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REPORT OF FINDINGS
TRINITY SERVICES, INCORPORATED— 10-040-9011
HUMAN RIGHTS AUTHORITY— South Suburban Region

[Case Summary— The Authority made corrective recommendations regarding the two allegations that were accepted by the service provider. The public record on this case is recorded below; the provider requested that its response not be included as part of the public record.]

INTRODUCTION

The Human Rights Authority has completed its investigation into allegations concerning Trinity Services. The complaint alleged the following: 1) The agency's Community Integrated Living Arrangement (CILA) staff failed to provide residents with adequate day programming and implement goals outlined in their services plans. 2) A guardian is not informed about changes in residents' day training sites and injuries. If substantiated, these allegations would be violations of the Mental Health and Developmental Disabilities Code (the Code) (405 ILCS 5/1-100 et seq.), the Illinois Administrative Code (CILA Rules, 59 Ill. Admin. Code 115.100 et seq.), Mandated Reporting to the Office of the Inspector General (59 Ill. Admin. Code 50.20) and the Illinois Probate Act (755 ILCS 5/11a-17 and 5/11a-23).

Located in Joliet, Trinity Services, Inc., manages fifteen (15) Community Integrated Living Arrangements with a total population of 94 residents. It serves more than 1400 children and adults with developmental disabilities and behavioral health needs in Peoria, the south and northwest suburban regions of Chicago, Illinois, South Central Illinois near Mascoutah, as well as northern Nevada. This agency also provides employment, counseling and respite services.

METHODOLOGY

To pursue the investigation, on May 4th, 2010, the agency's Director of Residential Services, the Associate Director of Residential Services, a Behavioral Analyst and five Qualified Developmental Disability Professionals were interviewed. Sections of eight residents' records were reviewed with consent. Injury reports regarding all eight residents were requested for 2009, but the records reviewed indicated that only four of them met this criterion. The complaint was discussed with the residents' guardian. Relevant agency policies were also reviewed.

COMPLAINTS #1 AND 2: PROGRAMMING

The complaint stated that residents' goals are not routinely implemented and monitored for progress especially for elderly individuals. Additionally, the complaint alleged that the guardian is not informed about changes in residents' day training sites.

Information from the record, interviews and program policies

Resident A's "Individual Service Plan" (ISP) dated June 4th, 2009 indicated that she had been working three days a week in the community and two days at a day training center managed by Trinity. According to the Observation Summary Sheets for March, April and May 2009, the resident's program was changed because there was a fire at her community job She was assigned to the agency's day training program five days a week until her other job reopened. The record lacked a written statement that the guardian was informed about her program change. It was recorded that setting goals for the resident was challenging because she usually achieved them within a few months. Her plan included objectives to be achieved by June 2010 as follows: 1) to brush her teeth properly, 2) to put three quarters in a slot box, 3) to apply chapstick after meals, 4) to put a dollar bill in the change machine to get quarters for pop, 5) to apply lotion at bedtime, and, 6) to wear her work badge and key at work. The Objectives Summary Sheets documented that the Qualified Mental Health Retardation Professional (QMRP) responsible for overseeing the plan's implementation was in training from June through September 2009. During the site visit, the staff told the HRA that the resident's home companion did not value running the goals. The home companion and the direct care staff duties are the same in the home. For June and July, goal #6 could not be assessed because of the fire at her job but was achieved up to 100% by December. Objectives #1, 4 and 5 were discontinued, and five goals were added to her plan on December 11th. But, there was data available to assess only one goal for that same month. The staff were trained on running three goals on that next month, and five objectives were achieved at 0% to 100% from January through March. One goal could not be assessed because she did not have any reported illness from February through April. Another goal was run by the day training program staff and achieved at 0% for January and 25% on that next month.

