
**FOR IMMEDIATE RELEASE**

## HUMAN RIGHTS AUTHORITY - PEORIA REGION
## REPORT OF FINDINGS

**Case # 11-090-9029**
**Human Service Center**

## INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at the Human Service Center. Complaints alleged the following:

1. Inhumane treatment, including case manager for individual is rude and unprofessional, makes up lies about the individual's family situation, uses profanity towards individual and spouse, accused patient's spouse of being the reason why meetings were missed, and reported false allegations towards an individual to a hotline.
2. Inadequate treatment, including not allowing spouse access to treatment meetings or doctor appointments.
3. Privacy violations, case manager insisted on being in physician's office when individual was being examined.
4. Inadequate discharge, threatened to have individual discharged from services and sent a letter threatening discharge for missing appointments when some appointments were cancelled by the case manager and one appointment was cancelled due to individual's family member's death.
5. Inadequate grievance process.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110), the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), and Community Mental Health Provider Regulations (59 Il Admin Code 132).

The Human Service Center, in the past, would provide services to Peoria County but now provides services to anyone with Medicaid services if the individual has transportation to the facility. Fayette Companies (which owns the Human Service Center) has 238 staff members. The individual involved in this complaint is involved in the Assertive Community Treatment (ACT) program and there are 135 individuals in the program. The Human Service Center provides services to 1,000 - 1,200 individuals per month not counting their substance abuse program.

## COMPLAINT STATEMENT

The complaint alleges that a client's case manager is rude and unprofessional to the client and the client's wife. The case manager reportedly denies the client's wife access to her husband's treatment meetings and physician's appointments. The allegations are also that the client's wife was told that she cannot be transported with her husband and the case manager for case management related trips. The case manager said to the client that this is because she needed to get to know the client better. The client explained that he needs his wife there to help him understand items and sign documents he does not understand. When the client's wife was told this she said the case manager allegedly said that there is nothing the wife can do that the case manager could not do. The allegations also state that the case manager uses profanity towards the client and wife, and reported them both to a hotline with false allegations about the client's family situation. The complaint states that the case manager called a hotline stating the client was being abused by his spouse which is untrue. The complaint states that the case manager violated the client's privacy when she insisted on being in the physician's office when the client was being examined. The case manager was in the room when the client pulled down his pants for a shot and the case manager reportedly looked and then said, "I will turn my head" when the client's wife complained. According to the complaint, the case manager also sent a letter threatening discharge to the client for missing appointments. The case manager allegedly accused the client's wife of being the reason why he was missing appointments even though the case manager rescheduled some appointments because of a heavy case log and because she was new. Another appointment was cancelled due to a death in the client's family. The complaint also states that the case manager lied to her supervisor about the cancelled appointments which almost led to the client's discharge had a physician not intervened. The complaint states that the case manager called to reschedule the appointment. When the physician asked the case manager's supervisor why she did not tell him about the situation with the client, her response was to apologize. The complaint states that the client's physician intervened and defended the client and had a new, male case manager assigned. The complaint states that the case manager also lied to the physician. The allegations claim that the client tried to bring the complaint to an individual in the facility but there was never a response. The grievance was reportedly also brought up to case manager's supervisor and even management higher than the supervisor and they only listened to the case manager. The case manager's supervisor would only listen to the case manager. The complaint indicates that the case manager also stated that the client would have to go through the case manager to get his medication and injections from the physician and he would not be allowed another appointment unless he went through her. The physician allegedly discovered this and went to the case manager's supervisor and said that he would never stop the client from getting support from his wife.

## FINDINGS

### Staff Interviews (4.28.2011)

The HRA conducted an interview with members of the Human Service Center staff as part of its investigation. The staff stated that the client named in the complaint has challenging mental health issues. The client has a diagnosis of schizophrenia, with chronic paranoia. They explained that the client is part of their Assertive Community Treatment (ACT) team, which is an evidence-based treatment program that is very intensive and was created for extreme cases.

The staff said that the individuals in ACT have multiple fidelities, for example multiple case managers, to participate and secure funding for the program.

They stated that, in the last year, two case managers have tried to go to his house to pick him up for appointments, etc. and he would never be there. This happened several times. The staff stated that the individual and his wife would always have an excuse as to why the individual was not there. After the individual was discharged, he returned to the Human Service Center to receive help.

The Human Service Center staff explained that a physician did not defend the client and they were not even sure of the source of this information. The staff said that case managers sit in on as many appointments as they can so they can help, and in this case, the were never told by the client that the case manager was not wanted at the appointment. They stated that the case manager was in the room when the patient received the IM shot but the patient was not nude when receiving the shot. He only had to pull down his pants a bit in the back. The staff stated that whenever a patient says they do not want the case manager there, the case manager will leave. The facility does encourage and recommend the staff to stay and help.

The staff said that more than 80% of the work done by the staff is in the field. The clients are seen 3 times a week. The ACT team consists of 12 people and everyone on the team has to know all the patients. They have a main case manager and a team of secondary managers. According to staff, the client's wife would not be considered part of the team. The staff does try to involve spouses and family as much as they can but they thought in this case that she was disruptive. In this case, the case managers would go to the house and they would hear the individual and his wife in the house but no one would answer the door when they knocked. The staff explained that the case managers take the individuals many places as a part of the treatment. They said they would take the clients to the store, doctor's appointments, and to the Human Service Center among other places. They said that they used to not transport family members, only the individuals receiving treatment, but now if the team and physician approve, they will transport them. In regards to this specific complaint, the individual's wife was told that she could not ride with the individual in the Human Service Center vehicle because of the facility policy. With this being said, they would still invite her to appointments.

The staff explained that the client is very capable and understands the Human Service Center process and the paperwork. The staff explained that the client even wants a job and they feel as though he has the capacity to have a job. The staff said that they make sure that a new client understands the Center's process at intake and they felt as though this client understood.

