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Egyptian Regional Human Rights Authority  
Report of Findings  
11-110-9018  
Chester Mental Health Center  
August 23, 2011

The Egyptian Regional Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission has completed its investigation concerning Chester Mental Health Center, a state-operated mental health facility located in Chester. The facility, which is the most restrictive mental health center in the state, provides services for approximately 240 recipients. The specific allegations are as follows:

1. Chester Mental Health Center has failed to accommodate a recipient's diet choice.
2. Recipients are not allowed to have daily periods in the outside courtyard/recreation yard.
3. A recipient is not receiving approved food items sent to him by family members.

Statutes

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-102, 405 ILCS 5/2-104, 405 5/2-201) and the Illinois Administrative Code (Adm. Code) (59 Ill. Adm. Code 110.30).

Section 5/2-102 of the Code states, "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. In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided. The recipient's preference regarding emergency intervention under Subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan."

Section 5/2-104 of the Code states, "Every recipient who resides in a mental health or developmental disabilities facility shall be permitted to receive, possess and use personal

property and shall be provided with a reasonable amount of storage space therefor, except in the circumstances and under the conditions provided in this Section. (a) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission. (b) The professional responsible for overseeing the implementation of a recipient's services plan may with the approval of the facility director, restrict the right to property when necessary to protect such recipient or others from harm. (c) When a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him."

Section 5/2-201 states, "(a) Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to: (1) the recipient, and if such recipient is a minor or under guardianship, his parent or guardian; (2) a person designated under subsection (b) of Section 2-200 upon commencement of services or at any later time to receive such notice; (3) the facility director; (4) the Guardianship and Advocacy Commission, or the agency designated under "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, if either is so designated; and (5) the recipient's substitute decision maker, if any. The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record..."

Section 110.30 of the Adm. Code states, "a) Individuals may possess a reasonable amount of personal property for personal use under the following conditions: 1) Possession and use of certain classes of property may be restricted by the facility director when necessary to protect the recipient or others from harm, provided that notice of such restriction shall be given to all recipients upon admission so long as the restriction does not otherwise conflict with rights provided in this Section. 2) Upon arrival at the facility, the individual's belongings will be inventoried and checked against the contraband and restricted items list. Items that are contraband/restricted will not be given to the individual. Staff shall notify the individual of the contraband and restricted items and ask whether the items should remain in personal storage or whether the items should be sent to a family member or friend. Staff shall post a list of contraband and restricted items in a common area of the unit. 3) Property must be approved by the individual's treatment team prior to use. Any personal property that the treatment team determines, in the exercise of its professional judgment, may pose harm to the individual or to others shall be restricted. Property shall not be restricted on political, philosophical or religious grounds. Property intended as a medically reasonable accommodation of a known disability shall not be restricted except when determined by a physician and the treatment team, in exercise of their professional judgment, that the accommodation may pose harm to the individual or others. A restriction of rights shall be used in accordance with the Mental Health and Developmental Disabilities Code [405 ILCS 5/2-201] within 48 hours. When the restriction of rights is issued, the treatment team member shall inform the individual of his/her ability to request a review under subsection (a) (5). The individual will have the option of placing the personal property in storage or returning it to its place of origin. A) Personal property approved by staff for usage by an individual may not be shared with any other individual unless the second individual is

approved for such usage in accordance with this Section. Violation of this subsection (a) (3) (A) may result in a restriction of rights, including loss of use of the shared property, as determined by the treatment team exercising its professional judgment. B) Individuals may request prior approval, in accordance with subsection (a)(3), from designated staff for any property they intend to have sent to the facility or intend to receive during visits with family or friends, but are not required to seek prior approval. Property that has not been submitted for prior approval must nonetheless be approved, in accordance with subsection (a)(3) and comply with all other Sections of this Part before an individual may have access to it. (C) Once approved by the treatment team, personal property must be inspected by designated facility staff prior to entering the treatment unit. Items approved for possession by an individual may be indelibly marked or identified as belonging to that individual prior to entering the treatment unit. D) Media and media storage devices, including but not limited to print media, tapes, DVDs, CDs, video games and digital music players (MP3 players, Ipods, etc.) and related items, shall be considered personal property and are subject to this subsection (c). E) Computer, peripherals and related items are covered by 59 Ill. Adm. Code 109..."

### Investigation Information for Allegation 1:

Allegation 1: Chester Mental Health Center has failed to accommodate a recipient's diet choice. To investigate the allegation, the HRA Investigation Team (Team), consisting of one member and the HRA Coordinator (Coordinator), conducted a site visit at the facility. During the visit, the Team spoke with the Recipient whose rights were alleged to have been violated and the Chairman (Chairman) of the facility's Human Rights Committee. With the Recipient's written authorization, copies of information from the recipient's clinical chart were reviewed by the Authority. Facility Policies relevant to the complaint were also reviewed.

