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Egyptian Regional Human Rights Authority
Report of Findings
08-110-9012
Chester Mental Health Center
May 27, 2008

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Chester Mental Health Center, a state-operated mental health facility located in Chester. The facility, which is the most restrictive mental health center in the state, provides services for approximately 300 male residents. The specific allegations are as follows:

1. A recipient at Chester Mental Health Center is not receiving an allowance from his Social Security Disability benefits.
2. The recipient has not been allowed to vote.
3. The recipient is not receiving an adequate diet.
4. The recipient is not receiving services in the least restrictive environment.

Statutes

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-100, 405 ILCS 5/2-102 and 405 ILCS 5/2-105), the Illinois Administrative Code (Adm. Code) (89 Ill. Adm. Code, Section 512.20) and the Code of Federal Regulations, National Voter Registration Act (Act) (42 U.S.C. 1973gg). Section 5/1-101.2 of the Code is pertinent to the allegations.

Section 5/2-100 of the Code states, “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 recipient of such services.

Section 5/2-102 of the Code states, “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 5/2-105 of the Code states “A recipient of services may use his money as he chooses, unless he is a minor or prohibited from doing so under a court guardianship order. A recipient may deposit or cause to be deposited money in his name with a service provider or financial institution with the approval of the provider or financial institution. Money deposited with a service provider shall not be retained by the service provider. Any earning attributable to a recipient’s money shall accrue to him.

Section 512.20 of the Adm. Code states, "...staff are required to provide clients the opportunity to apply to register to vote and to assist client, if requested, in the completion of voter registration applications or declaration forms. Opportunities for application for Voter Registration shall be provided at the time of application for services, annual review, recertification or reassessment of services. 1) Staff shall: A) inform the client of his or her rights to execute or decline to execute a voter registration application. B) Provide the client with a declaration form that asks if he or she would like the opportunity to apply to register to vote. Each client has the right to accept or decline the opportunity. C) Provide to each client who does not decline to apply to register to vote the same degree of assistance with regard to the completion of the voter registration application form as is provided by the office with regard to the completion of its own forms, unless the applicant refuses such assistance. D) Provide the client with a mail-in voter registration application when the client provides notification to DHS of a change of address."

Section 1973gg of the Act states, "The Congress finds that (1) the right of citizens of the United States to vote is a fundamental right; (2) it is the duty of the Federal, State, and local Governments to promote the exercise of that right; and (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities."

Section 5/1-101.1 of the Code states, "'Adequate and humane care and services' means services reasonable 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 reasonable 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."

Investigation Information

Allegation 1: A recipient at Chester Mental Health Center is not receiving an allowance from his Social Security Disability benefits. To investigate the allegation, the HRA Investigation Team (Team), consisting of two members and the HRA Coordinator (Coordinator), conducted a site visit at the facility. During the visit, the Team spoke with the recipient whose rights were alleged to have been violated and the Chairman of the facility's Human Rights Committee (Chairman). The Team reviewed the recipient's clinical chart with his written authorization. The Coordinator reviewed information from the Social Security Administration's Website relevant to the allegation.

Interviews:

When the Team spoke with the recipient, he stated that the facility had not provided him with an allowance from his Social Security Disability benefits. He informed the Team that he would like to purchase several items; however, he is unable to do so because of the lack of funds.

Chairman:

According to the Chairman, the recipient does not receive Social Security Disability benefits. The Chairman stated that the recipient was admitted to Chester Mental Health Center as an involuntary admission from a correctional facility. He stated that Social Security benefits are not paid to an individual who is confined to an institution for a criminal offense and after serving the sentence is court -ordered to a state-operated mental health facility.

Chart Review

According to the recipient's 09/27/07 and 02/12/08 Treatment Plan Reviews (TPRs), the 47-year-old recipient was admitted to the facility on 10/24/03 from a correctional center. The recipient's TPRs indicated that he had served time in prison for sexual offenses in 1984 and 1991 and Aggravated Battery in 1995, and he is a registered sex offender. The record indicated that when the recipient was released from the correctional facility on 10/07/03, a correctional officer took him to the bus station. Documentation indicated that when the recipient became hostile and agitated at the bus station, staff refused to sell him a ticket and he was returned to the correctional facility. The record indicated that he was committed to the Department of Human Services on 10/23/03 and sent to the facility the following day.

