



FOR IMMEDIATE RELEASE

Egyptian Regional Human Rights Authority
Report of Findings
11-110-9032
Chester Mental Health Center
June 28, 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. A recipient at Chester Mental Health Center is not receiving services in the least restrictive environment.
2. A recipient has not been allowed to make telephone calls.

Statutes

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-102, 405 ILCS 5/2-103, and 5/2-201).

Section 5/2-102 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 preferences regarding emergency interventions under subsection (d) of Section 2-200 shall be noted in the recipient's treatment plan."

Section 5/2-103 states, "Except as provided in this Section, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private, and uncensored communication with persons of his choice by mail, telephone and visitation. (a) The facility director shall ensure that correspondence can be conveniently received and mailed, the telephones are reasonably accessible, and that space for visits is available. Writing materials, postage and telephone usage funds shall be provided in reasonable amounts to recipients who reside in Department facilities and who are unable to procure such items. (b) Reasonable times

and places for the use of telephones and for visits may be established in writing by the facility director. (c) Unimpeded, private and uncensored communication by mail, telephone, and visitation may be reasonably restricted by the facility director only in order to protect the recipient or others from harm, harassment or intimidation provided that notice of such restriction shall be given to all recipients upon admission. When communications are restricted, the facility shall advise the recipient that he has the right to require the facility to notify the affected parties of the restriction, and to notify such affected party when the restrictions are no longer in effect. However, all letters addressed by a recipient to the Governor, members of the General Assembly, Attorney General, judges, state's attorneys, Guardianship and Advocacy Commission, or the Agency designed pursuant to '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, officers of the Department, or licensed attorneys at law must be forwarded at once to the persons to whom they are addressed without examination by the facility authorities. Letters in reply from the officials and attorneys mentioned above must be delivered to the recipient without examination by facility authorities. (d) No facility shall prevent any attorney who represents a recipient or who has been requested to do so by any relative or family member of the recipient, from visiting a recipient during normal business hours, unless that recipient refuses to meet with the attorney."

Section 5/2-201 states, "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 the 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, the agency designated under 'An Act in relation to the protection and advocacy of rights of persons with developmental disabilities and amending the Acts there in named 'approved September 20, 1985, if either is so designated; and (5) the recipient's substitute decision maker, if any. The professional shall be responsible for promptly recording such restriction or use of restraints or seclusion and the reason therefor in the recipient's record."

Investigation Information for Allegation 1:

1. A recipient at Chester Mental Health Center is not receiving services in the least restrictive environment. To investigate the allegation, the HRA Investigation 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. The Coordinator spoke via telephone with the Chairman after the site visit was conducted.

I...Interviews:

A...Recipient:

During the site visit, the recipient informed the Team that he was inappropriately placed at the facility. He reported that he was transferred from a less restrictive setting without a valid reason for the transfer. He stated that he was not been in restraint since December 2010 and has maintained the Level Green, the highest level in the facility's level system. He related that he has been recommended for transfer; however, the transfer has not occurred.

B: Chairman:

When the Team spoke with the Chairman during the site visit, he stated the decision to transfer a recipient to a less restrictive setting is determined by the recipient's treatment team. However, the designated less restrictive facility must agree to accept the recipient before the transfer is implemented. At the time of the site visit, the Chairman was not aware if the recipient had been recommended for transfer.

When the Coordinator contacted the Chairman via telephone after the site visit was conducted, he stated that the recipient had been recommended for transfer and was scheduled to leave the facility on 05/26/11 for placement in a less secure mental health setting.

II...Record Review:

A...Treatment Plan Review (TPR):

Documentation in the recipient's 01/04/11 TPR indicated that the recipient was admitted to the facility on 08/20/10 from a less restrictive mental health center. The record indicated that the recipient was transferred due to his aggressive behaviors while in residence at the transferring facility. According to documentation, the recipient choked a staff person, attempted to elope, and exhibited inappropriate sexual behaviors toward peers and staff members.

The recipient's diagnoses were listed as follows: AXIS I: Intermittent Explosive Disorder, Autistic Disorder; AXIS II: Moderate MR (Mental Retardation); AXIS III: Seizure Disorder; AXIS IV: Limited Social/Coping Skills, Chronic Mental Illness.