#### I...Interviews:

##### A...Recipient:

The Recipient informed the Team that he is receiving a vegetarian plus chicken/fish diet. He stated that he does not eat red meat and really doesn't want fish and chicken included in his diet. However, a facility Physician ordered the vegetarian plus chicken/fish diet. The Recipient informed the Team that during a previous admission, he did not encounter any problems with obtaining a vegetarian diet without fish and chicken.

##### B...Chairman:

According to the Chairman, all special diets are ordered by a Physician and monitored by the Dietary Manager. Recipients' dietary requests are considered, however, review by the Dietician and approval by a facility Physician is necessary before the diet is implemented.

#### II...Clinical Chart Review:

##### A...Treatment Plan Reviews (TPRs):

Documentation in a 11/20/10 TPR indicated that the Recipient was admitted to the facility on 11/11/10 as a transfer from a less restrictive state-operated mental health facility. The Recipient's Legal Status was listed as NGRI (Not Guilty by Reason of Insanity). His Theim date, anticipated date of discharge, was listed as 07/26/2053.

The Recipient's Diagnoses were listed as follows: AXIS I: Schizophrenia, Paranoid Type, Noncompliance with Medications, Alcohol and Cannabis Dependence in Remission in Controlled Environment; AXIS II: No Diagnosis, AXIS III: No Diagnosis; AXIS IV: Longstanding Mental Illness; History of Psychiatric Hospitalization, NGRI, Criminal History, Poor Insight and Judgment; and Noncompliance with Medication.

Documentation indicated that the Recipient was not receiving any medication when the 11/12/10 TPR meeting was conducted. According to the record, the recipient had refused to take any type of psychotropic medication.

The recipient's strengths were listed as follows: 1) He is "bright". 2) He is articulate. 3) He is able to care for his Activities of Daily Living, and 4) He has a supportive family. His problem areas were listed as: 1) Psychotic symptoms; 2) Aggression, and Noncompliance with Medication. The TPR contained goals and objectives to address each problem area

Documentation in the 11/30/10 TPR indicated that an AXIS III diagnosis of Arthritis of knees due to a sport injury (hockey) was included in the Recipient's diagnoses. Recordings in the Extent to Which Benefitting from Treatment Section of the TPR indicated that since his admission the Recipient had been compliant with rules and cooperative with staff, and he had not exhibited any verbal or physical aggressive behaviors.

According to documentation in the Extent to Which Benefitting from Treatment Section of the 12/21/10 TPR, there had been little change in the Recipient's clinical condition during the reporting period. The record indicated that the Recipient had the impression that he was treated unfairly due to his being moved to a different module, and he had become somewhat agitated while talking about this. Documentation indicated that the Recipient stated that he preferred to be on a different module because he did not like the phone schedule on his current unit. The record indicated that the Recipient was given the opportunity to speak with the Treatment Team about his concerns.

The Authority did not observe any documentation to indicate that the Recipient's weight was considered to be a problem, or that the Treatment Team had reviewed the recipient's request for a vegetarian diet.

#### B...Nutritional/Dietary Assessments:

Documentation in the initial nutritional assessment completed on 11/19/10 indicated that the Recipient was 2% underweight and was malnourished. A vegetarian diet with no red meat, only chicken and fish, and Ensure three times daily was recommended. The record indicated that

the chicken and fish were added to promote weight gain. The Dietician documented that the Recipient reported that the diet recommendations were appropriate considering his preferences.

As per documentation in an 11/25/10 Nursing Re-Assessment Summary for the period 11/19/10 to 11/25/10, a Registered Nurse (RN) recorded that Recipient's appetite was adequate, and he consumed at least 75 % of his meals. The Recipient's diet was listed as "no red meat".

According to a 01/21/11 Nursing Re-assessment Summary for the period of 12/03/03 to 01/21/11, the Recipient's appetite was good and his weight was within the Ideal Body Range (IBW). The IBW Range was listed as 155 to 189, and his weight was recorded as 160, an increase of 8 lbs. since his previous assessment. His diet was listed as no red meat with Ensure three times daily. Documentation indicated that the Recipient was weighed monthly.

#### C...Medication Orders:

A facility Physician ordered a "veggie diet" with no red meat, only chicken and fish plus Ensure TID (three times daily) in a 11/17/10 Medication Order. Medication Orders dated 12/07/10, 01/09/11 and 02/01/11 contained the same prescribed diet.

