



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #10-100-9022
NorthPointe Resources

Case Summary: the HRA did not substantiate the allegations presented. The HRA's public record on this case is recorded below.

Introduction

The North Suburban Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation of alleged rights violations at NorthPointe Resources. In August 2010, the HRA notified NorthPointe Resources of its intent to conduct an investigation, pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaints accepted for investigation were the following:

1. Inadequate medical oversight with regard to high cholesterol, weight loss and ear care.
2. Inadequate care in that substitute workers were not always provided when the regular worker was absent.
3. ICAP scores indicated needs that were not being addressed.
4. Inability to exercise choice with regard to food shopping.
5. Inability to access personal funds and LINK card.
6. Facility kept a Social Security check for one month during home-based services.
7. Facility cancelled all benefits for consumer; family member now must reapply with Public Aid.
8. Facility offered no exit strategy or discharge plan.

If found substantiated the allegation would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5) and the Illinois Administrative Code (59 IL Adm. Code 115).

Background

NorthPointe Resources, Inc. is a private, not-for-profit provider of developmental disability and behavioral health services. NorthPointe offers support and service delivery in the greater Lake County area. Annually, NorthPointe supports more than 400 individuals through employment, training and residential programs.

Methodology

The focus of this investigation is the Community Integrated Living Arrangement (CILA) Intermittent Living Support Program which offers individuals with disabilities the opportunity to live independently while receiving the customized support they individually need to stay in their own apartments.

To pursue this investigation a site visit was conducted in September 2010 at which time the allegations were discussed with the Vice President of the Residential Division and a Registered Nurse. At this time, the agency supplied the HRA with information from the clinical record of the consumer identified in the complaint, with written authorization. The HRA acknowledges the full cooperation of agency staff.

Investigative Background

The resident is a fifty-three-year-old male diagnosed with Mild Mental Retardation. He had been a consumer of NorthPointe services since September 1990. He is legally competent and lived alone in his own apartment. The Vice President of the Residential Division advised the HRA that the consumer's opposition to participate in his service plan and the support hours needed to meet this program needs were increasing. These program concerns were going to be addressed in a CST (Community Support Team) meeting that was scheduled for the end of February 2010. The meeting was cancelled because the consumer had decided to transfer to another program service provider and he was currently living with a family member until another program transition planning and program transfer were established. The resident returned to NorthPointe only frequently enough to maintain funding from the State.

Investigative Findings

Allegation #1: Inadequate medical oversight with regard to high cholesterol, weight loss and ear care.

Agency staff reported to the HRA, and clinical documentation confirms that on July 28, 2009, the consumer received an annual physical examination and the cholesterol level results (242.0) were faxed to his primary care physician. Because the level had decreased from a previous reading (257.0-taken in 2007) the RN reported that the physician was pleased that the level had gone down and no recommendations were made, other than control the cholesterol through his diet. No formal diet was recommended and he was not placed on a structured diet. When asked, the RN stated that she could not locate the 2008 cholesterol level.

Regarding the weight loss allegation, the RN stated that she was able to locate three recorded weights for the consumer which were taken in 2009 - June - 100 lbs.; July - 112 lbs.; and August - 117 lbs. The RN stated that subsequent weights were not found; she stated that she questioned the person responsible for taking the weights and this person reported that weights had been taken but this staff could not find the recorded document. The staff had not observed any weight loss. The RN stated that she has since made a change regarding weighing consumers; weights are now to be obtained at least once a month and recorded in a binder. If the consumer refused a weigh on the Friday that the weights are being obtained, the RN indicated that she would personally attempt to obtain the weight. Provisions have also been made for those consumers who use a wheelchair, since they need to be taken to a nearby hospital where staff have access to a wheelchair scale. The agency does not have a policy regarding weighing its consumers and this was not a treatment goal.

The RN told the HRA that on July 14, 2009, the consumer reported to her that both of his ears had been hurting for the past four days. She stated that they were able to secure an appointment with the primary care physician that day and the examination revealed that the

consumer had wax build-up in both ears. Ear drops were ordered and three days later the consumer returned to the physician to have his ears flushed out. After this procedure, the consumer did not make any further complaints of ear pain. The RN stated that she would check the consumer's ears about once a month and noted that they remained clear. A physician examination conducted in March 2010 notes "no notation of ear problems - ears clear".

Allegation #2: Inadequate care in that substitute workers were not always provided when the regular worker was absent.

