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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 11-030-9013
Methodist Hospital of Chicago

Case Summary: The HRA did not substantiate the complaint that Methodist Hospital did not follow Code procedure when it discharged a recipient because he submitted a grievance.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Methodist Hospital of Chicago (Methodist). It was alleged that the facility did not follow Code procedure when it discharged a recipient because he submitted a grievance. If substantiated, this would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-107) and the Code of Federal Regulations (42 CFR 482.13).

Methodist Hospital of Chicago is a 248-bed non-profit hospital with a 61-bed inpatient psychiatry program along with an Intensive Outpatient Program (IOP) for 16 participants.

To review these complaints, the HRA conducted a site visit and interviewed the Administrative Director of the Department of Behavioral Medicine, the Assistant Administrator, the IOP Director, the IOP Coordinator, an IOP Case Manager, and a unit psychotherapist. Hospital policies were reviewed, and the adult recipient's clinical records were reviewed with written consent.

COMPLAINT SUMMARY

The complaint indicates that the recipient was admitted to the Methodist IOP on 10/26/10 for voluntary outpatient treatment. The complaint shows that the program participants were encouraged to bring problems to the group for discussion, however, when a recipient requested a grievance form he was denied one on three different occasions. The recipient then forwarded a 9-page grievance to the Better Business Bureau and presented this grievance in group and to his counselor. The day after the grievance was filed the complaint states that the recipient met with several staff members, including the medical director, and told, "If you are only going to highlight our dysfunction, maybe you're not appropriate for our program." The complaint indicates that the recipient was then ill for six days and was not able to attend the program. In

this time, the complaint states, he was discharged from the program in retaliation for having submitted a grievance. The complaint indicates that the recipient received no discharge letter, had no hearing on his discharge, no disciplinary hearing, and there was no progressive discipline as mentioned in the patients' rights documents. Also, the complaint indicates that the facility does not have a call-in sick policy.

FINDINGS

Methodist admission paperwork indicates that the recipient was admitted on 10/26/10 into the IOP program. On this date he signed a Consent for Treatment that states he agreed to a schedule of attending the program at least three days per week and that if his attendance is inconsistent the recipient could be discharged from the program. During his treatment episode at Methodist the recipient also remained under the care of his own psychiatrist, and was receiving case management services from an independent case management agency.

Integrated Progress Notes from Methodist indicate that the recipient initially made considerable progress within the program. On 11/24/10 the notes indicate that the recipient became unhappy with the therapy group: "Client was agitated and irritable during group therapy. He went on a tangent in talking about the negativity in the group therapy process and that other group members were rude and inconsiderate. Staff made several attempts to get him to focus on himself in which he refused." This same day Integrated Progress Notes describe the event: "This IOP staff was approached in the hallway by this Clt. while managing various medicar drivers arriving to pick up IOP clients. Clt. was verbalizing complaints re: particular group members watching the clock and packing up to leave program while he was speaking near the end of group. Clt. appeared irritable and was asked if that was the case; he refused to answer. Clt. was encouraged to discuss his concerns individually as well as in group when he returns on Monday, 11/29/10, as discussing it in the hallway after program was not an appropriate, confidential setting. Clt. left IOP appearing satisfied with this response. At no point did he request a grievance form from this staff." On 11/29/10 the notes mention the recipient's grievance: "Clt. initiated a discussion on several complaints toward IOP. He wrote a 9-page letter to the Better Business Bureau around issues of group time management, bullying, and boundaries. Clt. dominated conversation and had difficulty accepting feedback. He apologized to the group but still did not appear to be resolved. Given complaint form." The same day a progress note was entered by the recipient's case manager: "This IOP staff spoke with Clt. privately in staff office with IOP case manager/therapist.... Clt. was given a grievance form and asked to give suggestions on ways to improve program. He refused to complete, stating his 9-page letter covers his complaints. This IOP staff asked Clt. if this program was benefitting his treatment. He became visibly irritated, as he wants to 'file a grievance as a consumer'. Stating his complaints did not effect his treatment or progress at IOP. Clt. was given the opportunity to state what IOP can do to further help him, he declined to answer."