#### D...Referral and Report (Consultation):

Documentation in the 11/11/10 Referral listed the Recipient's height as 71½ inches, Weight 152 lbs, wrist size: 16.5, small frame, and IBW 155-189. The record indicated that the Recipient had requested a "full or total Vegetarian" diet with milk.

#### E...Progress Notes:

According to documentation in a 11/12/10 Social Worker's Progress Note, the Recipient reported that he had lost weight in the previous two years and he described the weight loss as "gradual". According to the Social Worker, the Recipient's Family Member stated that the Recipient is a vegetarian and he did not eat many of his meals while hospitalized at the transferring hospital.

### III...Facility Policies:

#### A...Monthly Weight Policy:

According to the Policy Statement, "It is the policy of Chester Mental Health Center to keep an accurate record of weight on all patients in order to readily identify those patients with significant weight losses or gains."

The Procedure is listed as follows: 1) Unit nursing staff will assess weights of all recipients on a monthly basis. Scales are kept on each individual module. 2) Recipients' weights are recorded on weight record sheets each month within three working days after the weight was taken. Recipients' weights are entered monthly into the Patient Information System by an assigned Unit Nurse. Referral for a nutritional assessment will be made if any of the following

occurs; 1) a weight loss of 5 % from the previous month, 2) 7 ½ % or more for the previous three month period; 3) a weight loss of 10% or more for the previous six-month period; and 4) a weight gain of 10% or more since in the previous month's recording.

#### B...: Ordering and Serving Modified Diets Policy:

According to the Policy Statement, "At Chester Mental Health Center, the Dietary Manager II (Registered Dietitian) shall monitor the planning and serving of all modified diet menus to assure that diets are planned for and served to all patients according to their medical and psychological needs."

The Procedure is listed as follows: 1) All modified/special diets must be ordered by a Physician. The Unit Nurse will transcribe the Order from the Physician's Order Form, and complete a Diet Prescription. In the event a Recipient requires immediate dietary consideration, the Unit RN will assess the Recipient with respect to these concerns. If the changes are determined to be appropriate, the RN will contact the Physician to obtain a written or telephone order. 2) The Unit Nurse will contact the Dietary Supervisory by phone to inform the Supervisor of the modified/special dietary order and deliver the completed Diet Prescription to the dietary department before the end of the shift. 3) Diet changes or discontinuation of diets are phoned into the dietary, the Unit Nurse and a Diet Prescription submitted with the appropriate changes documented. Diet renewals are handled in the same manner. 4) The Unit Nurse is assigned to contact the commissary staff to inform them of the modified/special diet, diet changes, or discontinuation of a diet. 5) All modified/special diets must be reviewed by a Physician at least every 30 days. 6) Any modified/special dietary need, which is the result of a recipient's personal preference request and is not medically warranted, must be referred to the Recipient's Treatment Team for consideration and approval prior to a Physician Order for the special dietary request to be implemented. The Treatment Team should consider the Recipient's individual treatment goals and needs prior to approving the diet. If the Treatment Team approves the special dietary request, the Recipient's request will be referred to the Dietician for evaluation and recommendations. If the Physician determines that the request is needed and documents the justification for the special dietary need, he or she may implement the diet changes and requests prior to receiving the Treatment Team's approval.

Dietary department responsibilities included the following: 1) Regular diets and modified special diets are prepared in the kitchen by the cooks and served by assigned Support Service Workers; 2) Diets ordered which are not found on the spreadsheets are added and instructions posted in the serving area; 3) Modified diet trays are identified by a color-coded card with the Recipient's name, unit and specific diet; 4) Copies of the regular menus with the diet spreadsheets are given to the Support Service Workers; and 5) A card for each modified diet is set up on the recipient's tray.

Diets include Limited Concentrated Sweets, Heart Healthy, Increased Calorie, Pork-free, Mechanical Soft, Bland Low Salt., and Meat-Free.

