FOR IMMEDIATE RELEASE

Peoria Regional Human Rights Authority
Report of Findings
Case #09-090-9022
Southside Office of Concern

The Peoria Regional Human Rights Authority, a division of the Illinois Guardianship and Advocacy Commission, accepted for investigation the following allegations concerning the Southside Office of Concern:

1. The Center provides inadequate case management services.

2. The manner in which case managers interacted with a service recipient was inappropriate and unprofessional.

3. A service recipient requested a female case manager; the request was repeatedly delayed.

4. The Center lacks a formal grievance process.

If found substantiated, the allegations represent violations of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.), regulations that govern community mental health centers (59 Ill. Admin. Code 132) and regulations that govern the home-based support program (59 Ill. Admin. Code 117). The Office, located in Peoria, provides residential and mental health services to approximately 130 individuals.

To investigate the allegations, the HRA interviewed agency staff, examined pertinent agency policies and reviewed, with consent, the record of a service recipient.

COMPLAINT STATEMENT

According to the complaint a service recipient has recurrent depression. The agency is involved in the provision of home-based program services. The complaint states that an assigned male case manager was verbally abusive and caused the recipient stress and increased symptoms of depression to the point of scaring her. The case manager reportedly lost needed service receipts, would complain about the number of receipts submitted, and expected the recipient to bring in receipts twice per month. Sometimes, the case manager would allegedly not show up for appointments. The complaint states that the recipient already had problems with men and had difficulty asserting herself to the male case manager. After about a year, the recipient was assigned another male case manager who failed to address the recipient's complaints about the prior case manager. The complaint indicates that the new case manager met with the recipient

for about a year and during this time, he was reportedly unreliable and scolded the recipient about medication and her mental illness. He allegedly made contact with another service provider without involving the recipient and informed the other provider that the recipient was paranoid and delusional. Also, payment of service receipts was delayed for no apparent reason as per the complaint. At some point, the case manager reportedly wanted to meet with the recipient alone in a room and then again after agency hours. When the recipient complained, the agency allegedly retaliated by holding a meeting to refer her to another agency and when she did not proceed with the transfer, discharge was pursued. The complaint states that the agency grievance process was never shared with the recipient.

FINDINGS

Agency Interviews

An HRA team met with and interviewed agency administrative staff, including the agency director, the recipient's most recent case manager and a member of the agency board of directors. The HRA team began by securing general information regarding the agency and its services. Staff reported that most individuals come to the agency for housing. While the agency serves 130 total clients, 100 individuals receive housing in the 100-unit building and others receive services only. Three individuals receive home-based service facilitation. Upon admission to the agency's services, an orientation is provided and the treatment planning process begins. There are 5 community support counselors plus the clinical director who each carry a caseload totaling anywhere from 1 to 20 individuals. All counselors meet QMHP (Qualified Mental Health Professional) requirements. The agency is overseen by a board of directors that meets monthly. Complaints are handled internally but can be filed with an external entity at any time. Annual reports of complaints are shared with the board. The administrative team which also comprises the internal human rights committee meets weekly to review complaints or concerns. A consumer council also meets weekly and serves as a forum for complaints; a consumer representative serves on the board. All complaints receive a written response. The agency has 12 total staff. Staff indicated that the agency is often considered the agency of last resort when other service arrangements have failed.

The agency explained that in 2006, a service transition occurred as a result of funding. The agency began limiting services to those described as "community support services." Case management, representative payee and home-based services were no longer provided unless provided in conjunction with community support services. The recipient in this case participated in the home-based services program. For the home-based services program, which was described as a complicated fiduciary program, the agency has only been able to provide recipients with service "facilitation," or a means to process bills; recipients bring in receipts and an agency administrator processes the receipts through a billing system. With the service transition came changes in staff assignments based on required staff qualifications.