It was stated that the average program hours for CILA Intermittent Services is typically four hours per week. The consumer's Individual Service Plan (ISP) showed the following: personal hygiene 8x per month; clean apartment 20x per month; wash laundry 8x per month; plan an outing 1x per month; ride bike 8x per month. The staff member regularly assigned to work with this resident was out sick during March and April 2009. Records for April 2009 (March 2009 data could not be located) showed that on some occasions, the resident received less than the specified assistance called for in his ISP. And, records also showed that on a few occasions, he received more assistance than called for in the ISP. And, on occasion, the staff log showed that a staff member was present, but that nothing was recorded on the residential performance sheet which would document whether the objective was completed and what (if any) assistance was needed by staff members to complete the task. The HRA notes that in the materials reviewed, there were no gaps in programming from January -May 2010.

The Vice President stated that the documented gaps of CILA staff for programming occurred in part due to a lack of management follow-up regarding documentation and a 90% management staff turnover in 2009. The Vice President stated that the lack of documentation issues have been addressed with the current management staff.

Allegation #3: ICAP (Inventory for Client and Agency Planning) scores indicated needs that were not being addressed.

Regarding this allegation, the complaint reported that the consumer needed 24-hour CILA services versus intermittent care. As an example, it was reported that the ICAP indicated the consumer had difficulty cooking his meals and someone living independently should be able to perform this task.

The ICAP documented that the consumer could mix and cook simple foods such as scrambled eggs, soup or hamburgers - but that he did not perform these tasks well and he may need to be asked to perform the tasks. Other areas assessed as "needs verbal advice or guidance" included: personal hygiene, dressing self, grooming, care of own possessions, care of living space.

The most recent Individual Services Plan (ISP) dated July 2009, did not include food preparation as a need. The HRA notes that the consumer's family member participated in this meeting, via telephone. The consumer's ISP showed that the consumer needed support with his hygiene, making a grocery list, cleaning his apartment, doing laundry, planning an outing and riding his bike. The Plan outlined steps that the consumer was to take to achieve the goals. Once the task was completed the consumer was to check each task off his list. A staff member would also complete a Residential Performance Data sheet, which would document whether the objective was completed and what (if any) assistance was needed by staff members to complete the task. A review of the documentation showed that the goals were being addressed and that data was being collected. It was noted that the consumer did not meet his hygiene objectives for

seven months; the objective was not revised to address how the consumer could successfully meet this objective.

Allegation #4: Inability to exercise choice with regard to food shopping.

The consumer's ISP goal states that prior to going shopping, the consumer is to make a list of items he would like to purchase and use that list as a guide. Staff members document whether the list was completed. The HRA reviewed one of the resident's shopping lists. It included: pot pies, soup, macaroni and cheese, pizza, coffee, ice cream, fresh fruit, ground beef, bread, laundry soap, etc. Grocery receipts were provided, which included items such as those mentioned on the shopping list. The agency provided the HRA with personal statements from four staff members that have taken the resident shopping. One staff noted that some of his choices seemed to be on the unhealthy side (cases of coca cola, ice cream) but the consumer also had healthy frozen dinners and fresh produce; she did not intervene about the unhealthy food choices. Another staff member noted that the only time he intervened was to try to get the consumer to make healthy food choices. All staff members documented that the consumer made his own choices regarding the food items he purchased. The documentation did not indicate that the consumer was educated in healthy food choices or a diet to control his cholesterol.

Allegation #5: Inability to access personal funds and LINK card.

The agency supplied the HRA with the consumer's agency check/direct deposit register as well as the consumer's banking statements (January 2010-May 2010). The documents showed that the consumer had regular access to his monies. The Vice President stated that on one occasion during the time that the consumer was just going to his apartment on weekends, the consumer came to the agency unannounced, which did not provide agency staff the time to prepare a withdrawal form. The withdrawal request forms are completed for each withdrawal and the form lists the consumer's name, date of request, amount requested, and reason for withdrawal, etc. The form also indicates that the Residential Program Manager must sign the form for all withdrawals; the Assistant Residential Director must sign the form for all withdrawals over \$50.00; and the Director of Residential Services must sign the form for all withdrawals over \$100.00. Agency personnel explained that at that time, there was only one key for the cabinet that houses the consumers' personal checks and the staff member that had the key was not working that day. The Vice President stated that since this one incident, the agency has obtained another key for the cabinet which is kept on-site for staff use should it be needed.

