



FOR IMMEDIATE RELEASE

**REPORT OF FINDINGS
HELPING HAND REHABILITATION CENTER 09-040-9006
HUMAN RIGHTS AUTHORITY— South Suburban Region**

[Case Summary— The Authority did not substantiate the complaint as presented but found that the agency did not follow the Code's requirements concerning documentation in the resident's record. The public record on this case is recorded below; the provider's response immediately follows the report.]

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA), a division of the Illinois Guardianship and Advocacy Commission opened this investigation concerning Helping Hand Rehabilitation Center in December 2008. Located in Countryside, this agency provides Community Integrated Living Arrangement (CILA) services and day programming to persons with developmental disabilities. The complaint alleged that the agency: 1) did not provide the resident's guardian with financial and personal records upon request, 2) did not provide safeguards for the resident's personal property and funds, and, 3) did not adequately address the guardian's grievances.

If substantiated, these allegations would violate the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4), the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105), the Illinois Administrative Code for CILAs (59 Ill. Admin. Code 115.220 and 115.250) and the Code of Federal Regulations on Supplemental Security Income (SSI) for the Aged, Blind and Disabled (20 CFR 416.635 [a] [e]).

METHODOLOGY

To pursue the investigation, a site visit was conducted on March 10th, 2009. The Executive Director, the Chief Clinical Officer, the Associate Director of Marketing Development, a Qualified Mental Retardation Professional and a case manager were interviewed. The complaint was discussed with the prescreening agency as were case notes reviewed with written consent. Relevant agency policies were reviewed.

Sections of the resident's record and a copy of his Guardianship Order, dated January 19th, 1981, were reviewed with consent. This order appoints guardianship over the resident's personal care and finances. The HRA was provided with a copy of the settlement contract from the residential agency that was not part of the record reviewed.

Complaint # 1 Financial and personal records

According to the complaint, a resident's legal guardian requested financial and personal records concerning the eligible person, but the records were not provided. An administrative staff person reportedly held the resident's personal file across the table, and she would not allow his guardian to review the file.

FINDINGS

Information from the record, interviews and program policies

According to the record, the resident began receiving day programming services at Helping Hand Rehabilitation Center (HHRC) in January 1989. He was placed in the agency's Community Integrated Living Arrangement (CILA) program in January 1996. A bank account was opened in the resident's name for wages from his job training program and his (\$50.00) monthly allowance from Social Security Income. Contrary to the complaint, on December 13th, 2006, the guardian reportedly told the Case Manager that she was receiving the resident's bank statements monthly, but she was not getting the activity calendars monthly. There was no documentation in the residential record concerning a request from his guardian to review the record.

HHRC's Executive Director first responded to the complaint in a letter dated January 13th, 2009 stating that bank records are supplied to guardians upon their request or as provided by the bank. According to the letter, the guardian involved in the complaint was provided with financial documents monthly, and personal records are always available for guardians' review. However, the agency's request that those entitled to review the record should make an appointment with the assigned Case Manager so that a private area can be reserved and that staff can be available to answer any questions during the review. According to the letter, the guardian asked the previous Residential Supervisor to review the resident's record several years ago. The letter stated that the supervising staff person and the prescreening agency's caseworker were present during the record review. Per the letter, a meeting was held with the guardian, the prescreening agency's Director of Adult Services and the residential agency's Chief Clinical Officer in 2007. At this time, the guardian reportedly said that she had been lied to and requested to review the resident's record. She was asked when she would like to review the record. The guardian reportedly said that she did not trust the Chief Clinical Officer to give her the file. At the end of the meeting, the administrative staff person reportedly asked the guardian again when she would like to review the record. The guardian's response was not indicated in the letter.

When the complaint was discussed with the agency's staff, the Associate Director of Marketing Development (the previous Residential Supervisor) reported that she had a lot of interactions with the guardian who reportedly believed that she had tricked her. They repeated information referenced in the agency's letter such as financial records were provided to the guardian. The guardian requested to review the resident's personal records twice, but she only reviewed them once because she did not trust the staff. On questioning regarding documentation of banking records provided to the guardian, the investigation team was informed that form letters are not usually included in residents' records.