According to staff, the recipient in this case was informed of the service transition and the changes in staff assignments; she is reported to have agreed to the second male counselor but later complained. The second counselor who is also the agency's clinical supervisor stated that he investigated the recipient's complaints about the initial counselor; the agency director reported she reviewed as well and felt that the matter was resolved. However, the director later received complaint calls from the recipient which were reviewed with the counselor/supervisor. The

director requested that the client identify a resolution she was seeking but the client did not or could not specify a desired outcome. The client had been receiving home based services for which there are no strict guidelines; with the transition, the agency simply collected and submitted the recipient's service receipts. However, the counselor determined that the recipient needed a different level of treatment, completed an assessment in September 2007 and developed a treatment plan for mental health services in addition to the home-based facilitation. Three treatment plans were developed for the recipient with the last one being completed in July 2008; the recipient signed the plans. Because the agency has no psychiatrist, referrals for psychiatric care are made to the area's primary community mental health center. For this recipient, the counselor referred her to the primary mental health provider for psychiatric visits. However, the recipient saw this referral as an intrusion and later refused psychiatric services. Regardless, the Southside Office of Concern initiated community support services in the form of counseling for the recipient. The initial counselor was supervised by the clinical supervisor who reviewed an incident report filed by the recipient in June 2007. According to staff, the recipient could not provide specifics, expressed a general uneasiness about the counselor but did not request a female counselor at that time. The supervisor stated that the recipient seemed to have concerns about being in the lobby with other recipients while awaiting counseling sessions. The supervisor stated that he tried to accommodate the recipient by offering sessions at 5 p.m., by meeting the recipient in the interview room and by offering to meet elsewhere. Even when the recipient refused to meet, the agency still provided home-based program facilitation with the recipient bringing in receipts "at times." Receipts could initially be submitted for almost anything according to staff but eventually the Department (of Human Services) notified the agency that certain items would no longer be covered; an example given was kitty litter. The Department expected the agency to inform the recipient of the limitations. In general, the agency saw the client about one time per month for the processing of service receipts.

According to the agency, a female counselor was eventually hired in October 2008 and the supervisor offered her to the recipient; however, the recipient requested another male counselor instead. The clinical supervisor indicated that he saw progress with the client until about November of 2009. He stated that he was dealing with a crisis and the recipient was in the lobby awaiting assistance with her receipts and looked uncomfortable. He then arranged for her to sit in the counseling room and asked that an administrator copy her receipts when he would usually handle this task. When the session ended, the recipient scheduled another session but then complaints started coming in with multiple accusatory voice mails to the supervisor and contact with Department representatives. The supervisor did make contact with the psychiatrist at the primary mental health center based on an existing consent but when the consent expired, contact ended. The recipient repeatedly used voice mail to leave messages which the supervisor would review to keep track of the recipient; however, she no longer met with the supervisor and rarely brought in service receipts. When the recipient initiated contact with yet another community mental health provider, the agency initiated a discharge summary. Even still, the agency reported that it attempted to secure receipts from the recipient, held conference calls with the Department and one with the client, and tried to identify options that would be agreeable to the recipient but the recipient did not get back to the agency. In August of 2009, the agency director attempted to schedule a meeting with the recipient who suggested that the director call back in the next year.

The agency director reported that she spoke with the recipient about her complaints. The recipient also wrote up complaints in a letter dated June 30th to which the director responded. However, the director reported that she did not respond to all of the numerous voice mails and letters as they were repetitive.

Eventually the Department instructed the agency to terminate services and refer her back to the Department; the Department directed the agency to write a letter to this effect. The agency learned that the recipient was turned down by other community mental health providers for home-based facilitation but one community provider did provide counseling.

Tour

During a tour of the agency, HRA representatives observed the lobby area which was frequently occupied by residents/clients, the availability of private meeting rooms, an office area, and an example of an apartment. The HRA noted that a resident rights statement was posted in the lobby area.

Record Review

With recipient consent, the HRA examined the record of the recipient in this case. Initial documentation in progress notes dating back to August 2006 indicate that the recipient would bring in service receipts to the agency every two weeks. Documentation from December 2006 indicated that the client was stressed over the process of turning in bills, that staff were pushing her in getting her bills in and that staff informed her that delayed receipts would result in delayed payments.