## Summary

According to the Recipient whose rights were alleged to have been violated, his request for a pure vegetarian diet has not been honored. He stated that a facility Physician ordered a vegetarian diet with fish and chicken. Documentation in a 11/19/10 Dietician's Nutritional Assessment indicated that the Recipient was underweight and malnourished. Therefore, chicken, fish and Ensure were added to promote weight gain. The record indicated that monthly weights were obtained and nutritional assessments conducted. Documentation in the January 2011 Nursing Re-assessment Summary indicated that the Recipient had gained weight and was within his IBW; however, his diet continued to include fish, chicken, and Ensure. The record indicated that a facility Physician reviewed the Recipient's nutritional status monthly and wrote orders for continuation of the vegetarian plus chicken, fish and Ensure diet. The facility has a Monthly Weight Policy which provides guidelines to address when a referral for a nutritional assessment should be conducted. An additional Policy, entitled, "Ordering and Serving Modified Diets" states that if a recipient requests a special diet that is not medically warranted, the request should be referred to the recipient's Treatment Team for consideration and approval. The Treatment Team should consider the Recipient's treatment goal and needs prior to approving the diet. If the Treatment Team approves the dietary request, a referral is made to the Dietician for evaluation and recommendation. However, a facility Physician makes the final determination if the request is advisable, and he/she can implement the diet changes and requests prior to receiving the Treatment Team's approval.

## Conclusion

Based on review of the recipient's clinical chart, the Dietician recommended the addition of fish, chicken, and Ensure to the vegetarian diet due to the recipient's nutritional status, and a facility Physician ordered that the Dietician's recommendations be followed. Therefore, a rights violation has not occurred, and the allegation that the facility did not honor the recipient's diet request is unsubstantiated. No recommendations are issued.

## Suggestion

Although no rights violation occurred, documentation indicated that after the Recipient had reached his IBW, no dietary changes were implemented. For that reason, the Authority suggests the following:

1. The Recipient's choice of a vegetarian diet without fish and chicken should thoroughly be reviewed to determine if the request could be honored.

Allegation 2: Recipients are not allowed to have daily periods in the outside courtyard/recreation yard To investigate the allegation, the Team spoke with six recipients and the Chairman. Facility Policies pertinent to the allegation and Unit Monthly Activity Summary Reports were reviewed. Information from the National Weather Service Weather Forecast Office

Website(<http://www.crh.noaa.gov/product.php?site=PAH&issuedby+MDH&product+CF6&format>) and the Patient Handbook were also reviewed.

## I... Interviews:

### A...Chairman:

The Chairman informed the Team that recipients have the opportunity to use the recreation yards daily provided that inclement weather does not exist and there is adequate personnel to supervise the recipients. He stated that the recreation yards have safety measures in place to provide the maximum amount of security. The Chairman related that only non-forensic recipients have the opportunity to participate in the courtyard area.

According to the Chairman, there are two recreation yards, a south yard and a north yard, and an Activity Therapist arranges for each unit to alternate between both yards. For example, if a unit is designated to go the north yard on Monday, the unit would be assigned to the south yard on Tuesday.

The Chairman stated that the facility has policies to address procedures for the use of the recreation yards and the courtyard, and he provided copies of those policies for the Authority's review.

### B...Recipients:

Recipient 1 informed the Team that he is able to go into the recreation yard daily, except when it is raining. Recipient 2 stated that he had not encountered any problems with being able to go to the recreation yard. Recipient 3 stated that there had been a considerable amount of time when recipients were not able to go to the recreation yard. However, presently at least daily outings in the recreation yard are available to recipients. Recipients 4, 5 and 6 informed the Team that they had not experienced any problems going into the outside recreation yard. Recipient 5 stated that there were occasions that he preferred to stay in his room rather than going to the outside area; however, when he wanted to go he was allowed to participate in the outside activities.

## II...Policies:

### A... Use of Recreational Courtyard:

According to the Policy Statement, "Non-forensic patients at Chester Mental Health Center will be provided opportunities to participate in activities in the Recreational Courtyard."



The Procedure Section of the Policy outlines standards for recipients and staff, recipient eligibility, staff roles, notification and courtyard schedule. The Security Therapy Aide (STA) ratio to recipient is designated as 1 to 12 with the maximum number of 48 recipients. Activity therapy staff is not counted in the ratio. However, the minimum coverage for a session is three STA and an Activity Therapist. The Procedure allows unit security staff to make the day-to-day decisions whether a recipient may use the courtyard based on the recipient's behaviors. If a decision is made to exclude the Recipient, an STA II is assigned to enter a Progress Note in the Recipient's clinical file stating the reason he was excluded from the courtyard.

In the Recipient Eligibility Section documentation indicated that forensic recipients will not be allowed to use the court yard. Non-forensics recipients need to be on green level, the highest level of the facility's level system before they are eligible for use of the courtyard. The Unit Director is responsible for updating and providing the STA II with a list of eligible recipients. Those recipients who are not on the eligibility list will not be allowed to use the courtyard. Recipients who are on off unit restrictions will not be eligible for courtyard activities until all of the restrictions have been removed. Any recipient who is off unit restriction due to a medical problem will need approval of the Medical Director before he is placed on the eligibility list. A non-forensic Recipient with a history of elopement must have approval by the Recipient's Treatment Team, the Administrative Assistant, the Chief of Security, and the Facility Director before he is allowed to go to the courtyard.