Staff explained that because this was such a challenging case and the client was not making it to appointments, one of the staff asked about the need to contact the Office of Inspector General (OIG) because it seemed as though the individual's wife was not allowing him to go to appointments which could be considered abuse. Contact was made with the OIG, and an investigator from the OIG went to the client's house to check for abuse. The staff speculated that the OIG investigation was the reference to the false allegations described in the complaint statements. The staff explained that this action was taken because of the abuse concerns but also because they were pushing for any hope to get the recipient into treatment.

The staff explained that the client was on and off with the treatment for several years. He received treatment from 2005 through 2007 and then stopped, then went from 2007 through 2008 and stopped again. In 2010, he came into the crisis unit and has been getting treatment since that date. The staff said that he is currently receiving services and doing much better. The client and his spouse are keeping appointments and going to treatments. The client switched to a new case manager, but they do not think the improvement has been because of the case manager. They think that the client and his wife realized that the Human Service Center knows what they are doing. The staff explained that the patient wants to get better but the patient's wife may impact his treatment. They said that in the past, right before the client was going to be discharged from services for his behavior, they would drop out of the program but now they are both compliant.

The staff explained that OIG was called on February 10th and their visit was on February 16th. The staff also stated that on February 11th, the client received a discharge letter for not showing up to the facility. They have a series of discharge letters and warnings. They stated that they never received the results from the OIG investigation but they think that, after OIG investigated, the client and his wife realized the Human Service Center meant business and they have been compliant since the investigation.

The staff also stated that it is unlikely that a physician stepped into the situation to change the discharge. The staff stated that they were going to transfer the client to lesser level of care, such as just coming in to receive medication, because they thought he would be more compliant if there was less to do. One of the physicians stepped in and said that he should remain in ACT, so the physician intervened to keep the level of care the same. The physician explained this to the client and his wife so maybe they took that to mean the physician intervened. This was the same meeting in which they decided the client should have a male case manager. They stated the physician never talked to the supervisor about the case manager. They also stated that the physician never intervened about lying over cancelled appointments, only about the level of care and the male supervisor.

The Human Service Center staff explained that the case manager did want to have a separate time with the patient to focus on his needs versus her needs. They tried to balance contact with him separately and then with his wife.

There is a weekly schedule for injections and the case manager told the couple that they need to keep in touch with her as well as receive the medication. They missed appointments so she told them they have to make the appointments with her as well as the appointments for the injections. They stated that the individual named in the complaint as being the staff member that the wife spoke with is in the Human Resource department. The patients get a handbook when they are admitted that explains the grievance process and she would have seen this handbook.

The staff stated that the case manager often stays in the room when clients get injections. The staff stated that most of the heated conversations that the case manager has had with the client were in front of people. The client was filtering most topics through his wife during his treatment and his wife was not very supportive. The case manager would have problems scheduling appointments because the client's wife would say that they could take the

appointment immediately but the case manager would be busy right at the moment and they would have to schedule for a different time, then the couple would not make it at the scheduled time.

When they switched to the new, male case manager, it took him 2 weeks to contact them. Finally, when they arranged a meeting at the individual's home, they had a good talk but the individual's wife kept interrupting with her point of view and by playing music. She would say he does not need the therapy and he can fix himself. She interrupted 4 or 5 times during the hour meeting. The staff indicated that she was very controlling. The staff wanted alone time so that the individual could state his goals which were different than his wife's goals. They stated that the individual was very compliant. Sometimes his wife would be pro-treatment and other times she would be against treatment. The staff also stated that there was no profanity used in front of the client.

The client's wife called the supervisor with her complaint and she told them it would be a team decision and they would get back to her. The staff stated they cannot remember what happened when the human resources staff member was contacted but, usually in that case, the caller would be forwarded to upper management. The staff states that there is a written formal grievance process. There is a distinction between complaining and a formal grievance. If it's a complaint that they do not like their case manager, they would discuss as a team and not use the formal process.

In a follow-up phone call for clarification, it was stated that both complaints mentioned above were the same complaint. The client's wife called for the supervisor, who was not available, so the individual who answered the phone forwarded the call to the human resource employee. This does differ from the account that was initially explained during the site visit. The human resource employee took notes and then sent the complaint to the case manager's supervisor. The ACT team discussed the complaint and then the supervisor followed through verbally regarding the complaint and told the client's wife that it was unfounded. The complaint was that the client's wife did not like the case manager. The staff stated that the grievance would not go into the client's case file but it would go into the grievance file. The staff member also stated that they doubt if a written follow-up was sent to the complainant. The staff member stated that it was a formal grievance; they stapled a copy of the email to the grievance form. It was stapled to the form to indicate that the process had started.

In regard to the case manager being there during the individual getting a medication shot, the case manager offered to leave during the injection and the individual's wife said that it was fine if she stayed. The general practice is that the case manager would be present because the clients tend to get nervous. Also, on that day it was a situation where the case manager was moving from appointment to appointment with the individual and his wife, therefore it was simpler to stay with them. The staff also stated that the individual did not like to be alone very much at all because he had voices in his head that told him to be jealous.

The ACT team decided to switch the individual to a male case manager. After it was discussed, the female case manager met with the individual to inform him of the switch. The staff said that most of the complaints happened after contact with the OIG hotline. The staff

stated that they listed all the reasons for the discharge in the letters that were sent to the client. Only one discharge letter went out to the family. Usually they would send a few warning letters but the individual only received one. They stated that the discharge letters are standard form letters but the staff fills in the dates. The ACT team decides how often an individual can miss sessions before it is considered excessive. There is nothing in writing about missing the sessions. The staff stated that the individual's wife did explain there was a death in the family but they have had many explanations that lead to missing appointments. The staff stated that they never ask for proof of an absence unless it happens frequently. The staff said that the appointment that was missed due to a death in the family was rescheduled twice and they still missed the rescheduled appointment. They would say they would meet the case manager and not show up.

