirement discourages the use of repeated descriptions to describe specific time periods.

The notes conflict with Elgin Mental Health Center *Policy 1520: Assessment of Patient Needs* which dictate that "Assessment is a continuous process achieved through the communicated observations of all staff. Whenever a change of condition is suspected, staff will immediately contact the . . . Designee, to ensure prompt attention of the treatment team." The patient's psychiatrist wrote in a progress note dated 7/10/2020 that the "recipient gives no explanation at the present why he will only eat food from home." However, Social work progress notes from 1/7/2020, 3/4/2020, and 4/15/2020 indicate that the patient's stated motive for refusing to eat unsealed hospital food is "because he believes the hospital is putting 'poison' and 'pesticides' in

the food." Although the assessment that the recipient's refusal to eat food is rooted in his diagnosis of Delusional Disorder does not change his condition of refusal to eat hospital food, it could be reasonably be considered to be an important update that the patient's doctor should have been be made aware of.

The written record should reflect recipient progress in specific and time-bound descriptions that communicates patient progress and up-to-date assessments to all clinical treatment staff. Additionally, the medical record is a legal document that follows the recipient throughout life, as such it should paint a clear picture of past events and be an accurate reflection of care provided to the patient.

Suggestion
Documentation: The HRA strongly suggests that the recipient's future progress notes be documented in the record following EMHC Policy Manual guidelines: Using detailed language that is specific and unique to each individual report or progress note. Copying and pasting from one note to the next is incorrect documentation practice and does not provide an accurate reflection of an individual's progress (or lack thereof) over time in the record.

Assessment: The HRA suggests that clinical staff more closely follow EMHC's Policy 1520: Assessment of Patient Needs, so that assessment observations are effectively communicated to all members of the treatment team.

Other Concerns
Evidence from the record and in the staff interview raises a concern that the recipient was not receiving adequate care and services for his nutrition issues. In November 2020 the records begin to indicate that the recipient's refusal to eat hospital food (i.e. a more balanced diet than constant snack food) was a *persistent* pattern. In January 2020, the social work team recorded that the patient's refusal to eat hospital food was a function of his mental illness. However, the patient was not provided with the modification of three "brown bag" meals per day until June 2020, seven months after the recipient's refusal to eat hospital food was recorded as being a persistent issue.

The Mental Health and Developmental Disabilities Code defines adequate care and services as "services that are reasonably calculated to result in a significant improvement of the condition of a recipient . . . or services reasonably calculated to prevent further decline in the clinical condition of a recipient." (405 ILCS 5/1-101.2). Waiting seven months to provide the recipient with a meaningful modification to their nutrient-lacking diet does not seem to reasonably be calculated to result in a significant improvement of his condition, nor could such a delay be reasonably calculated to prevent further decline in the recipient's condition.

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

JB Pritzker, *Governor*

Illinois Department of Human Services

Grace B. Hou, *Secretary*

Elgin Mental Health Center
750 South State Street ● Elgin, IL 60123

Ms. Mariah Balaban
Human Rights Authority
9511 Harrison Street, W-335
Des Plaines, IL 60016-1565
HRA# 21-100-9005

September 30, 2021

Dear Ms. Balaban:

Thank you for your letter regarding your findings. EMHC agrees that it is important that treatment interventions are documented specifically and accurately to demonstrate the progress of the patient. EMHC will engage the involved staff in further training of EMHC Policy and Procedure 1520 regarding documenting treatment accurately and based on the client's current status.

A concern was mentioned that the recipient was not receiving adequate care and services for his nutrition issues. A review of this case found that this patient's dietician and treatment team were monitoring his daily intake and physical health on an ongoing basis. Although the patient was refusing to eat most of his provided meals consistently, he continued to eat his snacks. He completed extensive bloodwork to ensure that he maintained his health throughout this period. This bloodwork was returned as normal, and his physical exam also had normal results. It was unknown until June 2021 that he was willing to eat bagged meals. During this period, the team was treating the cause of the refusal to eat his provided meals, which was his mental illness, while monitoring his physical state for any changes.

Please feel free to include our response with any public release of your Report of Findings.

Respectfully,

Michelle Evans, DSW
Hospital Administrator