



FOR IMMEDIATE RELEASE

North Suburban Human Rights Authority
Report of Findings
Elgin Mental Health Center
HRA #08-100-9006 and #08-100-9013

Case Summary: The allegation that a consumer was being denied access to the law library (located off the unit) simply because he refused to participate in his treatment was unsubstantiated. The HRA concluded that the Center has measures in place to file formal grievances pursuant to Federal Regulations and this consumer made verbal complaints that were appropriately referred; the allegation was unsubstantiated. The HRA substantiated the allegation that the consumer was not given a copy of his treatment plan upon request. The HRA did not find that the dietary department was ignoring the consumer's dietary needs due to his religion. 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 opened an investigation after receiving complaints of possible rights violations within the Forensic Treatment Program, F Unit at Elgin Mental Health Center (EMHC). Complaints alleged that a consumer is being denied access to the law library (located off the unit) simply because he refuses to participate in his treatment; the facility does not have a formal grievance procedure for consumers; a consumer is being denied access to his clinical chart; the dietary department is ignoring a consumer's dietary needs due to his religion and that because he does not eat meat or dairy products, his breakfast meal does not contain sufficient nutrition; and a consumer's requests for copies of his chart have been denied.

The rights of consumers receiving services at EMHC are protected by the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102, 5/2-100) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 10/4).

To pursue this investigation, the HRA reviewed, with written authority, a portion of the clinical record (August through October 2007) of the consumer whose rights were alleged to have been violated (the same consumer for both cases cited). An on-site visit was conducted at which time the allegations were discussed with the consumer's Social Worker, the Unit's Nursing Supervisor and the Director of Dietary. The consumer was also interviewed. The HRA acknowledges the full cooperation of Center personnel.

Background

Consumers 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 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.

Complaint Summaries

In Case #06-100-9006, it was reported (8/30/2007) that a consumer is being denied access to the law library (located off the unit) simply because he refuses to participate in his treatment. It was stated that the consumer has the right to refuse treatment and he should not be penalized for exercising his right. It was also stated that the consumer is acting as his own attorney and needs the library to prepare for his case. The complaint further stated that when a consumer needs to file a grievance, the consumer is advised to tell unit staff or bring-up the matter at the community meeting. It is believed that a formal grievance procedure should be available. Lastly, it was reported that a consumer has been denied access to his clinical record.

In Case #06-100-9013, it was reported (9/4/2007) that the dietary department is ignoring a consumer's religious dietary needs, the breakfast meal does not contain sufficient nutrition and that the consumer's requests to have portions of his chart copied have been denied.

Allegation #1: a consumer is being denied access to the law library (located off the unit) simply because he refuses to participate in his treatment.

Findings

According to the clinical record, the consumer was admitted to the Center on August 2, 2007 with a legal status of UST. On September 4, 2007, the psychiatrist documented that the consumer continues to refuse to participate in unit programming and the consumer reported that he will continue to refuse because he is not at the Center to obtain fitness. The consumer requested the use of the library for research purposes and he was given a 10 status.

At the site visit, Center staff explained that each consumer undergoes an initial period of assessments upon arrival on the unit. Based on these assessments, the consumer is assigned a status, which determines the freedom of movement permitted to the consumer within the building. For example, a 10-status means a ten-to-one consumer to staff ratio for an off-unit escort. The Center also has a 5-status and a 1-1 status. Center personnel stated (and the record confirms) that the consumer did not cooperate with the initial screening assessments. It was explained that because of this, it took longer than usual to make the initial assessments to determine his status level. When the consumer began to cooperate with the assessments, he was allowed access to the library.

When asked if any special consideration is given to consumers who are acting in their own defense and need access to the library to prepare for their defense, the HRA was informed that this was not taken into consideration in the decision making process. The staff stated that to do so would mean that they would have to take a multitude of competing claims from different consumers for access to the facility, involving many value judgments on the part of the staff. It was stated that should a consumer not have library access for legal research, materials can be obtained by staff and given to the consumer for their use while on the unit. The Unit's Nursing Supervisor stated that she offered this option to the consumer, but he declined.