On 11/30/11 the notes indicate that a group session was conducted by the medical director to address the group issues presented in the grievance and he then met with the recipient to review other aspects of the grievance: "He is seen to review program goals. He is followed by Dr... for outpatient psychiatric care and medication management. He appears to be benefitting from the program but expressed concern about the functioning of the program. He had specific

complaints and was encouraged to complete complaint forms per Methodist Hospital protocol. He attended a special meeting of all present staff to review complaints and establish steps to resolve this situation. He agreed to continue participation and work on resolution if possible." The record shows that the recipient then met with the Administrative Director for a 90 minute session to discuss the issues and develop a satisfactory response that both the recipient and the hospital could agree upon.

On 12/01/10 the recipient signed a release of information so that his psychiatrist could be contacted for case management purposes and then he was absent from the program until 1/10/11 when he called requesting his formal written response from two subsequent complaints (he filed three grievances). Notes state, "Reported that client plans to return to IOP on 1/11/11 for the purpose of re-engaging in treatment and discharge planning. A written response to client's complaints is to be provided at this time as is appropriate given the recommendations of the risk management department." At this time the case manager also notified the recipient's case management agency and left a message that the recipient was returning to IOP at Methodist.

The hospital's first written corrective action response to the recipient's grievance was written on 12/01/10, which outlines the steps taken by the hospital to address the first grievance. The hospital also provided a written response to the Better Business Bureau on 1/11/11, and then again, on 1/11/11 another corrective action plan was developed and mailed to the recipient. The hospital also provided written corrective action responses to two other letters of complaint, one submitted 11/29/11 (in addition to the 9-page complaint) and another submitted 12/13/10.

On 12/13/10 the progress notes indicate that the recipient's case worker contacted the case management agency to report that the recipient had not attended IOP since 12/01/10. She requested a return call to discuss potential case closure and follow-up discharge care.

On 1/10/11 progress notes indicate that the recipient called to speak with the IOP Director: "Client contacted this IOP staff by phone to report that he is concerned about the wording on the written response that was provided to him by [Administrative Director]. He was somewhat unclear over the phone what his concern was exactly, or what he would like this staff to do to rectify the situation or concern. But he did state that he would like 'a copy of the first letter' and that he wants to make it clear that 'disabled people are not unhappy people.' This staff agreed with this statement and agreed to pass along his request to [Administrative Director] in the process of reviewing his most recent complaints. Client agreed to this plan."

Case management progress notes from 1/11/11 record the final visit from the recipient: "Client arrived at IOP as scheduled to pick up the written response to his complaints that were furnished by [risk management]. At this time, he dropped off additional complaint letters that he asked this staff to review. This staff agreed to review these letters and follow the procedures for complaint response as determined by administration and hospital policy. At the time of his return, client was given the opportunity to be re-admitted to program and re-engage in IOP today. Client stated he did not yet want to return until he is satisfied that his concerns have been properly reviewed. This IOP staff asked client if he felt as though he is receiving adequate community support at this time. Client reported he is not currently attending any type of treatment program, and that he has not contacted his doctor recently. This staff again offered to

re-admit client to the program immediately so that he may begin services today. Again client stated that he does not wish to attend IOP today, and would not set up further appointments with IOP staff for treatment.... This staff asked client what we can do to meet his treatment needs. Client asked staff to review his additional written concerns.... This staff ensured that client has our contact information at IOP so that he can receive additional referral information if needed. Client stated that he has our contact information."

HOSPITAL REPRESENTATIVES' RESPONSE

Hospital representatives were interviewed regarding the complaint. They stated that the staff at Methodist responded immediately to the complaints lodged by the recipient and that staff had met and begun interviewing other program participants regarding the complaints on the day that the complaints were issued. Staff reported that a group meeting as well as individual meetings were conducted the day after the first complaint letter, and the staff continued to respond in writing to each concern issued by the recipient as they were submitted. The staff stated that changes were made within the program to address the recipient's issues and they felt that the recipient showed insight and understanding in his perception of the problems. Staff reported that in one of the initial meetings the recipient was asked if he was benefitting from treatment and he appeared to become very upset by this question and thereafter assumed that his complaint had impacted the staff's attitude toward his treatment.