According to the IDHS web-site, the Illinois LINK card allows food stamp recipients to receive this benefit electronically, via the use of a card that looks like a credit card. Every month a pre-set amount of funds are available to the eligible individual or family via the Illinois LINK card.

During the period when the resident was returning to his apartment to maintain the State funding, questions concerning the LINK card were raised. NorthPointe staff told the HRA (and the record confirms) that they were instructed by the IDHS (Illinois Department of Human Service) to not release the LINK card to the consumer and his brother because as long as the consumer was in the CILA program, the agency is the proxy for the LINK card. Staff were told that the card was not to be released to the consumer until the consumer was admitted into another CILA or IDHS funded program. When the consumer left the agency on June 10, 2010, the IDHS was notified of the consumer's new address and the IDHS advised that the consumer would have to reapply at the

county he currently lived in. It was said that the card was still active but that money would not be added until the consumer reapplied.

Allegation #6: Facility kept Social Security check for a month during home-based services.

The Vice President stated, and documentation confirms that the family did receive the June 2010 Social Security benefits reimbursement check on July 14, 2010. The Vice President stated that he believed that there was a 30-day hold between representative payee periods; he stated that he learned he was wrong, acknowledged the oversight, and the check was transferred to the appropriate party. Documentation showed that the agency did retain the Social Security monies for the initial month that the consumer received home-base services and documentation showed that when the error was realized, the check was transferred to the appropriate party and the Vice President and his staff are now aware of the process.

Allegation #7: the agency cancelled all benefits for consumer; family member now must reapply with Public Aid.

A letter from the IDHS, dated August 12, 2010, stated that the recipient had an active Medicaid case and that the case had been transferred to the county serving the consumer. The letter stated that the consumer had no spenddown and he receives a Medicaid card each month. The letter also stated that the resident's LINK/SNAP benefits (Supplemental Nutritional Assistance Program) were cancelled effective July 2010 because he no longer lived in the non-profit CILA group home that applied for these benefits. The letter stated that the resident must now apply for SNAP benefits in the county where he resides.

The Vice President stated that the agency never cancelled any of this resident's benefits.

Allegation #8: Facility offered no exit strategy or discharge plan.

As stated earlier in this Report, the Vice President of the Residential Division advised the HRA that the consumer's opposition to participate in his service plan and the support hours needed to meet his program needs were increasing. These program concerns were going to be addressed in a CST (Community Support Team) meeting that was scheduled for the end of February 2010. The meeting was cancelled because the consumer had decided to transfer to another service provider and he was currently living with a family member until another program transition planning and program transfer were established. The resident has subsequently obtained services from another provider. The materials reviewed contained a statement signed by the resident (June 10, 2010) which stated that "I have elected to be terminated effective today from the CILA Intermittent program at NorthPointe Resources to live with my brother [name redacted] and his family. I will be receiving Home Based Services and have received the award letter today verifying those services."

Statutory Basis

Pursuant to Section 2-102 of the Mental Health and Developmental Disabilities Code, "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 and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient."

Pursuant to Section 115.250 of the Illinois Administrative Code, " a) A community-integrated living arrangement (CILA) is a living arrangement which promotes residential stability for an individual who resides in his or her own home, in a home shared with others, or in the natural

family home and who is provided with an array of services to meet his or her needs. The individual or guardian actively participates in choosing an array of services and in choosing a home from among those living arrangements available to the general public and/or housing owned or leased by an agency. If, over time, less intensive services are needed, the service array shall be changed rather than requiring the individual to move to a different setting unless specific services as funded and provided are no longer needed. If, over time, the individual needs more intensive services, the agency will make a reasonable effort to modify the service array rather than requiring the individual to move to a different setting. d) Based on their needs, individuals shall receive supervision and supportive services which may range from continuous to intermittent. CILAs shall be designed to promote optimal independence in daily living, economic self-sufficiency and integration into the community through the interdisciplinary process."

Section 115.220 of the Administrative Code states that "agencies licensed to certify CILAs shall provide for services through a community support team (CST). The CST shall be the central structure through which CILA services are provided to one or more individuals. The CST shall: Provide assistance to the individual in obtaining health and dental services, mental health treatment and rehabilitation services (including physical therapy and occupational therapy), and substance abuse services; Assist individuals with activities of daily living through skill training and acquisition of assistive devices. Work with the individual and parent(s) and/or guardian to convene special meetings of the CST 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 115.230 of the Code states that "Agencies licensed to certify CILAs shall comprehensively address the needs of individuals through an interdisciplinary process. a) Through the interdisciplinary process, the CST shall be responsible for preparing, revising, documenting and implementing a single individual integrated services plan for each individual. The services plan shall become a part of the individual's record. At least monthly, the QMRP and QMHP shall review the services plan and shall document in the individual's record that: 1) Services are being implemented; 2) Services identified in the services plan continue to meet the individual's needs or require modification or change to better meet the individual's needs; and 3) Actions are recommended when needed."