The recipient's diagnoses were listed as follows: AXIS I; Schizophrenia, (Chronic, Paranoid) and History of Polysubstance Dependence; AXIS II: Antisocial Personality Disorder; AXIS III: History of Positive Purified Protein Derivative (PPD...TB Test), Hepatitis C, Pancytopenia; Axis IV: 10th Department of Human Services Hospitalization since 1984 and Multiple incarcerations since 1984.

Social Security Website

The Coordinator reviewed information from www.socialsecurity.gov. Documentation indicated that Social Security benefits are suspended if an otherwise eligible person is confined in a jail, prison, or other penal institution for more than 30 continuous days due to conviction of a crime.

According to the documentation, benefits are not paid to "someone who, by court order, is confined in an institution at public expense in connection with a criminal case if the court finds that the person is; guilty, but insane; not guilty of such an offense by reason of insanity or similar factors (such as a mental disease); or incompetent to stand trial for such an alleged offense."

Information from the Website indicated that benefits are not paid to an individual "who, immediately upon completion of a prison sentence for conviction of a criminal offense (an element of which is sexual activity) is confined by court order to an institution at public expense.

The confinement must be based on a court finding that the individual is a sexually dangerous person or sexual predator (or a similar findings.) However, if a person is not confined in prison or other similar place, benefits may be paid to an eligible individual.”

Summary

The recipient whose rights were alleged to have been violated informed the Team that he does not receive an allowance from his Social Security Benefits. According to the Chairman, the recipient does not receive any type of Social Security benefits. The recipient’s records indicated that he was confined to prison, then immediately after release he was sent to a state-operated mental health facility. Information from the Social Security Website indicated that Social Security and Supplemental Security benefits are suspended when an otherwise eligible is confined in jail or prison. Additional information from the Website indicated that if an individual immediately upon completion of a prison sentence for conviction of a criminal offense, an element of which is sexual activity, is confined by a court order in an institution at public expense, benefits are not allowed. According to the recipient’s records, he met the criteria for individuals who are not eligible for Social Security benefits. However, he has the opportunity to earn money by participating in the Living Skills Program, a program that rewards recipients for participation in various activities and taking positive action toward treatment goals.

Conclusion

Based on the HRA’s review of information, it is determined that the recipient was not receiving Social Security benefits; therefore, the allegation that he was not receiving an allowance from the benefits is unsubstantiated. No recommendations are issued.

Allegation 2: The recipient has not been allowed to vote. To investigate the allegation, the Team spoke with the recipient and the Chairman. The recipient’s clinical chart, the facility’s policy entitled “Patient Voter Registration”, and the Patient Handbook were reviewed.

Interviews

Recipient

During a site visit at the facility, the Team spoke with the recipient concerning the allegation. The recipient stated that he had informed staff that he wanted to vote; however, his request was not honored. The recipient did not provide the name(s) of the staff member(s) that he spoke to regarding his request or the date that the request was made.

Chairman

According to the Chairman, upon admission a staff member in the Patient Resource Unit will speak with each recipient to inquire whether the recipient would like to register to vote. If the recipient states that he would like to vote, the necessary forms are completed. If, when asked, the recipient declines to sign the form, staff will conduct a yearly review to determine if the recipient would like to complete the voter's registration form.

The Chairman stated that prior to an election, the recipient should contact his Therapist in order that arrangements could be made to secure an absentee ballot.

Clinical Chart and Patient Resource Information Review

Documentation indicated that the recipient was presented with voter registration information on 10/29/03. When he was asked if he wanted to register to vote, he informed the Patient Resource staff member that he was "already registered", and that information was recorded on the Voter's Registration Information Form.

The HRA did not note any documentation in the recipient's clinical chart regarding the recipient's request for staff to assist him in obtaining an absentee ballot for voting in any election.

