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Egyptian Regional Human Rights Authority
Report of Findings
11-110-9036
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. A recipient at Chester Mental Health Center has been denied access to his personal property items.
2. The recipient has been denied access/communication with his attorney.

Statutes

If substantiated, the allegations would be violations of the Mental Health and Developmental Disabilities Code (Code) (405 ILCS 5/2-102 (a), 5/2-103, 5/2-104 and 5/2-201 (a)).

Section 5/2-102 (a) 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, that telephones are reasonable 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 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 had 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, states attorneys, Guardianship and Advocacy Commission, or the Agency designated pursuant to 'An Act in relation to the protection and advocacy of rights of persons with developmental disabilities, and amending Acts therein named,' approved September 20, 1985, officers of the Department, or licensed attorney 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 the 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 5/2-104 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 (a) 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 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."

Investigation Information for Allegation 1

Allegation 1: A recipient at Chester Mental Health Center has been denied access to his personal property items. To investigate the allegation, the HRA Investigation Team (Team) conducted two site visits at the facility. During the initial visit, the Team, consisting of one Member and the HRA Coordinator (Coordinator) spoke with the recipient and the Chairman (Chairman) of the facility's Human Rights Committee. With the recipient's written authorization, copies of information from his clinical chart were obtained. When a second visit was conducted the Team requested to speak with the recipient, the members were informed that the recipient had been transferred after being found fit to stand trial.

I...Interviews:

A...Recipient

During the initial site visit in April 2011, the recipient informed the Team that he was admitted to Chester Mental Health Center in March 2011 as Unfit to Stand Trial (UST). The recipient stated that he had recently scored 100% accuracy on a Fitness Test; therefore, he should be found fit to stand trial within a short period of time. The recipient related that he did not believe that placement at the facility was appropriate, and he should return to court to deal with the criminal charges.

The recipient did not express that he had been denied access to his personal property, but related that he had experienced some problems with having his money transferred to Chester Mental Health Center from the correctional facility.

When a second visit was conducted, the Team requested to speak with the recipient once more to determine if additional information could be obtained. The Chairman informed the Team that the recipient had been found fit to stand trial and was returned to the transferring correctional facility.

B...Chairman:

According to the Chairman, no issues regarding the restriction of the recipient's property had been brought to the attention of the facility's Human Rights Committee.

II...Clinical Chart Review:

A...Treatment Plan Reviews (TPRs):

Documentation in the recipient's TPR dated 03/03/11, indicated that the recipient was admitted to the facility from a correctional facility on the same day the TPR meeting was conducted. The record indicated that the recipient's legal status was determined to be UST on 11/29/10 for charges associated with two Class A misdemeanors. The record indicated that although the recipient had not been physically aggressive, he was transferred to the facility due to his displaying behaviors which were considered intimidating and agitating to the other inmates.

The recipient's diagnoses were listed as follows; AXIS I: Bipolar Disorder, Manic; Substance Abuse/Marijuana, Alcohol Abuse; AXIS II: Personality Disorder NOS (Not Otherwise Specified) (Paranoid, Cyclothymiac); AXIS III: No diagnosis; and AXIS IV: Long history of mental health, behavioral, criminal, substance abuse issues.

The recipient's problem areas were listed as UST and psychosis. Goals to address the problems included the following: 1) A goal to restore to a level of fitness to stand trial by 09/2011; and 2) A goal to be free of displaying intrusive behavior toward others by 09/2011.

The record indicated that the recipient had refused to consider psychotropic medications. However, he failed to meet the criteria for seeking enforced medication.

Documentation indicated that when the recipient attended the 03/21/11 TPR meeting, he was grossly manic, and made statements of inflated worth, power and knowledge.

According to the record, the recipient continued to refuse to take psychotropic medications. Additional documentation indicated that he believed that since he had scored 100% on his Fitness Test, he was fit to stand trial. However, his thinking remained irrational, and he continued to argue, distort and challenge the legalities of his case. The record indicated that at the time of the 03/21/11 TPR meeting, the recipient was unable to cooperate with a psychiatric exam or with his public defender; therefore, he remained unfit to stand trial.

B...Progress Notes

According to documentation in a 04/13/11 Social Worker's Progress Note, the recipient had called to the trust fund office at the transferring correctional facility regarding his money. The Social Worker recorded that the Trust Fund Officer informed the recipient, as well as the Social Worker, that the recipient's money would remain in the custody of the correctional facility because the recipient was due to return within a short period of time.

C...Property Inventory:

According to a 03/03/11 Property Inventory, the recipient possessed the following personal property when he was admitted to the facility; An Illinois Photo Identification, 3 tag-less tea bags in original box of 100, 15 packages Ramen Noodle Soup-Chili flavor, 3 oz package 97% caffeine free freeze dried coffee; multiple packages of Ramen Soup Flavoring inside a long grain rice bag; pinto beans inside a long grain rice bag, 3-16 oz packages dried pinto beans; 5 Maxim Adult magazines, Stuff Adult Magazine, Penthouse Magazine, Playboy Magazine, Partial Playboy Magazine, several pictures from adult magazines glued to cardboard, 5 various magazines, Angels & Demons PB, Kiss the Girls PB, 2 saltine cracker boxes (each full of papers, envelopes and personal mail); miscellaneous papers, loose leaf papers, a writing tablet, miscellaneous documents, 2 ink pens, a large adhesive bandage, a cracked plastic bowl, a plastic jar with an used bar of soap and white cloth; 2 bars Dial soap, a cocoa butter bar; a cocoa butter stick, petroleum jelly, Softee Coconut Oil Hair and Scalp Conditioner, a deodorant stick, roll-on antiperspirant/deodorant; toothpaste; toothbrush and a comb.