The recipient's medications were listed as follows: Haloperidol DOC injection 200 mg every 28 days; Divalproex NaER 500 mg TID (three times daily) for mood swings; Fluvoxamine 150 mg every HS (bedtime) for depression/OCD (Obsessive Compulsive Disorder); Oxycarbazepine 600 mg BID (twice daily) for mood swings/seizures; Clonidine 0.1 mg QID (four times a day); for impulse control; Alprazolam 1 mg TID (three times daily) for anxiety/agitation; Benztropine 1 mg BID for EPS (Extrapyramidal Symptoms); and Lithium Carbonate 300 mg BID for mood swings.

The recipient's strengths were listed as follows: 1) He had previously been at the facility and was familiar with the rules and procedures; 2) He had verbally expressed an intent to cooperate with treatment: and 3) He was in relatively good health at the time of the TPR.

His problem areas were listed as: 1) Medication compliance; 2) Aggression; 3) Mental Retardation & Autistic Disorder; 4) Seizure Disorder; and 5) Overweight/Obesity. Recordings in the TPR indicated that goals and objectives to address each for each of the problem areas were included in the TPR.

Documentation indicated that the recipient had been medication compliant. He had not displayed physically aggressive behaviors and had not required restraints. No seizures were recorded for the reporting period. The record indicated that the recipient remained above his ideal body weight range, which was listed as 139 to 169. His present weight was recorded as 193 lbs. Treatment interventions included: 1) The nursing staff to ensure that the recipient's dietary recommendations are reviewed by the doctor and orders for the diet are followed; 2) Nursing staff will weigh the recipient monthly and send a dietary referral if needed; and 3) Activity therapy staff will encourage the recipient to attend and participate in off unit activities.

Documentation in the Extent to Which Benefitting From Treatment Section of the TPR indicated that the recipient had benefitted from treatment to a moderate extent. He was on yellow level, the mid-level of the facility Level System. Additionally he had not displayed physically aggressive behaviors, and he had been medication compliant. However, he had received a combined total of 15 Behavioral Data Reports (BDRs) and required close monitoring for inappropriate sexual behaviors. Additional documentation indicated that the recipient presented with signs/symptoms consistent with Moderate Mental Retardation and Autistic Disorder.

Documentation in the 01/04/11 TPR indicated that in order for the recipient to be recommended for transfer to a less restrictive setting the following must occur: 1) He must demonstrate a sincere desire for transfer to a less secure facility; 2) He must exhibit compliance with prescribed medication and other treatment modalities; and 3) He must demonstrate effective management of aggressive behaviors.

According to the recipient's 02/01/11 TPR, the recipient had benefitted from treatment to a moderate extent. He remained on yellow level and had not displayed any physically aggressive behaviors. However, he had received 8 BDRs.

Documentation in a 02/28/11 TPR indicated that the recipient was on red level, the lowest level of the facility's Level System. He had displayed physically aggressive behaviors during the reporting period and required restraint for the safety of all. He had the combined total of 11 BDRs. The record indicated that he required continued close monitoring for inappropriate sexual behaviors, such as offering sexual favors to his peers. Additional documentation indicated that seclusion was not an option due to the recipient's diagnosed mental retardation.

Summary and Conclusion for Allegation 1

Based on the information obtained, the recipient met the criteria for transfer to a less restrictive environment, the treatment recommended the transfer, and the transfer was implemented on 05/26/11. Therefore, the allegation that the recipient is not receiving services in the least restrictive environment is unsubstantiated. No recommendations are issued.

Investigation for Allegation 2

Allegation 2: A recipient has not been allowed to make telephone calls: To investigate the allegation, the Team spoke with the recipient during a site visit to the facility. Information from the recipient's clinical chart was reviewed with his written authorization. After the site visit was conducted, the Coordinator spoke via telephone with the Chairman.

I...Interviews:

A... Recipient:

According to the recipient whose rights were alleged to have been violated, he was not always allowed to make telephone calls to persons of his choice. The recipient could not provide information about any specific incidents of telephone restriction or indicated whether he was provided with a Restriction of Rights Notice when he was prohibited from using the telephone.

B...Chairman:

After the HRA's review of the recipient's clinical records, the Coordinator spoke via telephone with the Chairman. According to the Chairman, the recipient was counseled regarding inappropriate telephone usage; however, he was not restricted from using the telephone.

II...Record Review:

A...TPRs

According to a Therapist's documentation in a 01/04/11 TPR, the recipient attends a remedial social skills group. The Therapist recorded that the recipient presents with "signs consistent with mental retardation including low frustration tolerance, high impulsivity, immature emotional development, low self control and childish mannerism. He also exhibits signs of Autism including obsessive thought patterns, repetitive behaviors and heightened sensitivity toward his environment and routines."