A prescreening caseworker remembered meeting with the residential staff and the guardian many times, but she could not recall whether the guardian reviewed the record as suggested in the agency's letter. There was no written prescreening agency documentation reviewed to support the residential agency's assertion. A case note dated April 17th, 2007 documented that a prescreening administrator would be meeting with the HHRC's Chief Clinical Officer and the guardian regarding her concerns. The prescreening administrator verified that the meeting did take place as suggested in the note. She confirmed that there was some discussion about the guardian reviewing the record, but the guardian did not have time because someone was waiting for her. She reportedly had told the guardian that every agency has procedures for reviewing records prior to the meeting. The prescreening administrator said that she even offered to have someone present from her agency whenever the guardian's schedule allowed for the record review.

HHRC's Banking and Budget Procedure- Residential policy states that a copy of the resident's bank book and activity calendar will be provided to the individual or guardian monthly.

According to the agency's client rights statement #13, recipients have the right to review their clinical records.

CONCLUSION

The Illinois Probate Act Section 5/11a-17 states that the personal guardian shall make provision for the ward's support, care, comfort, health, education and maintenance.

Section 5/11a-18 states,

To the extent specified in the order, establishing the guardianship, the guardian of the estate shall have the care, management and investment of the estate, shall manage the estate frugally and shall apply the income and principal of the estate so far as necessary for the comfort and suitable support and education of the ward..., or for any other purpose which the court deems to be for the best interests of the ward....

According to the Mental Health and Developmental Disabilities Confidentiality Act Section 110/4, the parent or guardian shall be entitled, upon request, to inspect and copy a recipient's record. Whenever access or modification is requested, the request and any other action taken thereon shall be noted in the recipient's record.

The Authority cannot substantiate that the agency did not provide financial records to the resident's guardian. A case note dated December 13th, 2006 recorded that the guardian said that she was receiving the resident's banking statements. The HRA found no clear evidence that the guardian was not allowed to review the resident's record upon her requests. However, the agency violates Section 110/4 because there was no written documentation of her requests in the

residential record. No violations of the agency's client rights statement #13 or policy were found.

RECOMMENDATION

1. Follow the Mental Health and Developmental Disabilities Confidentiality Act Section 110/4 and document all requests for access to records in recipients' charts.

SUGGESTIONS

1. Ensure that the Executive Director's statement that bank records are supplied to guardians upon their request or as provided by the bank does not conflict with the agency's policy.
2. The agency should document whenever financial records are provided upon a routine basis.

Complaints # 2 and 3 Personal property, funds and grievances

According to the complaint, the guardian dropped off a pair of red pajamas for the resident's birthday in 2006, but the item disappeared from his home shortly afterward. The guardian's calls to the Director of Residential Services about the missing pajamas were not returned until the agency's Executive Director was contacted. It was reported that the resident's under shorts kept disappearing, and a peer was seen taking them out of his dresser. The complaint further alleged that the agency sent letters to guardians stating that an employee had stolen money from residents in the home. The agency reportedly offered to reimburse the resident involved in the complaint between \$300.00 and \$400.00 provided that the guardian would sign a contract stating that she would not discuss the settlement with anyone. According to the complaint, the guardian refused to accept the settlement offer because financial records were not provided.

Information from the record, interviews and program policies

Documentation on July 13th, 2006 stated that the guardian told the assigned Qualified Mental Retardation Professional (QMRP) that the individual's birthday pajamas were missing. She stated that HHRC had given her "nothing but problems," and she began to talk about some issues that might have occurred years ago. She said that the resident had seven pairs of pajamas (four or five pairs of short pajamas). She said that the resident had worn his birthday pajamas once. The guardian was informed that a search would be done for the missing item, and that she would receive a call concerning the outcome. According to the note, the QMRP and the Director of Residential Services told the direct care staff to look for the resident's pajamas.