Patient Voter Registration Policy

The HRA reviewed the facility's Patient Voter Registration Policy (Policy). According to the Policy Statement, "Patients at Chester Mental Health Center have the right to vote and will be assisted in voter registration."

The Procedure is listed as follows: "Patient Resource Unit (PRU) staff will contact the Unit Director regarding the appropriateness of approaching each patient within the first 30 days of residence at the facility to inquire whether or not the patient would like to register to vote. (All necessary forms are State of Illinois forms which are available in the Patient Resource Unit)."

Patient Response(s) were listed as follows: "1) If, when asked, the patient responds negatively on the Voter Registration Information Form (R-24), the PRU staff will ask the individual to sign the form and will file the form as described below. If the individual declines to sign the form, the PRU staff writes, "declined" on the form and initials it. The completion date of the R-24 will be noted on the PRU admission's log checklist. Each year the PRU staff will conduct a review, and patients who initially responded negatively will be recontacted. 2) If, when asked, the patient does not communicate any choice on the Voter Registration Information Form (R-24), PRU staff shall inform the patient that this is considered a negative response and will note on the form that the individual did not indicate a preference, staff will initial the form, and will file the form as described in below. The completion date of the R-24 will be noted on the PRU admission log checklist. Each year the PRU staff will conduct a review and patients who initially communicated no choice will be recontacted. 3) If, when asked, the patient indicates that he wants to register to vote on the Voter Registration Information Form (R-24), PRU staff will assist the patient filling out the Voter Registration Form (R-19A). The Voter

Registration Information Form (R-24) will be filed as described in below. The completion date of the R-24 will be noted on the PRU admission log checklist.”

Documentation in the Policy indicated that if the treatment team deems the recipient to be “clinically non-approachable”, this should be documented on a weekly basis in progress notes. If the recipient remains “clinically non-approachable” throughout the first 30 days of hospitalization, the recipient’s coordinating therapist will notify the PRU staff in writing and record this fact in the recipient’s clinical file. According to the Policy, the coordinating therapist should continue to assess the recipient for clinical appropriateness, and when the recipient is deemed appropriate, the therapist should notify PRU staff in order that the Voter Registration Information form (R-24) can be completed.

According to the Policy, the completed Voter Registration Forms (R-19A) with the completed Voter Registration Application Transmittal (R-25) is mailed to the appropriate county clerk no later than Friday of each week. The forms are mailed in an envelope that gives the State Board of Election as the return address rather than Chester Mental Health Center in order to maintain confidentiality.

The policy mandates that PRU staff retain Voter Registration Information form (R-24) and Voter Registration Application Transmittal (R-25) for two years in a separate file.

Patient Handbook (Handbook)

The HRA reviewed the Handbook, which is given to recipients upon admission to the facility. Information about the following is included in the various sections of the Handbook; an introduction of staff, facility description, Mission/Vision/Value Statements, Recovery Statement, unit information, recipient responsibilities, recipients’ rights, restriction of rights, complaint process, services provided, mail delivery, phone calls, visits, transfer or return from court, and a list of contraband items.

The Authority did not observe any information in any section of the Handbook that informed recipients of their right to vote, the voter’s registration process, and the steps that should be taken if a recipient wanted to obtain an absentee ballot for voting while he was a recipient at the facility.

Summary

According to the recipient, he informed staff that he wanted to vote in the election; however, his request was not honored. The recipient did not provide HRA with the name(s) of the staff member(s) that he contacted regarding his desire to vote. Records at the facility indicated that the recipient had informed PRU staff that he was registered to vote prior to his admission to the facility, and that information was documented on the Voter’s Registration Information Form. The facility has a policy pertinent to voter’s registration. However, the

policy, as well as the Handbook, did not outline the steps that are required for a recipient who is hospitalized during an election to be able to vote by absentee ballot.

Conclusion

The HRA acknowledges that the facility has a Voter's Registration Policy. However, the Authority believes that the facility has a responsibility to inform recipients who remain hospitalized during an election of the steps that are necessary to be able to participate in voting by absentee ballot. According to the Voter's Registration Act, it is the fundamental right of a citizen of the United States to vote and steps should be taken to promote the exercise of that right. Therefore, the allegation that the recipient was not allowed to vote is substantiated.

