



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #11-100-9010
Clearbrook

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 Clearbrook. In February 2011, the HRA notified Clearbrook of its intent to conduct an investigation, pursuant to the Guardianship and Advocacy Act (20 ILCS 3955). The complaint accepted for investigation was that a client's rights were violated when he was discharged from the facility without just cause.

If found substantiated the allegation would violate the Illinois Administrative Code (59 IL Adm. Code 115).

Background

Clearbrook has been providing services for people with developmental disabilities for more than 55 years. Clearbrook works with more than 3,300 children and adult clients each year, and their families, in more than 80 communities throughout Chicago and the surrounding suburbs. The focus of this investigation is a Community Integrated Living Arrangement (CILA) site. Clearbrook owns and/or manages 28 CILAs. According to Clearbrook literature, Clearbrook's approach offers a customized goal plan for each client, based on the desires and wishes of both clients and family. The clients actively participate in and support their neighborhood. Clients attend a wide variety of activities and outings such as: theaters, restaurants, sporting events, shopping, fitness centers, bowling, religious services, vacations, dances and holiday parties. Client need, choice and preference guide the services provided; self-advocacy is promoted.

Method of Investigation

To investigate the allegation, the HRA reviewed portions of the client's clinical record, with consent. Also reviewed were agency policies relevant to the allegation. The allegation was discussed with the Director of the CILA programs and a CILA Coordinator.

Findings

The complaint reported that the client's rights were violated because he was discharged from the CILA program without cause. It is noted that the guardian has subsequently accepted the discharge and will not be appealing the decision.

The clinical record reviewed showed data on a 49 year-old male who was admitted to Clearbrook's CILA program in July 2009; he was later admitted to a skilled nursing care facility on November 4, 2010. His diagnosis is as follows: Moderate Mental Retardation, Dysphasia, Cerebral Palsy, Epilepsy, muscle spasms, acid reflux, seasonal allergies, allergic rhinitis congestion,

schizophrenia, schizoaffective disorder, renal failure, thrombocytopenia, pneumonia, gastrostomy-tube (G-tube) since 2006, and anemia. A family member is his guardian.

The chart contained a 30-day involuntary discharge notice that was sent to the client's guardian. The letter, dated February 7, 2011, stated that it was the agency's position that they were unable to meet the client's medical needs. The letter stated that the DHS (Department of Human Services) conducted a Support Service Team (SST) review. It was documented that until the client is medically stabilized and the frequency and severity of his aspiration pneumonia diminished, the Team recommended that the client live in a residential program with 24-hour nursing care available. The letter gave information about appeals rights, which included where to appeal the decision and the name of a Department of Human Services representative to contact to discuss the appeal process. A guardian submitted a written letter of appeal on February 10, 2011.

The HRA reviewed the above noted SST report which documented that the medical conditions - recurrent aspiration pneumonia, sepsis, GERD (Gastroesophageal reflux disease), esophageal dysmotility, dysphasia, G-Tube NPO (nothing by mouth) since 2006, Jevity 20 hour continuous feeding and incontinence with stool, and the 17 medications that the client was taking, led the team to decide that he should live in a residence with 24-hour nursing care.

A review of Clearbrook's Health Summary and Flow Chart document (7/1/09 to 2/7/11) showed that from 8/09 to 10/10 the client had 15 emergency department visits at a local hospital for pneumonia, urinary tract infections, constipation and chest pain; four visits resulted in two/three day stays. The client also received treatment at other local hospitals during this time for abdominal pain, a swallow evaluation, cystoscopy, new G-Tube, stress tests, G-Tube replacement, and an ultrasound of his abdomen.

At the site visit, it was asked what the client's medical condition was prior to Clearbrook taking over his CILA from the previous provider. It was explained that Clearbrook took over two homes from this provider about 2009. The client had been living with this provider for several years. At the time of admission, Clearbrook staff members were told that all the individuals were medically stable and that none were medically fragile. It was offered that after having the individuals under Clearbrook care, they found out differently. It was explained that the nurse at the previous provider was only involved with the medications and was not involved in the day to day medical care of the clients. Thus, nursing notes did not reflect detailed medical conditions.

It was then asked why the client was not admitted to Clearbrook's Intermediate Care Facility (ICF) with a nurse available. It was stated that the client's guardian and the client's community case worker were offered an opportunity to see the ICF but they never acted on touring the facility. Subsequently, Clearbrook's Medical Director advised against the client being admitted to the ICF because the ICF was currently serving many clients with high medical needs.

When asked if the client's guardian was being apprised of the client's possible discharge, it was stated that the guardian is very involved and that staff members had frequent contact with the guardian discussing the client's medical conditions and the possibility of discharge. It was stated that after the SST review, Clearbrook staff met with the guardian and the community caseworker at which time the recommendations were presented. Clearbrook staff stated that the guardian did not seem to be surprised to learn of the recommendations.

Clearbrook's Discharge Criteria Policy states that the interdisciplinary team shall consider recommending termination of the client's placement only if: 1) The medical needs of the individual cannot be met by the CILA Program; or 2) the behavior of the individual places the individual or others in serious danger; or 3) the individual is to be transferred to a program offered by another

agency and the transfer has been agreed upon by the individual, the individual's guardian, the transferring agency and the receiving agency; or 4) the individual no longer benefits from CILA.

Conclusion

Pursuant to the Illinois Administrative Code, Section 115.215 a) *The community support team shall consider recommending termination of services to an individual only if:*

- 1) *The medical needs of the individual cannot be met by the CILA program; or*
 - 2) *The behavior of an individual places the individual or others in serious danger; or*
 - 3) *The individual is to be transferred to a program offered by another agency and the transfer has been agreed upon by the individual, the individual's guardian, the transferring agency and the receiving agency; or*
 - 4) *The individual no longer benefits from CILA services.*
- b) *Termination of services shall occur only if the termination recommendation has been approved by the Department. For individuals enrolled in the Department's Medicaid DD Waiver, termination of services is subject to review according to 59 Ill. Adm. Code 120.*

Section 120.110 of the Code states (in part) that *for appeals initiated by an individual concerning services, the following procedures apply: a) The individual, parents, or guardian or the individual's representative may appeal the following action: 4) Suspension, termination or reduction of services. b) The appeal shall be filed with, and received by, the Department's Hearing and Appeals Unit, 401 Stratton Building, Springfield IL 62765 within 10 working days after the date the individual or guardian receives the notice of action following the agency grievance process. c) Within 30 working days after the notice of appeal is received, the Department shall conduct an informal review of the appealed action and reverse, modify or leave unchanged the decision. The appellant, the appellant's representative (if any) and the service providers shall be notified in writing of the Department's action within 10 working days after the informal review.*

The guardian received a 30-day discharge and the discharged was appealed within the mandated timeframe. The guardian has since chosen not to appeal. Based on the information obtained, it is concluded that rights were not violated.