The staff explained that they never told the wife that she was the reason for missing meetings. The ACT team talked about the spouse's role in their meetings. They would ask why they did not show up to the meeting but would never accuse the wife of causing the problem.

The staff also stated that appointments were not cancelled due to a heavy workload. The case manager had just started and had a small workload because of being new. Also, the program is a team effort, so if the case manager could not make it, a team member would step in. The staff also stated that the case managers have Human Service Center cell phones given to them by the facility for work use.

The staff finally stated that the only time the supervisor ever apologized was when the client's wife was crying because she felt like she does not participate. The supervisor never apologized to a doctor.

**Policy and Record Review**

The HRA reviewed policies and procedures pertinent to the complaints in this report. Regarding the complaint about inhumane treatment, the HRA reviewed Human Service Center policy regarding client rights. In the policy, it states "The personal dignity of all clients will be recognized and respected in the provision of all care and treatment." The policy also reads "Staff shows support of client rights by the respectful interaction of staff with clients (and their families) and by involving clients in decisions about treatment and services."

Within the facility's code of ethics document, it states "Staff will respect the dignity and individuality of each client/family member unrestricted by consideration of age, gender … Staff will avoid any actions that violate or diminish the civil rights of clients."

In reviewing all requested documentation, the HRA saw no evidence of the case manager acting rude, unprofessional, lying to the physician or using profanity towards the client or the client's wife.

In regard to the complaint that the case manager made up lies about the individual's family situation and reported false accusations about the client and his wife to a hotline, the HRA reviewed the ACT team notes. Between 1/31/2011 and 2/10/2011, there were notes written

stating that different organizations such as the OIG and Advocates for Access had been contacted, on a ACT staff member's recommendation, because of the concern that the client's wife was preventing the client from receiving services that the client wanted. On 2/10/2011, a field investigator from the OIG called and stated that they would be visiting the client's house but to remember the program is voluntary and the client had a right to refuse services. The client's treatment plan also states that OIG was contacted because the client's wife was not allowing the patient to participate in treatment. The HRA saw no response from the OIG investigation and could not request a response due to the lack of a case number.

In reviewing the treatment plan, which is dated 4/28/11 and is unsigned by the client (the facility stated that the Illinois Department of Mental Health does not require a client signature), it does indicate that the client had previously received services from the Human Service Center in 2006 and 2007. The plan states "[client] had minimal contact with OPMH [Out Patient Mental Health] staff, missing appointments from 11/06 - 7/07." In reviewing the ACT notes, the client began the most recent services on 1/5/2011. On 1/19/2011, the client said that he would need to miss an appointment due to a death in the family and rescheduled for the next day. On 1/20/2011 the client did not show for the injection appointment. The case manager tried to contact the client on 1/20/2011 and 1/24/2011. The case manager heard back from the client's wife on 1/25/2011 who said they would reschedule the injection for Friday because the client had his identity stolen. On 1/27/2011, the case manager went to the client's house to locate him for the injection and no one answered the door. On 1/28/2011, the client's wife called and asked for another bus pass so her husband could go to his injection appointment, even though they had just received a 20 punch bus pass the week before and had not used it to go to an appointment. The note on the call stated that the phone conversation resulted in the wife yelling (this will be covered later in the report). On the same day a note is written that the case manager finally reached the client's wife and stressed that the client was a week overdue for his shot and she agreed to bring him in for his injection that afternoon. Nothing states whether the injection was given that day but on 2/1/2011, the note states that the client called and was concerned that his services were cancelled. He was told that the services were still there waiting for him to utilize and the client stated that he and his wife would meet the case manager at the appointment. On 2/4/2011, the client did not attend his psychiatry appointment (It was during this time that OIG was called) and on 2/8/2011 the case manager went to the client's home to speak with him regarding the lack of participation but no one answered the door. On 2/9/2011, the client's wife hung up on the case manager. The case manager spoke to the client on 2/11/2011 and arranged to meet on 2/14/2011 to discuss treatment and to receive an injection. On 2/14/2011, the client did not attend the scheduled meeting.

As stated above, the treatment plan was unsigned by the client. There is an area with the client's name where he could sign and it is written in that area "Not present will present when seen [staff initials] 1-19-11." The facility did not produce another plan that was signed by the client. There is also a check box which reads "I have explained the treatment planning process and the contents of the treatment plan to the individual and/or guardian" but the check box is not dated. Below the statement is the area for signatures of the multidisciplinary team.

In the client's treatment plan, there is a section that states it was added to the plan on 1/7/2011, which reads "Beginning on 1-20-11, [client] began missing scheduled sessions,

injections and psychiatric appointments. His wife [client's wife] began cancelling his appointments and would then call wanting me to see them immediately. I have never had a 1 on 1 session with [client] during past sessions, his wife has dominated conversations. I have also attempt to transport [client] to psychiatric appointments when she has been unable to attend and I was not allowed to do so. I explained to his wife that I would not be transporting family members to psy. appointments per a discussion in team meeting. I also stated that I felt [client] was being stopped from participating in treatment when she is not in attendance. I advised her that I would need to start meeting with [client] individually to help promote independence in recovery. I suggested a weekly family meeting and reminded her that she could meet us at HSC to attend pys. appointments. At this time, his wife became enraged and started yelling at me over the phone. She also continued to scream at [client] when he tried to talk with me. [Client] stated that he wanted to continue treatment and had no problems engaging in treatment independently." The plan proceeds to state that "After reviewing in team meeting, it was suggested I contact OIG and file a complaint due to his wife preventing on his participation in treatment."