Recommendations

1. Chester Mental Health Center should include in the existing policy or develop an additional policy to outline specific procedures that are required in order to ensure that a recipient who is hospitalized at the facility during primary and general elections is able to vote by absentee ballot.
2. The recipient's right to vote and the steps necessary to enable each recipient to vote should be explained to recipients in the Patient Handbook.

Suggestions:

1. Case Managers and/or Therapists should review the lists of the recipients who are registered to vote. After reviewing the list, the Case Manager/Therapist should speak with each individual recipient to determine his desire to vote, to inform him of the steps required to obtain an absentee ballot, and to assist him in the process.

Allegation 4: The recipient is not receiving an adequate diet: To investigate the allegation, the Team spoke with the recipient and reviewed his clinical chart. During the site visit, the Team observed the serving of a noon meal.

Interview:

Recipient

When the Team spoke with the recipient about the allegation, he stated that he did not believe that he was been given a “good diet”. When asked to explain, he stated that he should have more eggs rather than chocolate donuts. The recipient did not express any dissatisfaction regarding the quantity or quality of the food, only specific menu items.

Chart Review

During the review of the recipient’s clinical chart, several dietary consultations were noted. According to a 10/24/03 consultation, when the Dietician spoke to the recipient about food allergies, he stated that he did not have any; however, pork items “gave him headaches”. Documentation indicated that the recipient stated that he had some difficulties chewing foods, and the Dietician offered to order a diet with chopped foods. The record indicated that the recipient agreed to the pork-free, chopped diet. It was also noted that the recipient was 14.77% above his Ideal Body Weight (IBW). Documentation indicated that the 10/24/03 review was a routine dietary assessment.

On 10/19/04, documentation indicated that the recipient had gained 25 lbs. since the 10/24/03 assessment. His IBW was listed as 155-176 and weight was recorded as 227 lbs. Documentation indicated the recipient’s diet remained the same; however he was encouraged to increase his activity in order to reduce his weight.

Documentation in a 04/07/05 Dietary Referral and Report Consultation indicated that the recipient requested to speak with the Dietician. During the meeting, the recipient requested that a nighttime fruit snack be substituted for a “house snack”, and documentation indicated that the recipient’s request was honored. The Dietician recorded that the recipient’s labs indicated decreasing albumin status, possibly due to a hepatic disease such as Hepatitis C.

On 10/20/05, a routine dietary consultation was conducted. The recipient’s diet was listed as pork-free with a fruit snack at bedtime. His weight was listed as 214 lbs. The Dietician documented that continued weight loss was beneficial since his lipids were elevated.

The Dietician recorded in an 11/07/06 dietary consultation that the recipient’s weight was 216 lbs. The recipient’s diet was to be continued as pork free per his preference with prune juice added for bowel regulation. The Dietician documented that a request had been made for a facility physician to evaluate the need for the recipient to receive lipid-lowering medication. The Dietician recommended that nursing staff monitor the recipient’s weight and encourage him to increase activity for weight and lipid control.

On 01/23/07, the recipient informed the Dietician that he wanted to have pork included in his diet and denied having any religious reason for previously requesting a pork-free diet. The Dietician discontinued the pork-free diet and ordered that the recipient have a regular diet. The Dietician requested that the recipient’s weight be monitored and a referral made for a re-evaluation if there was a significant change.

On 04/02/07, the recipient requested that the Dietician order a soft bedtime snack because he only has six teeth. According to the dietary consultation, the recipient's diet was changed on 04/04/07 to include a canned fruit snack at bedtime.

Documentation in all of the Dietary Referral and Report Consultations indicated that the recipient approved the diet that was ordered by the Dietician.

According to the facility policy, when a recipient is admitted to the facility the admitting physician will complete a nutritional assessment, as well as occupational therapy, physical therapy, and speech/hearing therapy assessments. After completing the evaluation, the results are documented in a functional assessment form. Any significant findings will result in a physician's order for a referral for appropriate follow-up services.