The Procedure mandates, while in the recreational yard, the STAs to be responsible for security and prohibits their participation in any of the activities. The STAs are also assigned to monitoring recipients' use of the restroom during recreational periods. The restroom doors must remain locked and must be unlocked each time a recipient requests to use the restroom. The Procedure requires Activity Therapists to encourage recipients to become involved in the programming.

According to the Procedure, the Unit Charge Aide is responsible for notifying the control room and outside security 15 minutes prior to the scheduled time of the respective unit's use of the courtyard. If the unit will be using the courtyard in lieu of regularly scheduled recreation yard period, the Unit Activity Therapist is assigned to notify the Activity Therapy Supervisor thirty minutes prior to the scheduled use so the yard may be available to another unit.

According to the Procedure, monthly attendance data of the courtyard use is to be submitted to the Director of Rehabilitation Services.

#### B...Use of Recreation Yard:

According to the Policy Statement, "Patients at Chester Mental Health Center will have the opportunity to participate in outdoor activities to promote health in a safe and secure yard area."

According to the Policy, two yard areas are available to recipients. The south yard is defined as the yard area farthest from the service road and in back of the facility, and the north yard is the identified as the yard area closest to the service road and the facility building.

Outline procedures included scheduling, patient participation, preparation activities, movement of recipients to and from the yard area, deployment of staff for yard coverage, and monitoring yard activities.

According to the Procedure a unit STA II is responsible for notifying the Security Shift Supervisor and outside security when recipients are scheduled for use of the yard. An Activity Therapist is assigned to keep a log listing the following: the number of times the yard was offered, the number of times the yard activities were not offered, the reason for yard activity not being held, and the number of recipients who attend each activity. The Procedure allows for cancellation of yard use by the shift supervisor when there is inclement weather, an unsafe grounds condition, unexpected security personnel shortage or other safety issues.

When a unit staff believes that a Recipient should be kept from yard activities based upon the his behavior, the STA II is required to enter a Progress Note in the clinical file documenting the reasons that the Recipient was not allowed to attend the activity. The STA II will review this action with the Unit Director or Unit Manager within the same shift in order to determine if further Treatment Team review is warranted.

When a Physician limits a Recipient's ability to attend yard activities for medical reasons, the Physician's Order will be reviewed according to the Treatment Plan or if not specified in the Treatment Plan, the Order will be reviewed at least every three days. Medical services staff will notify the Unit Director, Unit Manager, STA II, Nurses, and Activity Therapists assigned to the unit of residence of all orders limiting the recipient's activities.

Recipients are encouraged to use sun screen, wear mosquito repellent when going to the yard at dusk, and dress appropriately for the weather conditions.

According to the Procedure, the Director of Activity Services, Safety Office or the Quality Assessment Director, will check the outside heat index or wind chill. When temperatures are between 40 degrees (Wind Chill Index) and 90 degrees (Heat Index), residential units will offer recipient yard activities a minimum of five days weekly. No yard activities are offered when the temperature is below 40 degrees Wind Chill. When the Heat Index temperatures are above 90 degrees, the Medical Director or designee must approve any yard activity. Factors to be considered are the length of time recipients will be outside, the special needs for recipients identified as high risk for heat exposure, and the sunlight exposure.

Movement of recipients to and from the yard areas is also addressed in the Procedure. According to documentation, when both yards are scheduled for use simultaneously, recipients using the south yard should be escorted to the yard area prior to recipients being escorted to the north yard. Upon completion of the activities, the north yard will be cleared of all recipients before recipients from the south yard are escorted back into the building.

Deployment of staff to the yard areas is also addressed in the Procedure. Documentation indicated that the staff members available for yard coverage is determined by the number of recipients that elect to attend the yard activity and the number of recipients that remain on the

unit requiring supervision. The Unit STA II will ensure that the unit modules are properly staffed and then deploy the remainder of STAs to the yard. The STA II will normally accompany the recipient to the yard. However, if two or more modules remain open on the unit, the STA II will remain on the unit and will notify the shift supervisor of the situation to approve yard coverage.

According to the Procedure a minimum of three STAs and one Activity Therapist are required to staff a yard activity. However, if an Activity Therapist is not available the yard will be staffed by four STAs, and if more than one outside Security Officer is on duty, a Security Officer will be assigned to assist in the recreation yard. It is denoted that it is preferable for at least one Activity Therapist to be available for each yard session. If an Activity Therapist assigned to the residential unit is not present, an Activity Therapist from another unit or program will be assigned to accompany the recipient to the yard in order that organized activities can be conducted.