On July 14th, 2006, the QMRP wrote that the guardian proceeded to talk about the alleged missing pajamas, and she seemed unaware of their conversation on the previous day. She reported that she gave the red pajamas with a loud print to a certain direct care staff person about five weeks ago. She stated that the person who had accompanied her to the home could verify

her claim. She said that the resident should have seven pairs of long sleeve pajamas and four pairs with short sleeves. This contradicts her statement on July 13th, 2006. The guardian reported that she “blew up” during a return visit to the home after a staff person said that she would look around for the pajamas. On questioning, the guardian reported that she had paid \$25.00 for the pajamas; the retail price was \$35.00 and provided information where she had purchased the item. She then stated that she was concerned because no one had helped her. There was apparently some discussion about a log book because the guardian said that she had never seen the book. The QMRP described the book and told the guardian that she could review it anytime. Subsequently, the guardian reported seeing one of the resident's peers taking the individual's under shorts from his room and putting sugar in his coffee. She stated, "I [do not] want to feel like anyone is putting something over me." The guardian was reportedly informed that the direct care staff would continue to search for the pajamas.

On July 25th, 2006, the guardian told the QMRP that she had not called her back concerning the pajamas. The staff person said that she had called her twice, but there was no answer. The guardian reportedly did not believe the staff person. She then acknowledged that her phone does not have caller identification and that the agency's Case Manager had informed her that the QMRP had called her. She was informed that the pajamas had not been found nor did anyone recall seeing or receiving them. The guardian replied that she had been tricked in placing the resident in the agency's CILA program. She began talking about a radio that was supposedly broken some years ago but was in working condition after she had called an administrative staff person. The guardian then reported that the resident's coats and socks were missing and that a peer had taken some of the individual's clothing. According to the note, the QMRP explained that a binder would be placed in the home for the guardian to record every item that she brings for the resident. She said that items recorded in the binder would have to be signed and dated by the guardian and the direct care staff. The guardian reportedly asked why she should have to do this and kept saying "nothing but problems."

An inventory of the resident's belongings was done on August 14th, 2006. His “Personal Item Inventory” record consisted of more than five pages that included 13 pairs of underwear, eight pairs of pajamas, two pairs of slippers, and many other items. The next day, the Case Manager documented that she met with the guardian to discuss the procedures in place to ensure that the resident's clothes are not misplaced. The Case Manager wrote on September 18th, 2006 that the guardian said that she had received a call from the Residential Supervisor after she had contacted the agency's Executive Director. According to the note, the guardian said that she would call the Executive Director concerning any further problems with the Residential Supervisor. She then stated that the Residential Supervisor and another staff person had previously tricked her.

The Case Manager wrote on October 16th, 2006 that the guardian asked how much money she needed to send for the resident to attend the agency's Spaghetti Dinner. The staff person replied that she did not need to send any money. The guardian then inquired about three pairs of boxer shorts purchased for the resident prior to the newly established inventory procedures. The Case Manager said that she could not locate or identify clothing brought to the home before the new procedures were put in place. She then tried to reassure the guardian that she did not need to worry about missing items due to the implementation of the log book. But, the guardian

continued to inquiry about the boxer shorts and stated that she could not believe that anyone would "steal" from the resident. She requested that the direct care staff should be instructed to look for the boxer shorts and then said that she would call them. According to the note, the guardian said that she would send a check for the Spaghetti Dinner, and the staff person repeated that money was not needed.

According to the resident's Outcome Plan (dated January 12th, 2007), the Communication Log for all communications between the residential staff and the guardian was continued. Also, the "Items Received Log" for documenting items purchased by the guardian was continued.

A case note dated May 15th, 2007 indicated that the guardian was very upset and stated that, "you people better not be backstabbing me again." According to the note, the guardian said that she had been trying to reach a certain staff person (whom she believed was the resident's Case Manager) for a couple of weeks concerning the resident's next appointment with a particular physician, but her calls were not returned. The assigned Case Manager explained that she was aware of the guardian's calls and had called her a couple of times, but there was no answer. The guardian replied that she did not want to hear that because she was home. She was reminded that she did not have an answering machine or caller identification on her phone. She reminded the guardian that she was the assigned Case Manager worker and the most appropriate staff person to keep her informed about the resident's care. The guardian was also reminded that she had agreed to call the Case Manager regarding any questions or concerns. The guardian reportedly said that she did not know that the Case Manager was responsible for the resident's medical issues. She then inquired about the resident's next dental appointment, and she was informed that the information would also be sent to her.