Resident B's ISP dated June 4th, 2009 referenced that he attends the agency's Adult Learning Center five days a week. His plan included objectives to be achieved by June 2010 as follows: 1) to identify the appropriate restroom signs in the community, 2) to make a purchase and accept change back, 3) to identify a picture of himself, 4) to verbally request preferred items, and, 5) to make a sandwich. From June through October, there was only data available concerning the first three goals for September and to support goal #4 for August and October. From December through May, goal #1 was not run for March, goal #2 from January through April, and goal #3 for December and February. Also, there was no data concerning goal #5 from June through December and February and April. This goal was achieved at 16% for January and 38% for March.

Resident C's ISP dated October 2nd, 2009 indicated that she is employed and attends the agency's supported employment program during the day. Her job sites and work hours were changed. Her day training program was moved to a new location and then to a new building. An email dated February 3rd, 2010 from the agency addressed to the guardian stated that the resident's day program was moving on February 9th. Her plan included five objectives to be

achieved by October 2010, and summary sheets documented that they were run by the home staff. Her goal to carry her wallet was achieved at 100% for October and November, 75% for December and 8% for January because she lost her wallet. It was recorded that the goal was continued and that another wallet would be purchased if necessary. For October through November, her goal to participate in [activities] at the local park district was achieved at 100% and continued. For October through December, the resident's progress toward her goal to prepare a meal was minimal because she required prompting. Her goal to indentify her medication was achieved up to 100% between October and January. For October and November, there was no data available concerning her writing goal that should have been run by the day training program staff. This goal was achieved at 35% for December and 88% for January. The agency did not provide further goal information concerning the resident.

According to Resident D's ISP dated October 28th, 2009, the individual with visual impairments attends the agency's Adult Learning Center program five days a week. His day program had been changed to another training site during that same year. Although there was no documentation that the guardian was notified about his program change, the staff reported that she was informed at the annual staffing on October 2008. His plan included objectives to be achieved by October 2010 as follows: 1) to exchange money after every purchase, 2) to trail to the bathroom, 3) to wash his hands before taking medication, 4) to assist with groceries or store purchases, and, 5) to drop clothes pins in a bucket. The summary sheets recorded that all goals were achieved at 0% to 80% for November and December and achieved at 50% to 100% from January through March with prompting as needed.

According to Resident E's ISP dated August 13th, 2009, she attends the agency's day program five days a week. Some changes had been made in her day program during that same year, but the changes and guardian notification were not recorded. Her plan included objectives to be achieved by August 2010 as follows: 1) to wash her clothes, 2) to cook a simple dinner with minimal assistance, 3) to identify names of medications, 4) to budget items, 5) to properly brush her teeth, and, 6) to attend bible study for socialization. By documentation, the first five objectives were not run for September and October and achieved at 0% to 88% over the next two months. For September, there was no data concerning objective #6, and it was discontinued because the resident refused to perform the goal for three consecutive months. A bowling ball objective was added to her plan on January 2010. This goal was achieved at 50% for January, 100% for February and 0% for March.

Resident F's ISP dated August 26th, 2009 indicated that she participates in the agency's home-based Senior Program five days a week. Her plan included objectives to be achieved by August 2010 as follows: 1) to remove the lid on her medication box, 2) to bathe her stuffed animal weekly, 3) to get her medication box at medication time, 4) to checkout cassette discs from the library, and, 5) to purchase an item and exchange money at a store. According to the summary sheets, the resident's goals were not run for September and October. For November, she made very little progress toward two of her goals. Goal #2 was achieved at 50% for November and 100% for December. There was no data concerning goal #1 for December and her last two objectives for November and December. The resident's "Social Transition Plan" dated July 20th, 2009 was signed by the Director of Residential Services and her guardian on

February 11th, 2010. Her transition plan lacked other signatures such as those from the agency's Human Right Committee.

Resident G's ISP dated January 27th, 2009 indicated that he participates in the agency's home-based Senior Program. His plan included four objectives to be achieved by January 2010 as follows: 1) to choose a cassette disc or digital versatile disc from the library with assistance, 2) to match and identify coins, 3) to twist off the cap on his medication bottle, and, 4) to close the bathroom door. According to the summary sheets, the resident's objectives were not implemented from February 2009 through January 2010. Goals #1 and 2 were discontinued, #3 was continued, and #4 was modified. His revised plan included three more objectives with a starting date of February 2010. For February and March, there was no data available regarding all goals. The staff were trained on running the resident's goals in March and April. He made significant improvement regarding one goal and poor progress toward all others. Documentation indicated that the QMRP responsible for overseeing the plan's implementation was in training during the first four months of 2010.