In another instance in the ACT notes, it states that the case manager informed the team of the client's wife's outburst and stated that "I also stated the [client] is willing to participate in services, but is being hindered by his wife."

Also, in reviewing the ACT notes, the HRA saw no evidence that the case manager cancelled or rescheduled any meetings with the client, because of large caseloads or for any reason.

In regard to the complaint that the cancelled appointments almost led to the client's discharge but the physician intervened, and also that the case manager lied to the physician and the physician intervened, defended the patient, and got a new case manager assigned, a ACT note, dated 1/28/2011, reads "I also stated that [client] is willing to participate in services, but is being hindered by his wife. [physician] suggested a male caseworker might eliminate the anxiety that [client's wife] feels regarding [client] being alone with someone." Another ACT note, dated 2/22/2011, it states that the client's wife did not want to come between the client and his treatment and "at this time per [physician] orders it has been determine that he will stay on the act team and that he will be assigned a male case manager." This ACT note was created by the case manager's supervisor. The note states that the supervisor directly met with the client and his wife. Another ACT note, also dated 2/22/2011, written by the supervisor states "consulted with [physician] about [client] and his treatment and how we need to give him another chance in ACT in order for him to continue treatment. [physician] reported that [client] is very sick and can become very symptomatic if not given the correct treatment, so we will continue with ACT at this time." In another ACT note, dated 2/14/2011, it is stated that the client did not want his injection, and the case manager advised the client that she "would not be scheduling any psy. appointments until it is reviewed with my supervisor as he has missed three scheduled appointments in a row." In another ACT note, dated 2/14/2011, written by the case manager's supervisor, states that the supervisor explained to the client's wife that the client "needed to keep appts. With us before we can even reschd appt with the MD."

In regard to the complaint that there was inadequate treatment, including the spouse not having access to treatment meetings or doctor appointments, in the client's treatment plan, dated

4/28/2011, (but added to the plan 1/7/2011) it states "I advised her that I would need to start meeting with [client] individually to help promote independence in recovery." Also, one of the client's objectives is to "… look at establishing some kind of independence in his family life, try and work with the act rs [recovery specialist aka case manager] at least once a wk apart from his wife (being a part of the treatment)." Another treatment objective and intervention in the treatment plan states "act rs will try and make contact with [client] without [client's wife] his wife at least once a wk, act rs will communicate with [client's wife] the importance of [client] receiving one on one time with the act staff." There are other instances in the ACT notes discussing the client's wife not attending sessions, one of which is dated on 1/28/2011, states "… he needs time to work independently on his recovery as his wife dominates most session." The same ACT note states "[client] agreed, but hesitated with what he should do." Further discussion of the wife's actions during meetings are indicated in other ACT notes dated 3/25/2011, which state "[client's wife] was very argumentative, uncooperative and demanding at the beginning of the session but was better as the session went on." Another ACT note, dated 3/8/2011 states "Client's wife interrupted the conversations at times with odd comments loosely directed toward not needing help or being able to fix his own mind if he wanted to. She made comments about how he is just letting it happen, that he just isn't thinking right, that he is feeding the thoughts which is why they are still there, and that he could fix his mind if he wanted to, and that he just needs to knock it off and ignore them and be himself. This was very distracting and closed client off from talking for periods of time and limited the amount he shared with RS."

The treatment plan, documents that "[client] stated that he wanted to continue treatment and had no problems engaging in treatment independently." This section was added to the plan on 1/7/2011.

In another ACT note, dated 2/22/2011, it states that the client "…added that he does not get along with his case manager …" In another ACT note, dated 2/12/2011, it stated "[Client] called and stated that he would like to meet me at the human service center so that his wife could come with him to the appointment. I advised [client] that even if she comes with him, we would be meeting individually to discuss his treatment." Later on in the note, it states that the client agreed but it did not specify as to what the client agreed.

In the facility's Code of Ethics, it states that "Staff will encourage the involvement of family and significant others in the treatment of clients, when clinically appropriate." The HRA also reviewed a policy and procedure document with the subject "clients are involved in decisions about treatment and the resolution of dilemmas" that reads "Clients are encouraged to involve family members and/or other supportive persons in their treatment, treatment planning, and treatment dilemmas and decisions."

In reviewing the Human Service Center handbook, the family is also encouraged to be involved in the patient's treatment planning. The handbook states that the client will determine the role of family members and their access to information and, the treatment plans will reflect the roles and participation of those who are providing support to the individuals in recovery.

There is another Human Service Center policy, titled "Treatment Planning - Involvement of Family and Others" that states "The family of the individual served is involved in developing

the treatment plan upon consent from the individual (if an adult) or in accordance with law and regulation (if a minor or if the individual served is an adult with a guardian)." The policy proceeds to state "The treatment reflects family participation unless such participation is contraindicated." The policy also reads "Appropriate written consent must be in place according to confidentiality requirements prior to family or advocate involvement in treatment planning." The HRA saw no indication that written consent was in place for the client's wife, although the staff stated that the client appearing with his wife would be considered assumed consent.

In regard to the complaint that the client's wife was not allowed to ride with the client, the ACT notes for 1/28/2011 reads, "I also explained to [client's wife] that per the medical director and my supervisor, that I would only be transporting [client] to his psy. appointment and would need to meet with him weekly for individual session . . . I explained that she is welcomed to meet us at psy. appointments and I encourage her involvement, but for [client] recovery she would need to let him be seen and transported individually." In that same set of notes, it reads "[client] was calm and agreeable to meeting individually with me."