On January 5, 2007, the recipient signed a consent for services as well as a privacy notice statement. A representative payee agreement was also signed indicating the male caseworker's name; however, the payee agreement states that no funds would be received or expended for the recipient. A client's rights statement was signed on the same date which included the right to dignity and respect, the right to individualized treatment planning, the right to be kept informed of program rules, regulations and expectations, the right to voice complaints, the right not to be terminated from services for exercising rights and the right to voluntarily terminate services. Beginning in June 2007, the agency documented voice mail messages left by the recipient. The messages describe complaints about the caseworker such as his not showing up for appointments, having to return for appointments because paperwork is not ready, psychological abuse, his losing the service receipts, a description of conversations between the recipient and caseworker over appointments, the time frame for turning in receipts, the caseworker's reported complaints about the number of complaints, communication problems with the caseworker, and confidentiality concerns. An incident report dated 06-08-07 indicated that the recipient was uncomfortable with her case manager, that she felt she was not being listened to and she felt mistreated. The clinical supervisor signed the report and indicated plans to meet with her. A plan of action form was completed on 06-31-07 stating that the recipient reiterated her concerns but could not provide specific dates and times, that the case manager offered to meet with her at her home to avoid confusion but she refused and that she would like a change in counselors. The notes indicated that the recipient agreed to being reassigned to the clinical director; there was no documentation related to a request for a female case manager. The plan of action form allows

for review by the agency director and health and safety committee but these items were not completed. On 06-13-07 the recipient signed a one-year release for the psychiatrist at the primary mental health center to assess and treat the recipient and a confidentiality statement was signed on 08-01-07. An assessment dated 09-01-07 identified the diagnoses of major depressive disorder and borderline personality disorder. The assessment recommended as part of community mental health services a psychiatric evaluation, individual counseling, client-centered consultation and case management. The assessment further stated that the client is only able to participate in a certain level of services due to fears but would be responsive to bi-weekly therapy and phone checks. A service plan also dated 09-01-07 indicated the goal of improving coping skills through improving her ability to deal with conflict; monthly individual therapy sessions were identified as the service to be provided. A second goal was identified for the client to improve social interactions by exploring options to increase social options. The client and counselor signed the plan. Prescription summaries were also noted for 2007.

In 2008, a new treatment plan was developed effective 01-05-08 with goals to improve coping skills, improve physical and mental health and improve relationship skills via continued monthly sessions. The psychiatrist for the primary community mental health center was listed as a resource for making recommendations for medications. The recipient signed the plan. A revised rights statement was signed by the recipient at the same time. The rights statement described the role of the agency referencing the terms, "community support," and identifying the Department as the funding mechanism. The statement included the same rights as the prior statement but also adds new items such as the right to request another counselor or service agency, the right to be informed when the agency bills the Department and the right to refuse Department payment for services. Also signed on 01-05-08 was a description of the complaint resolution process identifying the various steps for filing a complaint with each step resulting in a written response to the recipient. The complaint process also identified contact information for external advocacy resources. On 06-10-08, the recipient signed a one-year release allowing the primary mental health provider to share information about the recipient with the agency for the purpose of continuity of care; the recipient also signed a release allowing the agency to share information with the primary mental health provider. A new treatment plan, with the same goals and objectives, was signed by the recipient on 07-01-08. Another assessment was completed on 09-01-08 with the results mirroring the results of the 2007 evaluation.

In February 2009, the recipient received a letter from the Department which provided clarification on items that can and cannot be reimbursed by the home-based support program. On 06-01-09, the clinical supervisor signed a clinical transition/discharge summary form which stated that the recipient is choosing not to be in contact with the agency. There was no indication that the recipient received a copy of the form; a check-off for client notification and the client signature lines were blank. In a letter dated 06-30-09 from the recipient to the agency director, the recipient documented that she is seeing a psychiatrist at the primary mental health center and a therapist at yet another agency. She referenced telephone contact from a female agency staff person and discussed her interest in female versus male case manager. The letter also referenced concerns about the prior case manager and then with the new case manager. A more formal discharge summary was completed on 06-30-09 which described the recipient's status and the agencies that will be providing services. In a July 6, 2009 letter from the agency to the recipient, the agency director responded to the recipient's concerns about the case managers. In the