Pursuant to the Community-Integrated Living Arrangement Individual Rate Determination Model user guide, the "Third Party Payment" is that portion of the individual CILA rate that is reimbursed by finding sources other than the Department of Human Services. The Third Party Payment is assumed to be used first to offset the costs associated with providing Room and Board to the persons living in CILA homes. The Third Party Payment is comprised of "Earned Income," "Unearned Income," "HUD Assistance," and the "Food Stamp Credit." The user guide states that in regards to food stamps, an offset equal to \$360 per person, per year, is added to the Third Party Payment. The \$360 per person, per year, Food Stamp offset is fixed and is applied to all individual CILA rates determined by the Model. The Model disregards Food Stamps received by individuals in excess of \$360 per person, per year.

Investigation Conclusion

Allegation #1: Based on the information obtained, it is concluded that the no medical intervention was recommended regarding the consumer's cholesterol. There were only three recorded weights for the consumer in 2009 and none for 2010; since there are no recorded weights for 2010, the HRA cannot say that the consumer lost weight. To ensure that weights are taken on a consistent basis, the weights will be taken monthly and recorded in a specific place. Documentation showed that the

consumer reported ear pain and that the matter was addressed. These allegations are unsubstantiated.

Suggestions: Ensure that all medical tests and results are documented.

Develop a policy regarding weight monitoring.

Allegation #2: Information obtained indicated that on occasion, substitute workers were not always provided when the regular worker was absent and/or documentation regarding the service provided was lacking. The allegation is substantiated. There have been no gaps in staffing and/or documentation problems in 2010; thus no recommendations are issued at this time.

Allegation #3: The ICAP identified personal hygiene, dressing self, grooming and care of living space and care of personal possessions as *needs guidance* - these needs were addressed in the ISP. The consumer did not meet his hygiene objectives for seven months and there were no revisions to the service plan. The HRA considered this to be a violation of the CILA requirement that services be based on needs. This matter was addressed in a previous case, thus no recommendations are issued. Regarding the assertion that the consumer needed 24-hour care verses intermittent care, an ICAP was completed in July 2009 which showed a Level 6- meaning the consumer needed regular personal care and/or close supervision (level 9 means infrequent or no assistance for daily living). The support team, the consumer and a family member agreed on the level of care based on the assessments collected.

The HRA takes this opportunity to suggest that if a consumer becomes increasingly reluctant to participate in service planning, the agency should attempt to see if the consumer would agree to designate someone other than agency staff to participate in the planning - provided the consumer agrees to designate someone (pursuant to the Illinois Mental Health Code 5/2-102a).

Allegation #4: Based on the information obtained, it is concluded that the resident was able to exercise his choice with regard to food shopping; the allegation is unsubstantiated. It is

Suggestion: Educate consumers on food choices when they have a dietary risk.

Allegation #5: Based on the information obtained, the resident was unable to access his funds once; the allegation is substantiated. The agency has obtained an additional key to access the locked cabinet that contains needed financial materials, thus the matter has been resolved and no recommendations are made. The agency was advised by the IDHS to not let the consumer have the LINK card during the period that the resident was only going to his apartment to maintain State funding. Regarding the funds that were available on the card, the resident needed to take care of this by reapplying in the county that he lived in. The HRA concludes that the agency did not violate consumer rights because they were doing what the IDHS instructed; thus no recommendations are issued. However, in the future the agency must allow a consumer to use entitled portions on the LINK card when he is on a home visit (405 ILCS 5/2-105), and when used, submit relevant receipts to agency staff.

Allegation #6: The Social Security check was inadvertently kept for the month during home-based services; the allegation is substantiated. The Vice President takes sole responsibility for this, and has since learned the correct process regarding that matter; thus no recommendations are issued.

Allegation #7: Based on the information obtained, it is concluded that the agency did not cancel any consumer benefits; the allegation is unsubstantiated.

Allegation #8: The resident voluntarily discharged himself and follow-up services were in place; the allegation that the facility offered no exit strategy or discharge plan is unsubstantiated.