Resident H's ISP dated June 24th, 2009 indicated that he participates in the agency's home-based Senior Program five days a week. His plan included objectives to be achieved by June 2010 as follows: 1) to correctly brush his teeth, 2) to pay for a purchase and accept change back, 3) to choose an outing each week by using pictures, and, 4) to get his medication box. According to the summary sheets, there was data available to assess his goals for August. His first three goals were at achieved 0% progress from September through January because prompting was needed. Goal #4 was achieved at 0% for September and October, 45% for November and 0% for December and January. On that next month the resident's goals were not run. Three goals were achieved at 0% progress for March, and he made some improvement concerning two of them on that next month.

During the site visit, the Director of Residential Services acknowledged that residents' goals were not consistently run. The investigation team was informed that there was a high turnover among the staff, and that the agency has hired more appropriate staff members. Trinity's CILA program reportedly has five QMRP's, and they must complete an eight week training program. A Behavioral Analyst was hired about two years ago. Trinity provided information indicating that the agency's administrative staff including its Chief Executive Officer met with the guardian of the residents mentioned in this report. The meeting held on March 17th, 2010 focused on many issues such as communication between the staff and the guardian, documentation of goals, notification of unusual incidents and program changes, etc.

Trinity's " Individual Service Plan" policy states that plans are continually reviewed and revised based on the resident's changing needs with input from the Interdisciplinary Team, the individual and guardian (if appropriate). The resident's current level of performance in each domain regarding identified goals and objectives shall be reviewed and discussed. Progress toward goals and objectives shall be reviewed and documented monthly by the Qualified Mental Retardation Professional or the Qualified Mental Health Professional on the Objective Summary Sheets. They should also be signed by the person responsible for implementing the plan.

CONCLUSION

The Illinois Administrative Code Section 115.230 (m) states that,

> At least monthly, the QMRP shall review the services plan and shall document in the individual's record that: 1) Services plan are being implemented; 2) Services identified in the services plan continue to meet the individual's need or require modification and 3) Actions are recommended when needed.

Section 5/2-102 of the Code, a recipient of services shall be provided with adequate and humane care and services… pursuant to an individual services plan. The plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipients' substitute decision maker, if any, or any other individual designated in writing by the recipient.

The Illinois Probate Act Sections 5/11a-23 states that,

> Every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian … to the same extent and with the same effect as though the decision or direction had been made or given by the ward.

The Objectives Summary Sheets indicated that Resident D's goals were consistently run by the staff. However, the summary sheets revealed that one of Resident C's objectives lacked data for two months and Resident A, B, E, F, G and H's goals were not run for many months. The Authority substantiates that the agency's Community Integrated Living Arrangement staff failed to implement goals outlined in residents' services plans. This violates the Illinois Administrative Code Section 115.230 (m), Section 5/2-102 of the Code and the agency's policy.

Based on the record review, there were changes in Resident A, C and D's programs, but there was no clear evidence of notification to the guardian. The Authority substantiates that the guardian was not informed about changes in residents' day training sites. This violates Section 5/2-102 of the Code and program policy

<u>RECOMMEDATIONS</u>

1. Trinity shall review and document in residents' records that services are being provided pursuant to the Illinois Administrative Code Section 115.230 (m), Section 5/2-102 of the Code and the agency's policy.

2. Be sure to consult the guardian regarding changes in resident's program plans in accordance with the Mental Health Code and Probate Act.