STA positioning is defined in the Procedure to ensure that the yard is secure. Steps to ensure that activities are adequately monitored and the yard and equipment secured is also outlined.

### III...Unit Monthly Activity Summary Reports (Summary Reports):

Summary Reports from September 2010 through March 2011 were reviewed. Documentation indicated that all units (A, B, C, and E) had yard activities for September, October and November 2010.

For September 2010 the total number of sessions ranged from 6 to 16 in the north yard and from 2 to 11 in the south yard. The average number of recipients attending each session in the north yard was listed from 15.5 to 36.94 and 18.43 to 53 in the south yard.

In October 2010, documentation indicated that from 3 to 18 sessions were held in the north yard and from 2 to 14 sessions were held in the south yard. The average number of recipients attending the sessions were listed as from 15.65 to 34.96 in the north yard and from 22.29 to 46.5 in the south yard.

According to the documentation, in November 2010, from 7 to 18 sessions were held in the north yard. However, none of the recipients who reside on the Unit C attended north yard sessions. The average number of recipients attending the sessions ranges from 13.14 to 33 from Units A, B and E. The sessions ranged from 1 to 7 in the south yard. None of the recipients who reside on the A unit participated in south yard activities. The average of recipients attending the session ranged from 12.5 to 19.

The record indicated that outside yard activities were not held in December 2010 and January 2011. However in February 2011, activities in the north and south yard were commenced once more. The record indicated that the total number of sessions held in the north yard were listed as from 3 to 6. None of the recipients who resided on C unit attended the north yard activities. The number of recipients who attended the north yard activities ranged from

14.33 to 34.67. The number of sessions ranged from 1-2 in the south yard. The average of 15-18 persons attended the sessions. However, none of the recipients who resided on Unit A were involved in the activities.

#### IV...National Weather Service Weather Forecast Documentation:

According to documentation from the National Weather Service Forecast Office the average temperature in the Carbondale, Illinois area was 30.4 degrees for the month of December 2010 and 29.6 for the month of January 2011. Carbondale is located approximately 37 miles from Chester.

#### V...Patient Handbook (Handbook):

The Handbook, which is provided to recipients upon admission to the facility, lists general guidelines for visitors, information about bringing or sending items to recipients, a description of the hospital, information about recipients served at the facility, treatment programs, and security information. Additionally, the Handbook contains a Section entitled, "Frequently Asked Questions". Information is provided in the Section regarding a recipient's daily schedule, religious services offered, obtaining haircuts and shaves, making telephone calls, sending/ receiving mail, clothing issues, ordering commissary items, obtaining personal property, prohibiting of trading items with other recipients, recipient confidentiality, and recipient safety goals. The Authority did not observe any information regarding outside courtyard/recreation yard activities available to recipients and/or policies pertinent to the use of those areas.

#### Summary

Based on interviews with recipients, there have been some occasions when recipients were not allowed to go into the recreation yard. However, when the site investigation was conducted in April 2011, all of the recipients interviewed indicated that at least daily outside activities were available in the recreation yard. According to facility Policy, courtyard activities are only available to non-forensic recipients and then only if the non-forensic recipients are at a certain pass level; however, all recipients are able to attend recreation yard activities, provided that their behaviors are not a threat to self or others and in the absence of adverse weather. Weather conditions, which include extreme heat or cold, are considered and standards specified in the facility Policy. According to the documentation in Unit Monthly Activity Summary Reports, no recreation yard activities were held for all of the units during December 2010 and January 2011. However, according to information obtained from the National Weather Service Weather Forecast website, the average temperature for December 2010 was 30.4 degrees and 29.6 degrees for January 2011. According to facility Policy, no yard activities are offered when the temperature is below 40 degrees.

#### Conclusion

Even though yard activities were not conducted during the winter months, the facility followed its written policy pertinent to weather conditions. Additionally, the HRA did not determine any Code violations. In addition, facility/grounds access and passes represent a privilege versus a right and should be addressed through the treatment planning process. Therefore, the allegation that recipients are not allowed to have daily periods in the outside courtyard/recreation yard area is unsubstantiated. No recommendations are issued.

### Suggestions

The Authority suggests the following:

1. Recipients should be made aware of the facility's policies and procedures regarding courtyard and recreation yard usage by incorporating the information in the Patient Handbook.
2. The Authority also suggests that the Center review, through the treatment planning process, access to the yards by forensic recipients.
3. The Authority notes discrepancies in the frequency in which some units have access to yard use while some units appear to have no access at all. The HRA suggests that the Center review the ability to access the yards by unit.