In another ACT note, dated 2/14/2011, it reads "rs explained to [client's wife] that [client] is our client and not she and that she cannot be riding with the rs when res comes to their home to assist him in keeping the appt. this did not go well with [client's wife] and she started questioning this policy added that this never happened in the past when [client] was with the act team and that she needed to be told about this policy. rs explained to [client] that if it was not told to her before then I am telling you now that we will not transport family members and that [client] needed to keep appts with us before we can even reschd appt. with MD." Another ACT note states that the client's wife became angry when she was told that she would need to be transported separately and it was written that the case manager "… encouraged her to reconsider as he will be discharged from services if a compromise cannot be made."

The HRA saw no evidence of a transportation policy in the handbook where the client could view it and did not see any evidence of the policy elsewhere. The HRA also did not see any evidence of the case manager saying that she needed to know the client better and then stating the there is nothing the wife can do that the case manager cannot do.

The third complaint states that the case manager violated the client's privacy when she insisted on being in the physician's office when her husband was being examined. The ACT notes read "… added that we were violating his privacy by being in the room when he has shots and he had pulled his pants down. rs explained to the [client's wife] that the nurse will need to be there because she is one administering the shots and if at that time he did not want the rs to be there then that should have been told to us then. rs also reminded [client's wife] that [client] tends to becomes anxious and rs was there merely to support hi while he gets his shots." The Human Service Center handbook reads "The provision that each individual's personal privacy is assured and protected within the constraints of the law and of the individual treatment plan or as determined by established program policies." The client's treatment plan does state that "act staff will encourage [client] to maintain adherence with the meds and maintain all his appts with the nurse. act staff will offer assistance in keeping appts and sit in sessions in order to address any med issues or other concerns."

Another complaint alleges that the patient's case manager sent a letter threatening discharge for missing appointments. The Human Service Center handbook reads "Individuals have the right at any time to refuse treatment and to discontinue services. Similarly, the recovery specialist may decide to terminate services for good cause, which shall be communicated to the client in writing. If an individual refuses to actively participate in treatment, or if an individual places a facility or other clients at risk, Human Service Center/[name of another company in the Fayette systems] may discharge that person." The handbook also makes the statement that clients and families "Agree to make every effort to keep mutually scheduled appointments, and to notify the recovery specialist in a reasonable time in advance if cancellation becomes necessary."

The HRA reviewed the form discharge letters that are sent to clients but did not see the actual letters sent to the client because the facility did not have copies of the letters. The first letter (which it was stated that they only received one) gives the last date that the individual had contact with the facility as well as a statement that they have not kept appointments since that date. The letter gives a date to contact the recovery specialist by if they would like to continue receiving services. The letter also states "If I have not heard from you within the next two weeks I will assume you are not interested in receiving services at this time and I will end your enrollment." The ACT notes do indicate that the discharge process was started for the client and that the client called the facility because he had received discharge letters.

The final complaint alleges that the facility does not have an adequate grievance policy and that there was an attempt to communicate the complaints to the facility but the client never received a response. The individual who was thought to be the case manager's supervisor in the complaint, and who the complaint was presented to, was actually an employee in the human resources section of the company according to the Human Service Center website. The Human Service Center handbook illustrates the steps involved in filing a grievance. The grievance section of the handbook begins by stating "Every Human Service Center/[name of another Fayette service] client, family member, visitor, or other consumer of services has the right to make a complaint or grievance. A formal complaint, however, must be in writing." The section proceeds to explain the process. The first step deals with the original staff member involved in dealing with the grievance should explain the grievance procedure and document the grievance in the client's chart. The staff member will contact the client within 72 hours to arrange and appointment to resolve the grievance. If an individual does not want to bring the issue to their recovery specialist, they can bring it to the next staff level or initiate the complaint with another person. The procedure also states that clients may get assistance in putting the grievance in writing and you can even get a blank form to complete. The procedure proceeds to say that if a resolution is not reached to the satisfaction of the client and staff, a completed Grievance Report Form and Grievance Resolution Form shall be sent to the next staff level all the way up to the Fayette Companies President. If no resolution is attained, the client will be given the names and contact information for client advocacy and/or arbitration organizations. The handbook has a list of advocacy organizations. No part of the written grievance process indicates a difference between a complaint and a formal grievance or that they would be handled differently. The handbook states that "Grievances may address any aspect of service or the provision of services." The grievance process also states that individuals may receive assistance in writing their grievance from "anyone they designate, including staff, when requested."

The HRA reviewed an email from the human resource employee to members of the client's team regarding receiving a grievance dated 2/15/2011. The email states that the grievance deals with many of the topics discussed in this complaint (case manager was unprofessional, invasion of privacy for the case manager being a part of the client receiving an injection, the client's wife not being allowed to accompany to appointments, and a complaint that the HRA did not receive that that the client was refused bus passes). Regarding the fact that the client's wife was not allowed in appointments, the email states "He says that he needs her there, because she is able to explain his symptoms when he can't." The email also quotes the client as saying "'Instead of the focus of my appointments being on me lately, they've been about [client's wife] and this issue.'" According to the email, the staff member asked the client's wife "… what, if any, action she wanted me to take. She didn't indicate anything except wanting someone other than [case manager's supervisor] to know about their interactions with [case manager]." The staff indicated that the notes of the conversation would be passed along, which according to the email list occurred. The HRA saw no indication that the grievance was responded to or when it was responded to.

The Human Service Center handbook reads that the clients and families "Agree to follow the treatment plan as mutually developed, and is individualized as to the specific needs and limitations of the client, or express concerns about their ability to follow the plan and/or their desire to modify the plan." An ACT note from 1/25/2011 states "[client's] treatment plan was modified by myself and my supervisor to reflect new problems and goals." Also, the facility could not produce a current treatment plan with the client's signature.

The HRA could not obtain a copy of the OIG report due to not having a case number.