<u>SUGGESTION</u>

1. Be sure that Social Transition Plans are signed by all those deemed appropriate.

COMMENT

During the record review, the HRA noticed one of Resident C's goals was not run by the agency's day training program staff for October and November 2009. The Authority must caution the agency that the Illinois Administrative Code Standards for the Developmental Training Center Section 119.230 (h) states that the team shall review the plan, at least annually, and shall note the status of the individual including progress or regression which might require modification of the plan.

COMPLAINT #2: INJURIES

The complaint stated that the agency failed to adequately report and document residents' injuries. Resident C was allegedly hit by her housemate and sustained some scratches. And, Resident E was hospitalized after a physical altercation with a direct care staff person. It was reported that the guardian was not timely informed about the incidents nor did she receive a written report regarding them.

Information from the record, interviews and program policies

The record review revealed that only four of the eight residents had injuries for 2009. There was no evidence found that Resident C had any injuries as alleged in the complaint. An Injury Report dated November 9th, 2009 stated that the agency's nurse was informed that Resident A's face was bruised and her eyes were reddened. The resident was examined by a physician, who concluded that the injury was possibly a bruise, and a cold compress was recommended. The cause of the injury was unknown. The house companion was listed as a witness although she did not observe the incident. There was no written evidence that the guardian was notified about her injury. According to the staff interviewed, the resident's injury was discussed with the guardian during the staffing in December, but the semi-annual meeting report does not support this.

According to Resident D's record, he had two injuries for 2009. The first report stated that the resident was "waving" his hand across the carpet at his day training program and scratched his hand on November 16th. There was one witness listed on the form. According to the second report, the resident hit his forehead on the floor when he suddenly stood up on November 19th, and this opened up an old wound. First aid was provided in both instances, but the record lacked documentation that the guardian was notified about them and a report concerning a previous head injury. On questioning, the staff said that the guardian wants to be informed about more serious injuries, and she prefers to be notified by email. The guardian told the HRA that she wants notification concerning all injuries, accidents, and emergency room visits that required treatment. And, this information can be emailed or fax to her.

An Incident Report documented that Resident E sustained injuries during a physical altercation with a staff person in the home on May 17th, 2009 at 7:15 p.m. The fight started

because she refused to take her medication. On that same night she was transported to a hospital for emergency care and required five stitches for two lacerations. The location of her injuries was not mentioned in the report, but the Daily Observation Monthly Summary for May 2009 stated that staples were later removed from her forehead. According to the report, the police were called, and the staff person was arrested. The Illinois Department of Human Services Office of the Inspector General was notified on the incident night at 9:30 p.m., but there was no phone call record or other information concerning this mandated notice. Although the resident's guardian was reportedly informed on May 18th, 2009 at 2:00 p.m., she disagrees with this. During the meeting with the agency's staff, the investigation team asked if the incident was discussed with the guardian at the annual staffing on August 13th, 2009. According to the Director of Residential Services, the incident was not discussed because the resident was at the meeting, and she reportedly felt empowered because the staff person was fired. A fax cover sheet dated Friday, February 12th, 2010 addressed to the guardian included with the incident report noted that the Director of Residential Services was planning on calling the guardian about the police report on Tuesday.

According to Resident F's Daily Observation Monthly Summaries for 2009, she had two injuries and one hospitalization with no apparent injury. For April, a minor scratch was observed that did not required medical attention, and the injury was reportedly documented on her behavioral tracking sheet. For September, the resident was subsequently hospitalized for tests after she had a seizure. Her guardian was informed about her transport to and from the hospital. For November, the resident scratched her face with her nails when prompted to use the bathroom. The [supervisor] on-call and the nurse were notified. First aid was administered, but further medical attention was not needed. There were no injury reports concerning the resident's scratches or indication that the guardian was notified found in his record.

According to Trinity Services "Injury or Serious Illness of Program Participants" policy,

A) The staff person who observes an incident or injury or serious illness is responsible for:

1. Administering first aid and accompanying the resident for emergency care if needed.
2. Reporting injuries in categories 2 through 4 by phone to the supervisor on duty or on call and completing follow-up as directed.
3. Noting the injury or illness and follow-up on the daily observation sheet.
4. Completing a draft report for all injuries listed in categories 1 through 4.