Additionally, the note indicated that the guardian told the Case Manager that the resident's belt was torn in two or three places because the staff had washed the item. The guardian reported that she had discarded a pair of the resident's slippers during her last visit because the lining was torn. She said that she had purchased the slippers around the time that a certain staff person allegedly stole the resident's pajamas. The guardian threatened to have the police search the staff person's home because she was sure that they would find clothing with the resident's name written on them. The guardian was asked if she wanted the staff to take the resident shopping for a new pair of slippers. She replied that she was tired of spending money for missing items.

According to the agency's response letter, an inventory of personal belongings is maintained to ensure that each resident has appropriate clothing and the correct amount. Clothing is examined for wear and tear and might be discarded if not appropriate. The agency reportedly provides assistance in purchasing clothing for residents who lack personal funds. The letter referenced that this resident's behaviors included picking and tearing at his clothing. All clothing inspections and suggestions were reportedly discussed with the resident's guardian because of allegations over the years.

On July 16th, 2007, the resident was discharged from the HHRC and transferred to another CILA with his guardian's approval. An inventory of personal property recorded upon his discharge from the agency included furniture, television, bedding and eleven boxes of clothing

and other items. HHRC reportedly does not have a specific policy regarding residents' personal property. According to the agency's client rights statement #6, recipients have the right to their personal property and to wear clothing of their choice. It states that clothing shall be clean and in good repair.

According to a letter (dated July 25th, 2007) from HHRC, the guardian was informed about the possible misuse of clients funds. The letter stated that the agency's internal investigation suggested that the potential misuse of funds had "occurred in the recent past rather than over an extended period of time." According to the letter, the agency had changed its system of financial oversight and accountability to ensure that the likelihood of any future reoccurrence is significantly reduced. A second letter (dated October 15th, 2007) from the agency indicated that the guardian was offered \$493.00 for possible misuse of funds. The agency determined that the suspected staff person's job title allowed her to have access to clients' bank books between March 14th, 2007 and July 11th, 2007 ("at risk" period). The agency reviewed the resident's pattern of withdrawals prior to March 14th, 2007, totaled the average amount of withdrawals and subtracted the prior average amount from withdrawals made during the at risk period. The resident's withdrawals were as follows:

<u>Time Period</u>	<u># of Withdrawals</u>	<u>Total of Withdrawals</u>
March 14 th , 2006 - July 11 th , 2006	1	\$ 35.00
July 12 th , 2006 - November 13 th , 2006	7	88.00
November 14 th , 2006 - March 14 th , 2007	7	258.00
March 14 th , 2007 - July 11 th , 2007	9	620.00

The average withdrawals in prior periods total \$381.00 divided by 3 = \$127.00. The total withdrawals during the risk period was \$620.00 minus \$127.00 = \$493.00. The "Mutual Release and Settlement Agreement" states that the parties agree that they are accepting the offer on their own free will, they are fully informed of the meaning of the document, and they have been given the opportunity to seek legal advice.

In regard to possible misuse of funds, the agency's administration said that the staff person suspected of misusing residents' funds was terminated from the agency. The incident was reported to the police for possible criminal charges. When the settlement offer (\$493.00) was discussed, the agency's administration said that the staff person might have taken money from residents after they left the bank. A review of the resident's banking statement confirmed the withdrawals listed above.