**MANDATES**

The Department of Human Services (DHS) Rule 132 states that clients of a Medicaid Community Mental Health Services program's rights will be protected in accordance with chapter two of the Mental Health and Developmental Disabilities Code and the client's confidentiality will be protected in accordance with the Confidentiality Act and the Health Insurance Portability and Accountability Act of 1996. The rule also states that any restriction of these rights will be documented in the client's clinical record and the guardian, parent, or agency designated by the client will be notified of the restriction (59 Il Admin Code 132.142).

In relation to the complaint that the client received inhumane treatment, Rule 132 states that the client has the right to be free from ”abuse, neglect, and exploitation" (59 Il Admin Code 132.142) and the Mental Health and Developmental Disabilities Code states all clients have the right to be free from abuse and neglect (405 ILCS 5/2-112). These regulations also apply to complaint number three regarding the privacy violations.

The DHS Rule 132 also reads " a) All services defined in this Section shall be provided and terminated in accordance with the following criteria unless exceptions are noted: 1) The services shall be provided: … C) To clients and their families, at the client's request or agreement; with groups of clients; or with the client's family as it relates to the primary benefit

and well being of the client and when related to an assessed need and goal on the client's ITP; …" (59 Il Admin Code 132.150).

The fourth complaint investigated dealt with inadequate discharge services where the client was threatened to be discharged from services and was sent a letter threatening to discharge for missed appointments. The complaint proceeds to state that the threat occurred even though some of the appointments were cancelled by the case manager and another appointment cancellation was due to a death in the family. The DHS Rule 132 reads that "2) Service termination criteria shall include: A) Determination that the client's acute symptomatology has improved and improvement can be maintained; B) Determination that the client's lever 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" (59 ILCS 132.150). The Mental Health and Developmental Disabilities Code states "The client and the client's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the client from causing serious and imminent physical harm to the client or others and no less restrictive alternative is available" (405 ILCS 5/2-107).

Concerning the allegation that the facility has an inadequate grievance process, the DHS Rule 132 reads that providers shall provide the clients with "The right or the guardian's right to present grievances up to and including the provider's executive director or comparable position. The client or guardian will be informed on how his or her grievances will be handled at the provider level. A record of such grievances and the response to those grievances shall be maintained by the provider. The executive director's decision on the grievance shall constitute a final administrative decision (except when such decisions are reviewable by the provider's governing board, in which case the governing board's decision is the final authority at the provider level)" (59 Il Admin Code 132.142).

The Mental Health and Developmental Disabilities Code reads "(a) 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. The facility shall advise the recipient of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan." (405 ILCS 5/2-102). The Code also states that "(a) Whenever any rights of a client of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the client's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefore to …" (405 ILCS 5/2-201).

The DHS Rule 132 reads " . . . Active participation by the client and/or persons of the client's choosing, which may include a parent/guardian, is required for all ITP development, whether it is the initial ITP or subsequent reviews and modifications. Participation by the client

or parent/guardian shall be documented by the client's or parent's/guardian's signature on the ITP. In the event that a client or a client's parent/guardian refuses to sign the ITP, the LPHA, QMHP or MHP shall document the reason for refusal and indicate by his or her dated signature on a progress note that the ITP was reviewed with the client and that the client or his or her parent/guardian refused to sign the ITP" (59 Il Admin Code 132.148).

## CONCLUSION

**Complaint #1 - Inhumane treatment, including case manager for individual is rude and unprofessional, makes up lies about the individual's family situation, uses profanity towards individual and spouse, accused patient's spouse of being the reason why meetings were missed, and reported false allegations towards an individual to a hotline.**

The complaint alleges that the client was treated inhumanely by the case manager. The allegations claim that the case manager was rude, unprofessional, lied about the individual's family life, used profanity, accused the patient's spouse of causing him to miss meetings and reported false allegations towards the individual to a hotline. The staff explained that the case manager was never unprofessional towards the client and did not use profanity towards the client and the HRA saw no evidence that this occurred. The staff explained that they felt that the client's wife was keeping him from receiving treatment, which caused them to notify the OIG to investigate the situation as possible abuse, which is documented in the patient's ACT notes. This action would account for the allegations of lying, false accusations about family life, and accusations towards the client's wife. In reviewing documentation, the HRA did see indications of the client's wife possibly not cooperating with the facility and acknowledges that calling the OIG was based on the clinical judgment of the facility. The HRA would like to reiterate a statement that was made to the facility by the OIG which is that the client's participation in the program is volunteer and, if the client chooses to drop out of the program, then that is his prerogative. In this case, there was indication by the client that he did want to continue with the program, which made have led to the facility taking action by calling the hotline. The HRA saw no evidence that the facility reported false allegations but rather made a judgment call that they believed abuse was occurring because of their feelings that the client's wife was keeping him from treatment. The staff also said this was done because they were pushing any hope of getting him into treatment. The staff also said that this was done because they were pushing any hope of getting him into treatment. Also, although the facility stated otherwise, there is evidence that the case manager told the client's wife that it was the belief of the facility that she is impacting the client's treatment and there is also evidence in the record that the staff felt that this was occurring. The HRA finds the complaint **unsubstantiated** due to the fact that there was no evidence to support the findings, with the exception of the accusation that the spouse was a reason why the client was missing meetings. Even with the evidence, the HRA feels that this is not a rights violation because the case manager is voicing her concerns about the spouse; and such statements would not necessarily be considered abusive. The HRA offers the following **suggestions** regarding the complaints:

- Although the complaints are unsubstantiated, there is evidence that the client's wife was told that she is the reason why meetings were missed. Even though the communication

was treatment related, the HRA still feels as though the situation could have been handled differently so that there was no misunderstanding or tension between the client, client's wife, and the facility. There are other instances in the ACT notes that seem at times confrontational (ex. The case manager stating "If no one told you before then they are telling you now" regarding the passenger policy). The HRA suggests that the situation be reviewed with the case manager to see how the language used in communicating could be changed for a more positive outcome between parties involved.