B) The supervisor on duty is responsible for:

1. Assessing the injury or illness and coordinating any treatment and follow up necessary.
2. Completion of the Final Injury Report and submitting the report to the Program Director on that next business day.
3. Notifying the Program Director or designee of any category 3 or 4 immediately.

4. Notifying the resident's family or guardian if appropriate.

<u>Conclusion:</u>

Section 5/2-112 of the Mental Health and Developmental Disabilities Code states that every recipient of services in a mental health or developmental disability facility shall be free from abuse and neglect.

According to the Illinois Administrative Code Section 50.20,

> [a-1] If an employee witnesses, is told of, or has reason to believe an incident of abuse or neglect or a death has occurred, the employee, or facility shall report the allegation to the Office of the Inspector General hotline according to the facility's procedures.
>
> [a-2] Within four hours after the initial discovery of an incident of alleged abuse or neglect, the required reporter shall report the allegation by phone to the OIG hotline.

The Illinois Probate Act Sections 5/11a-17 and 5/11a-23 states that,

> The personal guardian shall make provision for the ward's support, care, comfort, health, education and maintenance. In doing so, every health care provider and other person (reliant) has the right to rely on any decision or direction made by the guardian ….

According to the Illinois Administrative Code Section 115.320 (g) (1),

> The agency shall have written policies and procedures for handling, investigating, reporting, tracking and analyzing unusual incidents through the agency's management structure, up to and including the authorized agency representative. The agency shall ensure that employees demonstrate their knowledge of, and follow, such policies and procedures.

The investigation revealed that the agency is not clear regarding the guardian's expectation about notification of residents' injuries. According to the staff, the guardian only wants to be informed about serious injuries, but the guardian disagrees with this. There was no documentation found concerning any communication with the guardian regarding Resident A's bruise of unknown origin and the scratches on Resident D and F mentioned above. It is the intent of the law that the provider should rely on the direction of the guardian. This intent is also reflected in the agency’s policy governing resident's injuries, which states that the guardian will be notified if appropriate. The residents' guardian reportedly requested to be informed of all injuries.

The Authority does not discredit that the guardian was not timely informed about a physical altercation between Resident E and a staff person, but documentation indicated that notification was given on that next day. According to the incident report, the resident required sutures for two lacerations, but she was not hospitalized as alleged in the complaint. The appropriate authorities were reportedly timely informed about the incident, but there was no follow-up information with the Office of the Inspector General found in the resident's record. It is unclear whether a copy of the incident report was provided to the guardian prior to February12th, 2010 as suggested by the agency's fax cover sheet.

There was no evidence found that Resident C had any injuries as alleged in the complaint. The Authority substantiates that the guardian was not informed about residents' injuries only in regard to Resident A, D and F. Also, Resident F's record lacked incident reports concerning scratches sustained on two different days. Trinity clearly violates Section 5/11a-23 of the Probate Act, the Illinois Administrative Code Section 115.330 (g) (1) and program policy. The HRA finds no clear violations of the Illinois Administrative Code Section Code 50.20.

RECOMMENDATIONS

1. Trinity shall revise its injury policy to include the level of communication desired by guardians concerning residents' injuries under the Illinois Administrative Code Section 115.320 (g) (1).

2. Trinity shall revise its “Individual Service Plan” policy to include the level of communication desired by guardians concerning residents' injuries. This issue shall be discussed during the ISP meetings and documented in residents' plans.

3. The agency shall follow its program policy and complete an injury report of all observed injuries. Also, the staff shall report residents' injuries to their guardians when appropriate and follow the guardian's direction under the Illinois Probate Act, Section 5/11a-23.

SUGGESTIONS

1. The level of communication with guardians involving residents’ injuries should be included in the agency "Services Support Agreement."

2. The agency should thoroughly investigate injuries of unknown origins to rule out possible abuse and neglect under Section 5/2-112 of the Code.

3. Document all telephone calls regarding possible abuse and neglect in the resident's record.