Allegation 3: A recipient is not receiving approved food items sent to him by family members. To investigate the allegation, the Team spoke with the recipient whose rights were alleged to have been violated and the Chairman during a site visit to the facility

The Coordinator spoke via telephone with the family member who sent the package to the recipient. The recipient's clinical chart was reviewed with his written authorization. The Handbook was also reviewed.

#### I...Interviews:

#### A...Recipient:

According to a Recipient, a family member sent him a parcel that contained some packaged nutritious food items, such as protein and granola bars and decaffeinated herbal teas. He stated that the package was confiscated and reviewed by facility staff. After review, some of the items were given to him and the others returned to the Family Member who had sent the package. He stated that he was informed that several of the items had significant vitamins added; therefore, those items would not be allowed. According to the recipient, facility staff had contacted the Family Member to provide a list of items that should not be sent in the future. The

Recipient stated that although there had been a previous issue regarding the allowable items, he could not understand some of the reasoning associated with the facility's determination; he felt that the issue had been adequately resolved.

#### B... Chairman

According to the Chairman, the Recipient's Family Member sent a package to the Recipient which contained packaged food items. The Chairman stated that some of the items, such as herbal teas, were not included in the facility's formulary allowable items. He stated that the items in question were reviewed by the Pharmacist. After the review was completed the Recipient was given the approved food items, and the un-approved articles were returned to the sender.

The Chairman informed the Team that there had been an occasion when staff smelled smoke coming from the Recipient's room and went into the room to determine the origin of the smoke. The Chairman stated upon examination, the staff members discovered that the recipient had shaped the herbal tea into a cigarette form, lit the tea with contraband matches, and smoked it as if it were a cigarette.

#### C...Recipient's Family Member:

The Family Member informed the Coordinator that she sent a package to the Recipient which contained numerous packaged nutritionally sound food items. She stated that the food items were confiscated for review by facility staff, and some of those items were not given to the Recipient after the assessment was conducted. The Family Member stated that she and the Recipient were informed that the facility considered the unreturned items contraband due to the "organic" label and additional vitamin and mineral contents. The Family Member stated that she had purchased the very expensive food items due to the Recipient's health consciousness, and his concerns to maintain an adequate nutritional status. The Family Member informed the Coordinator that she had sent the same food items to the Recipient while he was hospitalized at the transferring facility without experiencing any problems with the items being considered contraband. The Family Member stated that she had contacted the facility to request a complete and thorough list of all food items that the Recipient could not have and an explanation as to why he could not receive those items. She stated that she had also inquired about what happens to the contents of the package that is considered as contraband.

The Coordinator made several attempts to speak with the family member via telephone to determine if the non-approved items had been returned; however, those attempts were not successful.

#### II: Clinical Chart Review:

##### A...TPR:

According to documentation in the recipient's 11/13/10 TPR, since the recipient's 11/11/10 admission, he had been compliant with rules and cooperative with staff. He had not exhibited any verbal or physical aggression. The record indicated that the recipient had received numerous food items in a package sent from a family member. Per policy after the facility Pharmacy's review, the Recipient was not allowed to receive specific items, such as herbal teas and protein bars. The record indicated that the Recipient was given the food items that were approved and the non-allowable items were mailed back to the recipient's Family Member.

#### B...Progress Notes:

In an 11/30/10 Progress Note an RN documented that she had spoken to the Recipient regarding food items sent by his family. The RN recorded that the Recipient was informed that the granola and almond butter bars were allowed; however the other items needed to be reviewed by the pharmacy.

The Recipient's Therapist recorded in an 11/30/10 Progress Note that she had spoken to the Family Member regarding the package that was sent to the recipient. The Therapist recorded that the Family Member was concerned that the Recipient was not allowed to receive all the items sent in the package. The Therapist documented that the Family Member expressed that for two years she had been purchasing and sending the same food items to the Recipient at the transferring facility without experiencing any problems with acceptance of the items. The Therapist recorded that the non-allowable items, such as the herbal teas and protein bars, were sent to the pharmacy for review and the other items were given to the Recipient.

According to a Social Worker's 01/01/10 Progress Note, a shakedown was conducted in the Recipient's room after staff members smelled smoke coming from the room. Staff noted that there were several towels placed against the bottom of his door. Documentation indicated that during the shakedown, staff found a small plastic bag hidden in a round pillow containing stick matches and tea bags. The Social Worker recorded that when the Recipient's Treatment Member's spoke to him about the incident, he admitted to smoking the herbal tea.