- The HRA questions the approach of the facility in calling OIG in hopes of the client getting back into treatment. OIG should be used as an abuse/neglect investigation body and not as a means of facilitating treatment for individuals. The HRA suggests that the facility review and evaluate the situation and educate staff that the OIG should only be used for abuse/neglect reporting.

**Complaint #2 - Inadequate treatment, including not allowing spouse access to treatment meetings or doctor appointments.**

The complaint states that a client's spouse was not allowed access to treatment meetings and doctor's appointments and the spouse was told she could not ride with the case manager to meetings. The staff stated that the client's wife would interrupt the meetings and be disruptive; and, they needed to see the client in private to discuss his treatment. The staff also explained that it was facility policy that family members could not ride with the case managers and that this was explained to the client and the client's spouse. The documentation notes the wife's statement that this had never happened in the past and if it was a policy, then she needed to be told about the policy. There is also documentation that the client's wife was told that she cannot ride with the client per a discussion in a team meeting, which could be understandably confusing. In reviewing the documentation, it was asked that the client's wife not attend meetings because of possibly being a distraction in the meeting. In the documentation, it seemed like there were times when the client was agreeable to participating in the meeting without his wife and another time when the client was unsure as to what he should do. There was also a documented discussion in which he wanted her to participate in the human resources complaint as per an email reviewed in the record review section of this report. The treatment plan also has the goal of the client meeting without his wife but the treatment plan was unsigned by the client, and therefore there is no indication that the client agreed to the plan or his wife not participating in the treatment. The facility documentation indicates that family involvement in treatment is promoted and the DHS Rule 132 states that services shall be provided to the clients and their families at the client's request (59 Il Admin Code 132.150). The Mental Health and Developmental Disabilities Code also states that the client of services shall be provided care in the services "pursuant to an individual services plan" and the plan should be reviewed and formulated with the client or "any other individual designated in writing by the client" (405 ILCS 5/2-102). The DHS Rule 132 reads "Active participation by the client and/or persons of the client's choosing, which may include a parent/guardian, is required for all ITP development, whether it is initial ITP or subsequent reviews and modifications." The Rule proceeds say that if the client or guardian refuses to sign the ITP, then it should be documented that the client refused, reasons why, and that the ITP was reviewed with the client (59 Il Admin Code 132.148).

The HRA saw no definite evidence that the client's wife did not attend a meeting, but there was no evidence that the facility did not want her to participate in a meeting so they could meet privately with the client. The Mental Health Code and Rule 132 state that clients can have individuals of their choosing participate in treatment, but the HRA did not see an instance where this was in writing or where it was explained to the client that his needed to be in writing. The HRA also saw that the client did not sign his treatment plan where it was stated that he would participate in individual sessions without his spouse. Also, there is no official policy regarding transporting involved family. The client's wife was not told that it was a facility policy, but rather a discussion in treatment sessions and per the case manager's supervisor. Although the facility did not completely follow regulations regarding treatment plans and participation in treatment plans, it appears that the client's wife did not actually miss any treatment meetings throughout the situation and the HRA believes that client's wife not being allowed a ride does not constitute an inadequate treatment violation. Due to the fact that the HRA does not believe there was inadequate treatment on behalf of the facility, the complaint is **unsubstantiated** but the HRA strongly **suggests** the following**:**

- For future treatment plans, following Rule 132 regarding client signatures on treatment plans and educate the facility staff in Rule 132 regulations regarding treatment plans.
- Although the facility proceeds on assumed consent if the client brings an individual with them, the HRA suggests that if there is an individual who the client wants to participate in his treatment, educate the client on the Mental Health and Developmental Disabilities Code which allows the client to have individuals participate in the treatment plan which must be designated in writing (405 ILCS 5/2-102); educate the facility staff accordingly.
- It was stated that it is no longer policy that the client's family cannot ride with them to appointments, but at the time it was stated that it was policy. When this statement was made, there was no policy written. The HRA recommends that this transportation policy, and any other policy that effects clients and family members, be documented in writing and made available to the clients and family members that the policy effects.
- If the client wants his wife involved in his treatment, and there is evidence that he does as shown in this report, then keeping her from the treatment would be considered a rights restriction and, in order to have an individual meeting with the client as the facility wanted, this restriction would have to be documented per 405 ILCS 5/2-201. The HRA recommends creating policy/procedure regarding rights restriction, if the facility does not already have procedures that would cover this incident, and educate the facility staff on these procedures.
- The HRA feels as though the placement of the statement regarding explanation of the treatment planning process/contents checkbox could cause confusion. As it stands, it looks as if the individual who as signed as a member of the interdisciplinary team has signed off as the individual who explained the treatment process to the client. The HRA suggests reconfiguring the form so that there is no confusion as to who explained the process. The HRA also suggests dating the checkbox to indicate when the process was explained.

**The HRA recognizes that the facility felt as though the participation of the this individual's spouse was detrimental to the client's treatment in this case, and also recognizes that the facility has the right to treat a client using techniques and treatments as best as they**

**possible can. The HRA is not making the statement that a facility can never limit spousal participation.**

**Complaint #3 - Privacy violations, case manager insisted on being in physician's office when individual was being examined.**

The privacy violation complaint states that a case manager was in the physician's room when a client pulled down his pants to receive a shot. The staff stated that the case manager offered to leave but the client's wife said that it was fine if she stayed during the shot. There is documentation in the ACT notes where the client's wife addresses the situation and states that the case manager was violating the patient's privacy in response to the accusation that the case manager explained that this should have been brought up at the time of the incident. The client's treatment plan does state that ACT staff will sit in on sessions to address medical issues or other concerns, but, as stated above, the treatment plan was unsigned. The HRA saw no policy regarding case managers sitting in appointments where patients get injections and there was also no written indication that the patient is told that they can ask the case manager to leave during the injection. Although there is a discrepancy in describing how the situation occurred, evidence indicates that case managers are sitting in on medical appointments, including when injections are administered without the patient knowing that they can ask them to leave. The HRA saw no documentation explaining that the case managers do not have to be in the room during the shots. There is also no evidence directly stating that the client did not want the case manager there, only the conflicting accounts in the complaint and from the Human Service Center staff, and because of this lack of evidence, the HRA **unsubstantiated** the claim but offers the following **suggestions**:

- Inform clients, upon admission, that if they would like the case manager to not physically be present when a client receives an injection, then they can ask them to leave.
- Receive consent from the client that the case manager is allowed to be present while the client receives a shot.