According to HHRC's Banking and Budget Procedure- Residential policy, all bank accounts will be opened in the resident's name only, unless otherwise specified by the legal guardian. The staff will complete and initial all banking deposit and withdrawal documents with input and cooperation from the resident. All checks must be deposited in their entirety and will be reflected on the banking book. Residents will be escorted to the bank, and the staff will provide assistance as needed such as completing transactions and obtaining banking documents. The staff person will document with a second independent staff person (when available) that the deposits and withdrawals match the resident's bank book. All cash proceeds will be placed in

the resident's cash "pouch" and the amount of cash deposited in the pouch shall be documented on the "Client Petty Cash Reconciliation Sheet." All discrepancies or variances must be reported immediately to the Residential Supervisor.

The policy further states that the resident will be provided access to the cash pouch for spending upon request. The staff will document the amount of cash withdrawn on the petty cash reconciliation sheet and a second independent staff person (when available) will provide written confirmation of the cash withdrawal. Available cash receipts documenting purchases will be placed in the cash pouch with any returned cash. When available, two independent staff will provide written confirmation of the transactions. Residents and/or guardians understand that to allow for independent choices that purchases less than \$20.00 might not be recorded nor have receipts for substantiation. The staff will provide copies of the resident's bank book and activity calendar to residents or guardians monthly. They may contact the Case Manager to review records for small cash transactions and available receipts. The staff will provide copies of the bank book and statements to the agency's accounting staff on a quarterly basis for review and confirmation.

According to the "Client Weekly Budgeting Sheets," the petty cash reconciliation sheet should be completed on a daily basis upon every transaction. The budget planning sheet should be done weekly with the resident. Any budget or purchase over \$50.00 must be approved by the Residential Supervisor or the Director. The "Shift Exchange Petty Cash Check List" should be done weekly (Thursday through Wednesday) at the beginning and ending of every shift.

In regard to property, HHRC's staff stated that residents' belongings are inventoried upon admission, and personal items are updated. A July 25th case note stated that new procedures were put in place shortly after notice was given concerning the alleged missing pajamas. They included a log book for the guardian to record items brought to the home for the resident. The residential staff were also instructed to sign and date the items recorded in the book by the guardian. On questioning, the agency reported that they had procedures for safeguarding residents' belongings prior to the incident. The staff further explained that the home consisted of eight residents and that the resident involved in the complaint had a room to himself on the lower level. They said that the home was searched for the pajamas, and the Chief Clinical Officer said that he also looked for the pajamas. A complete inventory of the resident's belongings was done after the incident. According to HHRC's Executive Director, the guardian refused to accept money or replacement pajamas from the agency. The guardian denied that the agency made the above offer. But, the prescreening administrator recalled that there might have been some mention about reimbursing the guardian for the alleged missing pajamas during a meeting she had attended.

According to the Chief Clinical Officer, the agency requested assistance from the prescreening agency in trying to resolve the guardian's issues regarding services. The prescreening administrator said that guardian kept bringing up issues that the residential Chief Clinical Officer could not "fix" such as missing pajamas. Two prescreening caseworkers said that the guardian usually reported that items such as socks or pegboard game were missing. She also reportedly voiced concerns about missing clothing such as the pajamas at the annual

staffings. One of the prescreening caseworkers told the Authority that HHRC tried to resolve the guardian's grievances, but she did not trust certain people.

Additionally, the agency's response letter said that family members are part of the HHRC's team and that every effort is made to remain open, transparent and to resolve client issues with them. Each resident has a Person Centered Case Manager who is also responsible for promoting and coordinating communication. The resident's guardian was reportedly contacted on a regular basis, and she was invited to outcome planning staffings. The letter stated the guardian began to voice dissatisfaction with the agency's services in 2002 because she believed that she had tricked her in placing the resident in residential services. The agency reportedly held several meetings to regain the guardian's trust over a four year period, but she was not satisfied with the agency's efforts.

The agency's HHRC's "Grievance Policy" states that clients and guardians have the right to present grievances regarding decisions to deny, reduce, or terminate services. Grievances can also be presented for any perceived violation of clients' rights pursuant to the law or the agency's list of clients' rights. The procedure is as follows: 1) A copy of the grievance procedure is given to the client or legal guardian when the complaint is made. 2) The grievance must be submitted in writing to the immediate supervisor of the service area. The staff person will review all relevant records and respond in writing within five working days. 3) If the grievance is not resolved to the client or guardian's satisfaction, they have five working days to submit a written grievance to the Director of Services who will provide a written response within five days. 4) Unresolved grievances can be submitted to the Executive Director who will also respond in writing within five days. The decision of the Executive Director shall be considered the agency's resolution to the grievance. A copy of the notification to the client regarding the resolution will be maintained in the client's permanent file.