A Psychiatrist recorded in a 01/03/10 Progress Note that when STAs smelled smoked coming from the recipient's room and found many towels at the base of his door, a search was conducted. The Psychiatrist documented that contraband items, such as baby powder; match sticks and herbal teas were found. According to the Psychiatrist's documentation, the recipient was taken to the quiet room after he became very upset and shaky when the contraband was found. When the Recipient reached the room he admitted to the staff members that he had hoarded matches to make fire so that he could smoke the tea. He also admitted to smoking tea on approximately ten prior occasions and informed staff that this action was necessary for his survival.

#### C...: Restriction of Rights Notices (Notices):

The HRA was provided with Notices pertinent to the facility retaining some of the Recipient's personal property items that were considered as contraband. The initial Notice was implemented on 01/04/11 after the Recipient admitted to smoking the herbal tea and other contraband items were found in his room. The Notice listed that the restriction was for a period of twenty-eight days which extended from 01/04/11 at 9 AM to 02/01/11 at 9 AM. Documentation indicated that the Notice was delivered to the Recipient in person, and he expressed that he did not want anyone notified of the restriction. The reason listed for the restriction was documented as follows: "The Patient will not be allowed to use tea due to instances of smoking it in his room." Documentation indicated that the restriction was reviewed by the Treatment Team every twenty-eight days and upon review, the recipient was provided with an additional Notice.

### III: Handbook:

The Bringing or Sending Items to Patients Section of the Handbook addressed foods. Documentation was listed as follows; "To ensure good physical and mental health of our patients, visitors should only bring caffeine free drinks and food items with limited amounts of sugar. No food or other items may be taken back to the unit by the patient; therefore, the amount of food brought by a visitor should be limited and must be consumed during the visit or taken out by the visitor at the conclusion of the visit. To ensure a safe living environment, no metal or glass items may be given to the patients. Only a reasonable amount of food items should be sent to the hospital in order to prevent problems with insects and spoilage. For medical reasons, patient's dietary needs will be considered and diets will be strictly adhered to."

### Summary of Allegation 3

According to the Recipient whose rights were alleged to have been violated, when he received a package from a Family Member, the package was confiscated. The Recipient informed the Team that some of the items were given to him after being examined by facility staff; however, other items were returned to the sender. He stated that he could not understand the facility's reasoning pertinent to the non-allowable items, but felt that the issue had been resolved. Early in the investigation process, the Coordinator spoke via telephone with the Family Member who sent the package to the Recipient. She stated that the same food items had been sent to the transferring facility without those items being labeled as contraband. She stated that she had requested that the facility provide a list of items that are non-allowable; however, at that time of the telephone conversation none had been provided. Additionally, she stated that none of the items had been returned. Later in the investigation, several attempts were made to reach the Family Member to verify return of the items; however, she could not be reached.

According to the Chairman and documentation in the Recipient's clinical chart, when staff members noted the smell of smoke and towels placed at the base of the Recipient's door, the recipient admitted that he had been smoking the herbal tea in his room. The Chairman, as well as documentation in the recipient's clinical chart, related that the items confiscated were



reviewed by the facility pharmacist, and those items which were not allowable were returned to the Family Member.

The Handbook, which is presented to a recipient upon admission to the facility, provides information about visitors and family members bringing or sending food items to the recipients at the facility. However, there is not a list of items which are considered contraband or an explanation of the review process associated with determining whether an item is considered contraband.

### Conclusion

Based on the information obtained, the HRA has determined that the recipient's property was confiscated; however, the confiscation of the tea, matches, etc were implemented to protect the recipient, as well as others at the facility, from possible harm. Since the facility followed the Code mandates, no rights violation occurred. Therefore, the allegation that the recipient did not receive approved food items sent by family members is unsubstantiated. No recommendations are issued.

### Suggestions:

However, the following suggestions are issued.

1. The Handbook should provide an explanation of the review process associated with determining whether an item is considered contraband.
2. A recipient's Therapist/Case Manager should provide information to the recipient's family members regarding the review process of items sent to the recipient and provide a list of specific allowable items upon the family members request.
3. Items sent to recipients by mail, which are considered contraband, should be returned to the sender or stored in the recipient's property storage area.
4. When it is necessary to return the contraband items to a sender, the recipient's Therapist/Case Manager should explain to the sender and the recipient the reason the item(s) were determined to be contraband.
5. If the contraband items are placed in a recipient's property storage, the recipient should be advised of the location of the property and informed that the items will be sent with him when he is transferred to another setting.