**Complaint #4 - Inadequate discharge, threatened to have individual discharged from services and sent a letter threatening discharge for missing appointments when some appointments were cancelled by the case manager and one appointment was cancelled due to individual's family's death.**

The complaint alleges that the client was threatened to be discharged from services and was sent a letter threatening discharge for missing appointments, even though some appointments were cancelled by the case manager and one cancellation was due to a death in the family. The staff said that the case manager never cancelled an appointment because of a heavy workload and, because the program is a team effort, if someone from the facility could not make an appointment, another person would step in. The staff did send discharge letters to the client for missing appointments, but the client was never discharged from the facility. By reviewing the documentation, the client missed 5 total appointments (two of which appear to be after receiving discharge papers). The facility handbook states that the recovery specialist can terminate a client for good cause and also if an individual refuses to actively participate. In reviewing the form letters, they are not threatening discharge but rather giving a date for the client to respond by to

continue services (again it is unknown whether this is the exact letter that was received by the client because the actual letters were not kept by the facility). There was no evidence that the case manager cancelled appointments and the appointment that was cancelled due to a death was rescheduled. Due to the lack of evidence to support the discharge claim, the HRA finds this complaint **unsubstantiated** but offers the following suggestions:

- The HRA suggests that for new clients upon admission, the facility illustrate examples of incidents in which a client could be discharged from the facility. For example, not participating in or repeated cancellation of appointments could result in discharge.
- The HRA suggests that documentation sent to clients, such as the discharge letters, are always kept within the clients' records.

**Complaint #5 - Inadequate grievance process.**

The complaint states that the facility has an inadequate grievance process because an individual attempted to bring the complaint to the facility and received no response. The staff stated that clients receive a copy of the grievance process in their handbook when they start the program The staff stated that a human resources staff member did speak with the client's wife regarding the complaint and passed it along to the client's team. The staff stated that the team discussed the complaint and stated that it was not substantiated and informed the client's wife of this fact. There was no documentation reviewed by the HRA regarding a follow up with the client's wife or the timeframe of the follow up. The staff also states that there is a distinction between complaining and a formal grievance. If it is a complaint that they do not like their case manager, they would discuss it as a team and not use the formal grievance. The HRA reviewed the grievance process in the handbook and there was no differentiation between a complaint and a formal grievance. The handbook states that "Grievances may address any aspect of service or the provision of services." What the staff explains in the interview contradicts the grievance process policy in the handbook. According to an email regarding the complaints to the facility, when asked what action was desired by the wife, no formal grievance was pursued. The client's wife only wanted management other than the case manager's supervisor, to be aware of the situation. Although this was not considered an official grievance, the HRA **substantiates** the complaint due to the fact that the facility grievance policy differs from staff practices and policy interpretation. The HRA offers the following **recommendation**:

- Follow the agency grievance policy. Do not differentiate between complaints and grievances per the facility written grievance process that is provided to the clients.

**RESPONSE**

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

HUMAN SERVICE CENTER

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October 27, 2011

Illinois Guardianship & Advocacy Commission
410 Main Street
Suite 620
Peoria, Illinois 61602

RE: HRA Case # 11-090-9029

IG&AC,

Thanks for your willingness to accept our request for a delay in responding to the investigative report. It was a logistic issue of key staff being absent from work for an extended period of time, but were critical to our internal review of the information.

We appreciate your comprehensive and objective review of the allegations presented. Because of our staff involvement, we are aware of the complexity of the issues raised and the need to formulate conclusions to each of them. Having reviewed the findings with the corporate medical director (Dr. Arun Pinto), the director of mental health services (Cindy Gilmer) and some of the directly involved staff, we concur with the vast majority of the information presented. We understand there were some concerns about practices related to treatment plan signatures, but are operating under the approval by our licensing/certification bodies. We are also aware that the concerns about differentiating between complaints, grievances and comments about staff or treatment has been problematic and our clinical records manager had already initiated and is finalizing a new protocol for consumers and staff. If grievances/complaints are provided in writing, they are handled in accordance with the same protocol. The new protocol is outlining that verbal allegations, which are characterized as potential abuse, neglect and/or exploitation, will be responded to in the same manner as written reports. Attached is a copy of the piloted format which has been made available substituting for our previous grievance form. We believe this addresses the finding recommendations.

Thanks for the opportunity to respond to the investigative findings. If you have further questions, please let us know.

Sincerely,

Mike Kennedy

Michael G. Kennedy
Vice-President & Chief Operating Officer

# HUMAN SERVICE CENTER/WHITE OAKS

## Comment form for clients, family members, visitors

## Speak up

## Please let us know

Are we meeting your expectations?
If you could, is there anything you'd change about how we provide services?
What are we doing right?
What could we do better?
Who among staff stands out as being helpful to you?
How have we helped you? Would you recommend us to others?
Would you like someone to contact you about any concerns?

Name:_____ Date: _____
(Not required)

Contact information: _____
(Not required)

NOTE: A formal grievance or complaint may be made at any time. This card does not replace the client grievance process, which is explained in the information booklet given to consumers at time of enrollment.