Hospital representatives stated that in compliance with program policy, recipients are considered discharged from the last day that they are in the program so as to avoid duplicate billing for other services they may receive during their absence, and this is the policy for all program participants. However, the staff always felt that the recipient would return to the program and thus he was never discharged for any reason other than his own absence. Staff reported that even as late as 12/15/10 the recipient visited the facility asking to speak with the Administrator and he was asked at that time if he would return. He stated at that time that he would come back after the holidays. The Administrator encouraged him to return and she stated that he seemed to want to come back. Staff reported that the recipient was offered referrals to other programs however he trusted the staff from the Methodist program and appeared to be planning to return in January.

STATUTORY BASIS

The Mental Health Code states that "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 (405 ILCS 5/2-102)."

Federal Code mandates that hospitals must establish a process for the prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance: "The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the

appropriate Utilization and Quality Control Quality Improvement Organization. At a minimum 1) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital, 2) The grievance process must specify time frames for review of the grievance and the provision of a response, and 3) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion" (42 CFR 482.13).

HOSPITAL POLICY

Methodist IOP participants sign a Consent for Treatment Attendance Contract which states, "The IOP is an intensive treatment program. Regular attendance is necessary to ensure that patients benefit from the services. As a patient in the IOP program, I agree to a schedule of attending at least (3) three days per week. If my program attendance is inconsistent, I understand that I will be discharged from the program."

Methodist IOP policy #4.1 Client and/or Caregiver Complaints outlines the policy for handling complaints. It states that the patients are informed of their right to present grievances both verbally and in writing and that information regarding the complaint process is presented to the patients upon admission. Policy indicates that the process is initially investigated by the IOP Coordinator (immediately). If the complaint is not resolved at this level it is then referred to the Administrative Director. If the complaint cannot be resolved at this level it will be referred to the Risk Manager, and any other Department or Service Directors needed. Hospital complaint protocols indicate that employees will receive appropriate orientation regarding complaints and education on the complaint process. The timelines and processing of complaints is addressed in Methodist policy #4.3 Procedure for Review of Client Complaints outlines the process for handling grievances. It states:

"Complaints will be submitted initially to the IOP Coordinator or Case Manager. The Coordinator will 1) Receive complaints from clients and other persons involved with the patient's care, 2) Investigate the problem area immediately, 3) Request comments from members of the staff involved in the complaint, 4) Determine if the complaint contains implications of quality/performance improvement, and 5) Discuss departmental findings within two working days after receipt of the complaint to the Department Director. Also, identify if quality issues were involved and state if standards were met and recommend actions to correct the problem." Should a complaint or grievance be forwarded to the Patient Representative level, Risk Management will: "Review all client complaints after the investigation and actions have been completed, determine the validity of each complaint, and determine the final action if necessary. A Departmental complaint should be managed within 48 hours following the receipt of the complaint and if not within that time frame it is referred to the Patient representative or Compliance Officer. The patient Representative will attempt to resolve the grievance within 72 hours.

Methodist policy #4.5 Prevention of Client Complaints states, "Guidelines are important for the prevention and handling of client complaints. Courtesy in the medical facility will not be automatic with the mechanical application of the rules- it must be sincere and spontaneous. All

personnel in the medical facility are performing a public service and should, therefore, do so in a polite, courteous and cheerful manner that will truly reflect the quality of the professional care given.... Treat the client as you would like to be treated. No rule is more important than the Golden Rule."

CONCLUSION

The record demonstrates that the hospital representatives believed that the recipient would return to the program when he left on 12/01/10. The staff had already begun the investigation of the recipient's allegations and had responded by meeting with the therapy group and the recipient and were preparing their written response. The case notes written throughout the recipient's absence from the program show that the staff always anticipated the recipient's return and thus there was no need for a discharge letter, a disciplinary hearing, or progressive discipline. Even when the recipient returned on 1/11/11 the recipient was offered an immediate re-entry back into the program. The recipient's file was closed to the date of his last treatment day only to prevent the duplication of billing since he was being treated at a case management agency at the same time as he was receiving services from Methodist.

The HRA does not substantiate that the facility did not follow Code procedure when it discharged a recipient because he submitted a grievance.