The Center's Off-Unit Supervision of Forensic Patients (Without Grounds Privileges) policy states that the Forensic Treatment Program is a medium security program and, as such, must have specific procedures in place when escorting patient without a grounds pass privileges off the unit and within the fenced perimeter of the FTP complex. As a result, patients without unsupervised off-grounds pass privileges, when taken off the unit, must be under staff supervision at all times. The policy states that prior to leaving the unit, patients are screened so as to determine if their clinical condition is appropriate as it relates to being in the area.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Code, Section 2-100, "No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services."

The consumer was denied access to the library during the first three weeks of this hospitalization because he needed to be assessed for safety reasons. He was given the option of getting legal materials from staff for his use while on the unit, which he declined. The HRA does not find that the consumer's rights were violated. The allegation that a consumer is being denied access to the law library (located off the unit) simply because he refuses to participate in his treatment is unsubstantiated.

Allegation #2: the facility does not have a formal grievance procedure for consumers.

Findings

At the site visit, Center staff explained that each consumer is provided with a "Patients Rights" - booklet upon arrival on the unit. The booklet explains rights and unit expectations, including ways to express their concerns. It was stated that consumers can take their grievances to their treatment team, their caseworker, or the unit manager. In addition there are consumer advocates present on the units and the consumer can write directly to the Chief Administrative Officer.

A review of the Handbook states that consumers, guardians and families have a right to present concerns regarding the quality of care; consumer or family member concerns are to be directed to the consumer's social worker or nurse manager for follow-up. Consumers are also encouraged to address concerns at Unit Community Meetings. There is also a consumer advocate who may be contacted for consultation. This section of the Handbook goes on to say (to summarize) that the consumer or family member may contact the hospital administrator (the extension number is given) or the Forensic Program Director (the extension is given) or the Human Rights Authority (the office number is given).

Center personnel stated that the consumer had contacted the Chief Administrative Officer. The HRA contacted the Administrative office and learned that this consumer has sent court documents and other materials to the Hospital Administrator, but that the materials have not contained a formal written grievance; thus there has been no written response from Administration. It was stated that the consumer has made verbal complaints to the Administration and these complaints are relayed to the FTP Director.

The Patient/Family/Guardian Concerns & Grievances policy states (in part) that the patient, family member, or guardian concerns may be directed to the patient's caseworker and/or unit nurse for follow-up. Patients are also encouraged to address concerns at the daily unit Community meetings. Concerns presented in these forums will be addressed within three days of presentation when they are not addressed immediately. If the concern cannot be addressed by those immediately involved, the concern will be referred. Within seven working days, the concerned party (if known) will be notified of the plan of action. The Program Director as well as the Hospital Administrator may be consulted when applicable. At any time, the patient, family member, or guardian may contact the Program Director or the Hospital Administrator with a grievance. When a written complaint is received, the presenter will be notified within three working days whether this will be treated as a grievance or returned to another level to be addressed. For grievances, the presenter will be notified of the plan of action or of the result within 10 working days.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Code Section 2-102, a recipient of services shall be provided with adequate care and services. Pursuant to the Code of Federal Regulations, Centers for Medicare/Medicaid Services Participation for Hospitals -The Special Provisions Applying to Psychiatric Hospitals Section 482.13, the hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care.... At a minimum: (i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.(ii) The grievance process must specify time frames for review of the grievance and the provision of a response.(iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

The HRA concludes that the Center has measures in place to file formal grievances pursuant to Federal Regulations and this consumer made verbal complaints that were appropriately referred; however, the consumer has not submitted a formal grievance. The allegation is unsubstantiated.

Allegation #3: a consumer is being denied access to his clinical chart.

Allegation #5: a consumer's requests for copies of his chart have been denied

Findings

According to the clinical record, on September 21st the consumer's Social Worker documented that the treatment team determined that it was not clinically appropriate for the consumer to receive a copy of his September 4th treatment plan. On September 24th the Social Worker documented that the treatment plan was given to the consumer per directions from management.

At the site visit, the staff stated that the treatment team decided that it was not in the consumer's best interest to receive the plan because it contained a notation that there was "apparent malingering regarding fitness". It was believed that should the consumer read this, further problems might arise. However, after administrative intervention the consumer did receive a copy on 9/24/07. Upon questioning, the staff now agreed that each consumer is entitled to receive a copy of their treatment plan in a timely manner no matter what information the plan contains. And, according to the Unit's Nursing Supervisor, this has been explained to all unit staff.