director's letter she documented the change of case managers after dissatisfaction with the first one, the 5 p.m. appointments made to accommodate the recipient's discomfort in sitting with other consumers while awaiting her appointment, the offer to transfer to a new female case manager and her attempts to reach the recipient to schedule appointments, the recipient's repeated refusals for services thus indicating a withdrawal from the agency, and the recipient's signed treatment plans and rights statements. The director concluded by stating that while the recipient has withdrawn from community support services, she remains an active participant of the home-based program. The letter stated that "Since 2007, it has been the agency's practice to provide Home-Based services and Representative Payeeship services only to consumers receiving their other community support services here due to the financial constraints involved in administering those services. Therefore, we will be terminating those services in the future after having approval from the Department of Human Services to do so….Until that time, please continue to submit your receipts for processing in the same manner that you have in the past….As of this letter, it is my understanding that you have not brought in any receipts since December. If you are not willing to bring the receipts in, please mail them…." Another letter from the director and dated 08-25-09 states that the Office "…will be terminating our role as your home-based Service Facilitator effective September 30, 2009. At your request, your mental health therapeutic services have been previously terminated and you have enrolled in therapeutic services with [another community mental health center]. Due to financial and resource constraints, SSOC ceased the provision of service facilitation services in 2007 to individuals who were not participating in other therapeutic services with our agency. This does not mean that you are not eligible to continue to receive those services -- that determination is made by the Illinois Department of Human Services….You will need to contact the IDHS to obtain agency and contact information of other providers who may be able to provide home-based service facilitation for you….SSOC has processed and submitted all requests for payments received as of this date….However, you have not submitted receipts of your personal purchases that are eligible for reimbursement since May. SSOC will continue to accept receipts for purchases made through 9/20/09; but, all recipients must be submitted no later than 10/15/09…."

The HRA examined Illinois Department of Human Services documents. A summary of payments dating from July 2008 through June 2009 indicated payments made to the recipient, to a pharmacy, to the Center and to a community mental health center were listed in the summary. An August 28, 2009 letter from the Department to the recipient verifies notification that the South Side Office of concern would no longer handle service facilitation and that, as of 09-30-09, the recipient will have to make other arrangements. The letter recommended applying for medical assistance or finding a new service facilitation agency.

Policies and Forms

The Authority concluded its review by examining pertinent policies and forms. The Housing and Services Intake Process and Admission Criteria process describes the service eligibility requirements which include a diagnosis of mental illness, and the ability and willingness to participate in supportive services in additional to other criteria. An intake interview is then held after which a determination of admission is made. The policy concludes by indicating that upon admission to the housing program, a case manager is assigned, a mental health assessment is completed and a service plan is developed. The policy does not specifically mention clients who are not in the housing program nor does it specify that the provision of

ancillary services such as home-based facilitation or representative payeeship are contingent upon recipient compliance with the provision of community support services.

A New Resident Orientation checklist was reviewed which covers a variety of topics including community resources, resident manual, resident counsel, and safety measures. The form requires staff to initial and date the list when staff have covered a topic with a resident. Center staff also shared a copy of a Department of Human Services community handbook given to all clients, non-residents included. The handbook addresses rights information, program descriptions and other related topics such as preparing for a psychiatrist appointment.

A Health and Safety Committee form was shared with the Authority; the form allows for the documentation of committee review and recommendations pertaining to an issue with signature lines for the committee chair and program director.

Finally, the Authority reviewed the agency's annual compliance report for the office for fiscal year 2008 (07-01-07 to 06-30-08). The document indicated one contact with the Office of Inspector General by the agency to report a client death. A total of 139 incident reports were filed but these incidents appeared to be related to contractual employees rather than residents or clients. One client grievance was filed over a discharge for aggressive behavior; the matter was resolved by providing the resident with additional time to find a new residence. The report indicated the agency's licensing and accreditation status as well as recent audits and internal reviews.

MANDATES

According to the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), "A recipient of services shall be provided with adequate and humane care and services in the least restrictive environment, pursuant to an individual services plan. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible…."