Documentation in the Extent To Which Benefitting From Treatment Section of the 01/04.11 TPR, indicated that the recipient had benefitted to a moderate extent. He had not exhibited physically aggressive behaviors. He had not been placed in restraints; however, he had received a combined total of 15 BDR, most relating to inappropriate sexual behaviors. There was no documentation to indicate that the recipient had been restricted from using the telephone due to his inappropriate behaviors.

According to documentation in a 02/28/11, the recipient displayed physically aggressive behaviors on 02/22/11 when he spat on and attempted to strike a staff member. The record indicated that he was placed in restraints for the safety of self and others. Additional documentation indicated that the recipient had received 11 BDRs for the following behaviors: wiping feces on staff, inappropriate sexual comments about staff, cursing at staff, making obscene gestures, verbal aggression toward staff, repeatedly slamming and kicking his door in

anger, attempting to trade commissary items, exhibiting loud/disruptive behaviors, repeatedly remaining on the telephone, and exhibiting inappropriate self touching. There was no documentation to indicate that the recipient was restricted from using the telephone; however, he was counseled regarding appropriate usage of the telephone.

B...Progress Notes:

According to documentation in a 01/11/11 Therapist's monthly progress note, the recipient had received 15 BDRs and multiple staff reports of ongoing behaviors such as screaming, cursing at staff, slamming doors in anger, inappropriate sexual comments to staff, refusing to shower, non-cooperation with staff, and inappropriate phone usage. However, he had shown a slight improvement in behaviors since the last reporting period.

Documentation in a 03/31/11 Therapist's monthly progress note indicated that during the reporting period the recipient had experienced aggressive behaviors; however, restraint application was not necessary to protect the recipient or others. The Therapist recorded that the recipient had received 26 reports of maladaptive behaviors for the following behaviors: threats to strike staff, repeatedly kicking his closet doors, verbal aggression, and loud disruptive behaviors. Additionally, the recipient exhibited inappropriate sexual behaviors which included coming out of his room laughing with his pants down, leaving obscene message on several staff extensions, and inappropriate sexual comments in a group activity. Additional documentation indicated that he attempted to use the telephone without staff assistance on three occasions.

C...Restriction of Rights Notice(s) (Notice):

According to documentation in a 02/22/11 Notice, the recipient was placed in a physical hold at 9:55 AM. The reason listed for the restriction was the recipient became agitated, yelled, cursed, threatened, spit at staff and refused to "calm down". The record indicated that the recipient related that he did not want anyone notified of the restriction.

A Notice was given to the recipient for restraint application which began at 10 AM on 02/22/11. Documentation indicated that the restraints were applied for the safety of all after the recipient's behaviors continued to escalate while in the hold. According to the documentation, the recipient expressed that he did not want anyone notified of the restraint application.

Summary

According to documentation, the recipient received BDRs for excessive and inappropriate use of the telephone. The record indicated that the recipient called staff members extensions at the facility and left obscene messages on their voice mail. In a March 2011 progress note, the recipient's therapist recorded that the recipient had attempted to use the telephone without staff assistance. However, the HRA did not observe any Notices indicating that the recipient's communication rights had been restricted.

Conclusion

According to the complaint, the recipient was not allowed to make telephone calls. Documentation throughout the chart indicated that he was able to communicate with persons of his choice; however, he was required to have a staff member's assistance in making the calls.

Due to the recipient's inappropriate telephone usage, the Authority understands the need for establishing limitations. However, according to the Code requirements, a recipient who resides in a mental health or developmental disabilities facility shall be permitted unimpeded, private and uncensored communication. Although the communication rights may be reasonably restricted, a notice of such restriction shall be given to the recipient. The Authority did not observe a Notice informing the recipient that his right to **private, unimpeded** communication was restricted, and staff assistance would be necessary when his telephone calls were placed. Although the recipient was allowed to make telephone calls, the right to private communication occurred and the recipient should have been given a Notice. Therefore, the allegation is substantiated.

Recommendation

1. Whenever the recipient's right to **private, uncensored and unimpeded communication** is restricted, the recipient shall be provided with a Notice pertinent to the restriction.
2. Documentation in the recipient's clinical chart should reflect the reason for the restriction and the extent of the restriction.