Documentation indicated that the recipient was given the following items on 03/03/10: tea bags, Ramen Noodle Soup, caffeine free coffee, Ramen Soup Flavoring and pinto beans. The saltine cracker box which contained the recipient's personal mail and miscellaneous papers, loose leaf papers, the Softee Coconut Oil Hair and Scalp Conditioner and a comb were retrieved from the recipient's property and given to him on 04/01/11. The other items remained in the recipient's property storage until the recipient was discharged on 06/28/11. At that time all of his property accompanied him to the penal facility.

D...Additional Information

The HRA's review of the recipient's clinical chart did not reveal any documentation in progress notes, Restriction of Rights Notices, or TPRs to indicate that any of his property had been confiscated and restricted from his possession.

Summary

According to the complaint, a recipient was denied access to his property. When the Team spoke with the recipient, he stated that he had experienced some problems having his money transferred from a trust fund account at the correctional facility to Chester Mental Health Center. However, he did not provide any information regarding lack of access to his personal property after he arrived at the facility. According to the Chairman, the facility's Human Rights Committee had not been made aware of any problems associated with the recipient's property. Documentation in recipient's clinical chart indicated that the recipient and his Social Worker had contacted the transferring correctional facility to inquire about the recipient's trust fund account and was informed by the Trust Fund Officer that the funds would remain at the correctional facility due to the recipient's imminent return. No additional documentation observed during the investigation indicated that the recipient's property had been confiscated at any time during his hospitalization. However, the record revealed that his personal property had been returned to him when he was discharged from the facility.

Conclusion of Allegation.

Based on the information obtain, the allegation that the recipient was denied access to his personal property items is unsubstantiated. No recommendations are issued.

Investigation Information for Allegation 2:

Allegation 2: The recipient has been denied access/communication with his attorney. To investigate the allegation, the Team spoke with the recipient and the Chairman during a site visit. With the recipient's written authorization, the HRA reviewed copies of information from his clinical chart.

I...Interviews:

A...Recipient:

During the initial visit, the recipient informed the Team that he had not been found fit, even though he had scored 100% on the Fitness Exam. He stated that staff informed him the reason that he had not been found fit was because he was unable to communicate with his attorney. He stated that he expected to be found fit within a short period of time since he was able to answer all of the questions on the exam.

When a second visit was conducted, the Team requested to speak with the recipient once more regarding the matter. However, the Team was informed that the recipient had been transferred.

B...Chairman:

According to the Chairman, an issue regarding the recipient not being able to speak with his attorney had not been brought to the attention of the facility's Human Rights Committee. He stated that it is the facility's policy to allow recipients to speak with their attorneys.

II...Clinical Chart Review

A...TPR

Documentation in the Criteria For Separation Section of the recipient's 03/21/11 TPR listed the following criteria to be met before the recipient would be recommended to return to the county court system as fit to proceed: 1) He must be able to communicate with counsel and assist in his own defense; 2) He must be able to appreciate his presence in relation to time, place and things; 3) He must be able to understand that he is in a court of justice charged with a criminal offense; 4) He must show an understanding of his charges and their consequences, as well as, court procedures and roles of the judge, jury, prosecutor and defense attorney; 5) He must have sufficient memory to relate the circumstances surrounding the alleged criminal offense; and 6) He must demonstrate that there has been a significant reduction in his aggressive behavior.

According to documentation in the Extent to Which Benefitting From Treatment Section of the TPR, the recipient had not been physically aggressive since his admission. He had taken the Fitness Test and was able to answer all questions accurately with no assistance. However, "his deficit is concerning his ability to cooperate with his attorney in a rational manner. [NAME] needs to be able to communicate with his attorney. At this time [NAME] wants to do all the talking and refuses to allow attorney or otherwise comment."

B...Additional Documentation:

The HRA's review of Progress Notes for March and April 2011 did not reveal any documentation pertinent to the allegation. Nor did the Authority observe any Restriction of Rights Notices relevant to the complaint.

Summary

According to the complaint, the recipient was denied access to and communication with his Attorney. However, interviews and a review of the recipient's record did not provide any evidence that the restriction had occurred. Documentation in the recipient's 03/21/11 TPR indicated that the recipient had passed the Fitness Test, but remained unfit because he was not clinically able to speak with his attorney in a rationale manner in order to assist with his own defense. The record indicated that the recipient refused to allow his attorney to speak on his behalf and chose to do all of the talking. The recipient's attorney could not be reached for verification.

Conclusion

Based on investigation findings, the allegation that the recipient was denied access and communication with his attorney is unsubstantiated. No recommendations are issued.

Comment and Suggestion

When the 03/21/11 TPR meeting was conducted, the recipient was informed that he was not found fit because he was unable to communicate with his attorney. It is possible that the recipient could have interpreted that he was restricted from speaking with his attorney rather than recognizing his inability to effectively communicate with the attorney so that he might aid in his own defense. The following suggestion is offered.

1. Members of the treatment team should ensure that efforts are made to communicate information in a manner understandable to the recipient.