Regulations that govern community mental health centers (59 Ill. Admin. Code 132) guarantee recipient rights in Section 132.142, including the right to be free from abuse, neglect and exploitation, the right to mental health services in the least restrictive setting, the right to file grievances, the right to not be terminated from services for exercising rights and the right to contact the public funding source and be informed of the source's grievance process. Section 132.145 addresses general provisions and requires agencies to provide a minimum of a mental assessment, treatment planning and an additional mental health service. Furthermore, the section states that when an agency is discharging a client, the agency is to ensure continuity of services:

> *The provider shall: 1) Communicate…relevant treatment and service information prior to or at the time that the client is transferred to a receiving program …or is terminated from service and referred to a program operated by another service provider, if the client…provides written authorization; and 2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services.*

Section 132.148 covers the evaluation process and planning and states that the mental health assessment is to be completed within 30 days. The assessment culminates in the development of a treatment plan within 45 days after the assessment; clients are to actively participate in the development of the plan. The qualified staff person is responsible for the plan which is to be reviewed every 6 months and include continuity of care planning as well as transition/discharge dates. Section 132.150 describes the range of mental health services as well as service termination criteria. In general, services are to be provided through client contact in person, by phone or by videoconference and either on or off-site as per a specific service. Service termination criteria include the following:

> *A) Determination that the client's acute symptomatology has improved and improvement can be maintained; B) Determination that the client's level of role functioning has significantly deteriorated to a degree where referral or transfer to a more intensive mental health treatment is indicated; or C) Documentation in the client's clinical record that the client terminated participation in the program.*

Community Support is defined in this section as: "Individual services are mental health rehabilitation services and supports for children, adolescents, families and adults necessary to assist clients in achieving rehabilitative, resiliency and recovery goals. The service consists of therapeutic interventions that facilitate illness self-management, skill building, identification and use of natural supports, and use of community resources." Examples of community support activities include the identification of resources, assistance with crisis plans, supporting client self-advocacy and skill building for community living. The program requires client contact in person, by phone or by video conferencing and the services are to occur at times and places that accommodate the client's needs. Eligibility requirements for community support services indicate that the program is to service individuals who require support for moderate to severe mental health services as well as three additional requirements such as repeated inpatient readmissions, frequent use of crisis services, and a history of not following through on treatment plan issues.

The Home-Based Support Program is also addressed through regulations (59 Ill. Admin. Code 117). Section 117.200 describes eligibility criteria including the requirements that the individual resides in his own home, needs home services, and has a severe mental illness. Services are purchased and can include home health, service facilitation, crisis management, rehabilitation services, etc. With regard to service facilitation, the regulations state the following:

> *a) The Department [of Human Services] shall notify individuals who are chosen to participate in the program in writing of the availability of an array of community services which Department-designated agencies can provide, including service facilitation. b) Periodically, as desired by the individual but no less than annually, the service facilitator shall review with the individual the adequacy of the plan and make any modifications desired by the individual.*

Finally, Section 117.240 states that home based services can be terminated if a recipient no longer meets eligibility criteria; also, any changes are to be reported to the Department within 30 days.

CONCLUSIONS

Complaints #1 and 2: The Center provides inadequate case management services. The manner in which case managers interacted with a service recipient was inappropriate and unprofessional.

According to the complaints, case mangers were unreliable, lost receipts, would not show up for appointments, delayed reimbursements on service receipts, scolded the recipient and were verbally abusive. The complaints also indicate that the case manager made a referral to a psychiatrist and shared confidential information without consent.

Staff reported that during a period of service transition, caseworkers were reassigned and the recipient in this case agreed with the reassignment. Upon the reassignment, the client complained about the prior case manager which resulted in the filing of an incident report. The new case manager pursued the provision of additional services for the client to which she agreed, including a psychiatric referral. Treatment plans were developed. Eventually the client became dissatisfied with the more recent case manager who was also the clinical supervisor; attempts had been made to alter the location of services based on the perceived discomfort of receiving counseling at the agency location. The agency director reported attempts to address the recipient's concern and reach a resolution but the client would reportedly not provide specifics or identify a desired outcome.