Regarding the allegation that the consumer's requests for copies of this chart have been denied, on October 14th, it was documented that the consumer had approached each staff member inquiring about why he could not have a Xerox copy of his records. The consumer was advised that his concern would be referred to the treatment team the following morning. On October 18th, documentation indicated that the consumer was informed that he may obtain a copy of his chart by completing a Release of Information form and sending the form to Health Information Management; the consumer acknowledged the directive. The form was completed (10/22) by the consumer and according to this form, the copies were made and given to the consumer on October 30, 2007.

At the site visit it was explained that when a consumer wants a copy from his chart, he first must complete an Authorization to Disclose/Obtain Information form. The consumer must note what portions of the chart are requested (discharge summary, psychiatrist evaluations, etc.). The form is then sent to the Information Services Department which assembles the requested materials.

The Manager stated that it could take approximately two weeks in total for this procedure to be completed.

The Center's Patient Access to Records policy states (in part) that a patient or other qualified individual is entitled to inspect and copy the patient's record upon request. The request should be reviewed by the patient's treatment team. If the team approves the request, an appropriate staff will be assigned to be present to arrange assistance for the patient or other qualified individual. Staff may make copies of the materials without charge provided the documents were copied and released. If the treatment team feels that the review of the medical record is clinically contraindicated, that is, the patient's access to their record could cause serious misunderstanding or harm to the patient or others, a written notice of restriction of rights shall be completed and given to the patient.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Confidentiality Act Section 4, the recipient if he is 12 years of age or older is entitled, upon request, to inspect a copy any part of his record. This Section goes on to say a reasonable fee may be charged for duplication of a record, unless the written request is made by a indigent recipient; the custodian of the records is to provide the duplication of the record for no charge to the recipient.

The HRA substantiates the allegation that the consumer was not given a copy of his treatment plan upon request.

Recommendation

The policy must be amended to show that each consumer has the absolute right to his chart. This right cannot be restricted. All Center employees who are part of a Treatment Team and on-line employees must be aware of this right and know that regardless of what is written, the consumer has that unqualified right to read and or obtain what has been written.

The consumer was not denied the right to obtain copies of his chart, the allegation is unsubstantiated. However, the HRA is concerned that when the request was made, he was told that the request would be referred to the treatment team. Once again, this is an absolute right - the treatment team can be made aware of the request, but they cannot approve or disapprove the request and the policy must be amended to state the same.

Allegation #4: the dietary department is ignoring a consumer's dietary needs due to his religion and that because he does not eat meat or dairy products, his breakfast meal does not contain sufficient nutrition.

Findings

On the day of admission, a physician's order was written stating that the consumer was to have "no beef or pork". On August 12th, it was documented that the consumer refused his lunch and requested another tray because he received Jell-O, saying that Jell-O is made of pork and he cannot have pork because he is Muslim. (The collagen in gelatin usually comes from the skin and bones of pigs and cattle after they are butchered for meat). On August 22nd, the consumer met with the Dietitian and a physician's order was written which stated that the consumer was not to have pork, beef, milk, milk products and Jell-O. On August 27th, an order was written that the Dietitian was to see the consumer. About a month later, the Dietitian met with the consumer and wrote that the consumer was observing Ramadan and that he was to be monitored for an increase or decrease in weight. (Ramadan is a Muslim religious observance that takes place during the ninth month of the Islamic calendar - 2007 September 13- October 12. Prayers, fasting, charity, and self-accountability are stressed at this time).

At the site visit, the HRA was advised that the Dietary Department prepares meals for approximately 400 consumers and they have about 184 special diets – i.e. some deviation from the regular diet. Dietary preparation for each consumer is regulated by the written physician diet order. Deviations from the regular diet are generally based on medical condition, allergies, or religious

beliefs. The Center provides a vegetarian option and a mechanically soft diet. The Center does not cater to "A La Carte" and the Director stated that he is making an effort to diminish individual preference diets.