CONCLUSION

According to the CILA Rules Section 115.220 (e) (13) of the Illinois Administrative Code,

The community support team shall be directly responsible for working with the individual and parent(s) and/or guardian to convene special meetings of the team when there are issues that need to be addressed as brought to the attention of the team by the individual, parent(s) and /or guardian.

Section 115.250 (c) of the Illinois Administrative Code states that,

Individuals or guardians shall be permitted to present grievances and to appeal adverse decisions of the agency and other service providers up to and including the authorized agency representative. The agency representative's decision on the grievance shall be subject to review in accordance with the Administrative Review Law [735 ILCS 5/Art. III].

According to the Code of Federal Regulations Section 416.635 (a) (e), a representative payee has a responsibility to use the payments only for the benefit of the beneficiary and to keep a written accounting for the benefits received.

According to the Mental Health and Developmental Disabilities Code Section 5/2-105, when a recipient is discharged from a service provider, all of his money, including earnings shall be returned to him.

Although the agency does not have a policy regarding residents' personal property, a case note written on July 14th, 2006 suggests that there was a log book in the home for inventorying property prior to the missing pajamas incident. It appears that the guardian was not informed about the book until after the incident. The investigation also revealed that the agency has a system of management and protection for safeguarding resident's personal funds, but a staff person failed to follow them. The contract provided to the HRA documented that the guardian was advised that she could seek legal counseling before accepting the settlement offer of \$493.00 for possible misuse of the resident's funds. Also, there was no reference in the contract that she could not discuss the monetary offer with anyone else. There is no precise way to determine how much money was stolen from the resident because the agency does not track purchases of less than \$20.00. The HRA acknowledges that HHRC has made attempts to settle the resident's financial loss with his guardian, but all property must be returned upon discharge under Section 5/2-105. The Authority cannot substantiate that the agency did not provide safeguards for the resident's personal property and funds. No violations of Sections 115.220 (e) (13) or 416.635 (a) (e) or the agency's banking policy were found.

Based on the record and interviews, the Authority does not substantiate that the agency did not adequately address the guardian's grievances. However, the HRA encourages HHRC to utilize the prescreening agency's Individual Service and Support Advocacy at the earliest identification of a problem. No violations of Section 115.250 (c) or the agency's grievance policy were found.

COMMENT

In view of the situation, the Authority finds that HHRC has made efforts to comply with Section 5/2-105, but the agency must immediately send the resident's guardian a check for \$493.00 (the average amount of withdrawals from his bank account) in respect to the Section.

SUGGESTIONS

1. Ensure that residents' personal belongings are inventoried on a regular basis.
2. The agency should consider developing a policy that addresses safeguarding residents' personal property.
3. Although there was no inventory record of the alleged item, the HRA suggests that the agency's administration should contact the guardian and offer again to replace the pajamas or make some monetary reimbursement to resolve this issue.

4. The agency should interview all persons necessary for resolution of complaints.

RESPONSE

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



July 9, 2009

Theresa Buell, Chairperson
Human Rights Authority
South Suburban Region
P.O. Box 7009
Hines, IL 60141-7009

Re: #09-040-9006

Dear Ms. Buell:

I apologize for not meeting the initial required timelines for a response to your recommendation in this case.

Based on your recommendation, I have sent the enclosed email to all adult services staff reminding them of the requirements of Section 110/4 of the Mental Health and Developmental Disabilities Confidentiality Act. Adherence to this requirement will be checked periodically to assure proper documentation.

Thank you for your recommendation and your understanding.

Sincerely,

A handwritten signature in cursive script that reads "Dennis F. Trybus".

Dennis F. Trybus Ph.D.
Executive Director

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