The record demonstrated that bills were submitted and reimbursements were made although the recipient appeared to be stressed at times over the frequency of bill submissions as per documentation. Assessments were completed and treatment plans were developed and signed by the recipient. Releases allowing agency referrals to and contacts with the psychiatrist were also signed by the recipient in 2007 and 2008. It appears that services were offered and bills were submitted until the recipient discontinued contact. The record contained an incident report with regard to the initial case worker and documentation concerning multiple voice mail messages from the recipient complaining about the case worker; a plan of correction was included with the report which indicated the reassignment of a new caseworker. Documentation indicated that the recipient agreed to the reassignment. When complaints were indicated about the second case manager, the agency director responded to the recipient, in writing, indicating her review of case manager concerns and requesting more specifics as well as the identification of a desired outcome. The recipient did not provide the requested information as per the record. The agency rights statement which includes the right to services to meet needs, the right to be treated with dignity and respect and the right to file complaints was signed by the recipient and a copy was posted in a public area of the agency.

The agency maintains a policy on service eligibility that describes service eligibility requirements although the policy seems to focus on clients who are receiving housing. The HRA

examined evidence of annual compliance reviews completed to evaluate service provision, complaints and areas of potential risk.

The Mental Health Code requires adequate and humane care and treatment. Regulations that govern community mental health providers require the provision of assessments, treatment planning and referrals to any other needed mental health services, with recipient consent. For home based services, a facilitator is to review the adequacy of a client's service plan and make any needed modifications.

While the HRA could not confirm or deny the manner in which the case workers interacted with the recipient, the HRA was able to confirm that caseworkers submitted bills, provided assessments, and developed treatment plans consistent with requirements. Therefore the case management complaints are not substantiated. The HRA does take this opportunity to offer the following suggestions:

1. Consider revisions to the eligibility policy to ensure that it is inclusive of individuals who receive agency services outside of the housing arrangement. Include with the policy the requirement that the provision of ancillary services such as home based facilitation and representative payeeship is contingent upon the receipt of community support services.
2. As part of the annual compliance review, consider a means to conduct periodic checks of case manager interactions with clients.
3. The HRA did not find any clear evidence of the information shared with clients about the service transition and believes that this change had the potential of confusing service recipients. To ensure that clients gain an understanding of service transitions or changes, review the manner in which such information is relayed to clients; consider multiple and repeated approaches.

Complaint #3: A service recipient requested a female case manager; the request was repeatedly delayed.

Staff reported that the agency offered the recipient a female case manager in 2008 and that no female case managers were available prior to that date. In reviewing the recipient's record, the HRA found no documentation of the recipient's request for a female case manager until the client's 06-30-09 letter and the agency director responded in agreement with the recipient's June 2009 request in a letter dated 07-06-09. Prior to that, the record indicated the client's agreement with the assignment of the second, male case manager.

While the HRA does not dispute that the client may feel more comfortable with a female case manager, the available evidence does not indicate that a request for a female case manager was repeatedly delayed. Therefore, the complaint is not substantiated. The HRA does suggest the following:

If a recipient requests a preference with regard to service provision, document the request, the agency response to the request and any reasons why the request cannot be fulfilled.

Complaint #4: The Center lacks a formal grievance process.

The supervisor stated that he investigated the recipient's complaints concerning her case manager. The agency director stated she reviewed the investigation and later provided the recipient with a written response when complaints continued and new complaints were submitted in writing. The director stated that the client would not provide complaint specifics allowing for a more thorough investigation and she would not identify what she was seeking to resolve the matter. Staff also reported that the agency has teams that conduct annual reviews related to complaints.

The HRA found an incident report related to complaints about the initial case manager; and, while a plan of action was developed, there was no documented review by the director or safety committee as the review section of the incident form was left blank. The HRA did examine the Annual Compliance Review Report which includes a review of complaints. Also, the agency rights statement which references the right to file a complaint was signed by the client on at least two occasions. And, a formal complaint resolution process was signed by the recipient in 2008. There was no evidence that the actions that subsequently occurred were due to any complaints voiced. According to the documentation, service referrals and eventual termination appeared to be based on client needs and the lack of contact by the recipient.

Based on the evidence, the HRA does not substantiate the allegation that the agency has an inadequate grievance process. The HRA does offer the following suggestion:

1. Ensure that the agency fully utilizes its incident form and document administrative and committee reviews.

The HRA acknowledges the full cooperation of the agency and its staff during the course of its investigation.