The Director stated that he was very familiar with the consumer identified in this investigation since the consumer has called him on a few occasions about his diet. It was stated that the consumer's original diet order was for "No Beef, No Pork." A few weeks later the order was modified to "No Milk, No Milk Products, No Jell-O". The Director showed the HRA about five subsequent Diet Prescription/Dietitian Referral Forms completed (August and September) by the physician and the Dietitian on this consumer which shows additions (Ensure) or additional restrictive orders (no peanut butter, etc). It was stated that the Physician must complete an order and the order must be as specific as possible. The order could not simply say - consumer is a Muslim.

The Director admitted that the more restrictive the consumer's preferences and dietary orders are, the more limited the food choices become and that alternate sources of dietary calories are more difficult to supplement. To ensure that the meal maintains an appropriate mixture of calories, the meal may have for example, an increase in starch and vegetable portions and that the resulting meal may not be to the consumer's liking. It was stated that each unit has a meal booklet which shows the calories, carbohydrates, protein, fat, cholesterol, sodium, and calcium for that dish. He pointed out the difficulties of satisfying a constantly changing medical and preferential diet. The Director said that the Dietitians are on the units every day, but the HRA gained the impression that they were there more to receive consumer complaints than to advise the consumers on dietary matters.

Conclusion

Pursuant to the Mental Health and Developmental Disabilities Code, Section 2-102, a recipient of services shall be provided with adequate and humane care and services. 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.

Based on the information obtained, the HRA did not find that the dietary department is ignoring the consumer's dietary needs due to his religion. According to the Dietitian, when food items are restricted a nutritional supplement is provided; the HRA found nothing to support the claim that the consumer's breakfast meal does not contain sufficient nutrition.

The HRA takes this opportunity to suggest that the Dietitians meet with the consumers who have special dietary requests or requirements while they are on unit rounds, to discuss innovative ways in which the needs of the consumer can be met; documentation of their findings and recommendations in the consumer's medical record would be beneficial. And, when an order is written for a Dietitian consultation, the consultation should be completed in a timely manner. The HRA does note that in this case, the consumer's physician and the Dietitian were aware of and addressing the consumer's requests during the month between the order and the consultation as evidenced by the referrals forms mentioned above.

Observation

The consumer was determined to be UST because he refused to recognize the authority of the court, basing on his claim that he had renounced his American citizenship and that he was therefore "Sovereign". Apart from this, the consumer had no other documented thought disturbances or mental abnormalities. Although he refused to participate in his treatment plan initially, the staff – including his caseworker and psychiatrist – ultimately felt him to be fit to stand trial. Despite this recommendation, the Forensic Mental Health Services at Cook County, where he was originally charged, still considered the consumer to be unfit. The consumer remains remanded

to DHS despite a total of three trips to the Cook County Forensic Health Services, which continues to evaluate the consumer as unfit, while EMHC professionals continue to maintain that he is fit. We would encourage that his fitness status be appealed to an independent assessment as soon as possible – which the staff has told us they intend to do. We would also encourage EMHC to insist that the Cook County Forensic Mental Health Services provide a timely written explanation of reasons for their decisions – especially when it differs from the recommendations of the EMHC st

RESPONSE

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



Rod R. Blagojevich, *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

February 29, 2008

Ms. Kori Larson - Chairperson
North Suburban Regional Human Rights Authority
9511 Harrison Street, W-300
Des Plaines, IL 60016-1565

Re: HRA #08-100-9006 and 08-100-9013

Dear Ms. Larson,

Thank you for your always comprehensive review of the above listed complaints. I am glad that four of the five complaints were unsubstantiated.

Regarding allegation #5 "a consumer's request for copies of his chart has been denied" (substantiated), there indeed was a delay in this consumer receiving a copy of his treatment plan. When Forensic administrative staff were made aware of the complaint, they quickly interceded and the consumer was given a copy of his treatment plan. We certainly agree that it is a consumer's right to receive a copy of his treatment plan. In fact, our facility policy requires that consumers must be invited to treatment staffings and receive a copy of all their treatment plans.

We have reviewed this requirement with this consumer's treatment team, and have also discussed this policy at our Forensic administrative program meetings. We will be monitoring this issue closely to insure consistent compliance.

I would request that this 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

TL/JP/pb

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