Additional nutritional assessments are conducted when a recipient requests a diet change, prior to TPRs, and when there is a change in the recipient's medical status. A recipient's dietary requests are honored provided that there is no medical contraindication.

Team Observation

During the site visit, the Team observed the serving of a noon meal. The Team noted that there was an ample serving of meat, vegetables, fruit/dessert, milk and bread. Each recipient obtained a food tray from the serving line that was prepared in accordance with his specified diet.

Summary

According to the recipient, he has not received specific food items that he would like to have received. However, documentation indicated that the recipient's nutritional status was routinely evaluated as well as upon request by the recipient. The record indicated that the Dietician made modifications in the recipient's diet when the recipient requested the change.

Conclusion

Based on the HRA's record review, the allegation that the recipient is not receiving an adequate diet is unsubstantiated. No recommendations are issued.

Allegation 4. The recipient is not receiving services in the least restrictive environment. To investigate the allegation, the Team spoke with the recipient and the Chairman during a site visit at the facility. The recipient's clinical chart was reviewed with his written authorization. The Coordinator spoke with an Illinois Guardianship and Advocacy Commission, Legal Advocacy Services (LAS) Attorney.

Interviews

Recipient

The recipient informed the Team that he has been at the facility almost five years. He stated that he had been free of restraints and seclusion for some time, and he believed that he should be transferred to a less restrictive state-operated facility nearer his family. He informed the Team that facility staff members have informed him that a transfer is forthcoming; however, he continues to be hospitalized at the facility.

Chairman

When the Team spoke with the Chairman about the allegation, he stated that the recipient had met the criteria for transfer, and the treatment team had recommended the transfer to a less restrictive facility. However, the recipient's transfer is placed on hold status, because of a medical condition that is being addressed by physicians in this area.

Record Review

According to a 09/27/07 TPR, in order for the recipient to be recommended for transfer to an open hospital, he must exhibit an ability to inhibit any significant impulses of violence toward himself or others for a minimum of 90 days. He must also express a genuine desire for transfer, be cooperative in his adjustments as exhibited by his statements, take medication as deemed essential, and make reasonable plans. Documentation indicated that he had met the criteria and had been recommended for transfer. However, when the recipient had some abnormal labs, he was referred to a specialist in St Louis. As a result of the recipient's treatment by the specialist, the recipient's transfer was postponed.

In the Criteria For Separation Section of the 02/12/08 TPR, documentation indicated the recipient must not exhibit any violence toward self or other and show no aggressive or threatening behavior for a period of 90 days. He must express a genuine desire for transfer, be cooperative as exhibited by his statements, take medication deemed essential, and make reasonable plans. Documentation indicated that the recipient had met the criteria and had been recommended for transfer. The record indicated that the hold status was removed because medical reports indicated that his medical condition would continue to deteriorate over time, and as the present time he was not a candidate for surgery.

Information from LAS Attorney

The LAS Attorney informed the Coordinator that the recipient had called the regional Illinois Guardianship and Advocacy office to report that he had been transferred from the facility to a less restrictive state-operated mental health center near his family. The LAS Attorney stated that the transfer occurred in early April 2008.

Summary

When the Team conducted a site visit at the facility, the recipient informed the Team that he had met the criteria for transfer to a less restrictive facility; however, the transfer had not been implemented. The Chairman stated that the recipient was recommended for transfer; however, when he experienced some health problems the transfer was placed on hold status. According to the recipient's record, when the recipient experienced some abnormal labs, he was referred to a specialist in St. Louis. As a result of his seeing a specialist in the area, his transfer was placed on hold status for some time. However, in the 02/12/08 TPR, documentation indicated that the recipient was once again recommended for transfer. The recipient contacted the LAS attorney at the Egyptian Regional Office to inform her that he had been transferred to a less restrictive environment.

Conclusion

According to the record, the transfer was placed on hold because the recipient was receiving treatment from an area specialist, and when additional information was obtained the hold status was rescinded. The HRA has determined that the recipient's rights were not violated; therefore, the allegation that the recipient is not receiving services in the least restrictive environment is unsubstantiated.