



FOR IMMEDIATE RELEASE

REPORT OF FINDINGS
DD HOMES-NETWORK\CAROLE LANE TERRACE— 12-040-9001
HUMAN RIGHTS AUTHORITY— South Suburban Region

[Case Summary— The Authority made corrective recommendations regarding one of two allegations that were accepted by the service provider. The public record on this case is recorded below; the provider did not request that its response be included as part of the public record.]

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA) has completed its investigation into allegations concerning Carole Lane Terrace. The complaint alleged the following: 1) did not provide the resident's guardian with financial records upon request, and, 2) the resident was charged twice for room and board for the same month. If substantiated, these allegations would violate the ID/DD Community Care Act that govern Intermediate Care Facilities for the Developmentally Disabled (210 ILCS 47), the Illinois Administrative Code (77 Ill. Admin. Code 350), the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4), the Illinois Probate Act (755 ILCS 5/11a-17) and the Supplemental Social Security Income Regulations for the Aged, Blind and Disabled (42 USCA Part 1383).

Carole Lane Terrace is a 16-bed intermediate care facility for persons with developmental disabilities in Sauk Village. The home is one of fourteen in the Chicago Metro DD Homes Network managed by Frances House.

METHODOLOGY

To investigate the complaints, the Authority conducted two site visits at which time the Executive Director, the Facility Representative and the Residential Services Director/Qualified Mental Retardation Professional were interviewed. The resident was interviewed privately at the facility and his belongings were observed. The complaint was discussed with the guardian by telephone. The HRA reviewed an Illinois Department of Public Health report concerning its investigation into the first allegation. A relevant policy was also reviewed.

Sections of the adult resident's record and a copy of his Guardianship Order, dated May 23rd, 2005, were reviewed with consent. This order appoints guardianship over the resident's personal care and finances.

COMPLAINT STATEMENT

The complaint stated that the resident's legal guardian wanted to be reimbursed \$90.00 for a DVD player (a digital video disc that plays movies and music files) that he had purchased for the resident at his request. An administrative staff person allegedly told the guardian that the resident did not have any money and would not allow him to review or hold the resident's bank book. The staff person reportedly was willing to give the guardian a small monetary amount monthly until he was reimbursed for the DVD player. On that same day, the guardian was supposedly informed by the resident's banking institution that he had \$466.00 in his account. It was reported that the guardian started receiving copies of the resident's financial records after the Illinois Department of Public Health was contacted. Additionally, the complaint alleged that the resident's financial record showed that cost of care was deducted twice in May 2011.

FINDINGS

Information from the record, interviews and program policies

The HRA determined that the verbal resident has been a client of the facility for about ten years. He is diagnosed with Mild Mental Retardation and can understand what is articulated by others. He does not have a lot of medical issues and goes to his work program and second job as scheduled. According to the Facility Executive Director, the resident's guardian (brother) had refused to give the facility another copy of the guardianship order that had been lost because of mismanagement. The document was subsequently found in a file cabinet but problems between the facility's staff and the guardian continued. It was reported that the guardian was upset because the facility's previous management had routinely signed a family leave form so that he could attend the resident's treatment staffing, but the present administration had refused. The resident's treatment staffing usually lasts about one hour because his needs are low and the staff were willing to change the meeting date to accommodate the guardian's schedule. The guardian reportedly attended the staffing but was only focused on getting the family leave form completed.

The HRA found no written documentation in the record that the guardian had requested to review the resident's banking book. The Residential Services Director/Qualified Mental Retardation Professional (RSD/QMRP), who was named in the complaint, reportedly started working at the facility in March or April 2011. The staff person told the investigation team that the guardian had requested financial records several times before she provided them. The Facility Executive Director explained that the staff were concerned that the guardian wanted access to the resident's funds for personal use. It was reported that the resident, who is easily influenced by others, had agreed to buy a ring for his guardian's girlfriend that cost \$425.00. This was not allowed because the facility serves as his representative payee. The staff interviewed reported that the resident had a DVD player, but the guardian purchased new a DVD player and wanted to be reimbursed for the item. We were informed that the guardian had threatened to become the payee because of the staff's refusal to give him money from the resident's account. But, the guardian told the investigation team that he was considering this option because of problems with receiving financial records.

The Facility Executive Director said that the Illinois Department of Public Health (IDPH) had investigated the complaint about financial records. An IDPH complaint determination report, dated on June 24th, 2011, indicated that the resident's financial statements from December

16th, 2010 through May 16th, 2011 had been reviewed by the Department. An entry initialed by the Facility Representative on February 7th, 2011 stated that a "copy of bank register mailed to guardian" was also reviewed. According to the entry, financial transactions from November 10th, 2010 through February 3rd, 2011 were included with the document. According to the report, there was no more written information found indicating that quarterly financial statements had been provided to the guardian. The RSD/QMRP reportedly told the surveyor that financial information including banking statements from April 16th through May 16th, 2011 had been mailed to the guardian on June 21st, 2011. She said that she believed that the guardian only wanted the most recent information when questioned about financial records from February 4th through May 15th, 2011.

The IDPH's investigation concluded that the facility had failed to ensure that quarterly financial statements were provided. The Facility Director told the HRA that the facility's practice is send quarterly records to those appropriate. We were informed that the previously assigned QMRP had left the facility in early 2011 and that only three months of financial records were not provided to the guardian. Documentation on June 21st, 2011 indicated that the QMRP was trained on the facility's banking policy and its responsibility to provide quarterly financial records to guardians.

The HRA reviewed the resident's banking statements from December 16th, 2010 through July 18th, 2011 concerning the complaint about cost of care. A hand written bank book or ledger maintained by the facility was also reviewed. His banking statements showed a monthly direct deposited amount of \$1165.00 from Social Security benefits. They documented that seven checks in the amount of \$1135.00 each that included three payments for April, May and June on the statement ending on June 15th were paid to the facility for cost of care. The facility's banking ledger erroneously reflected two credited Social Security benefits of \$1165.00 and that \$1135.00 (check #1185) for cost of care was deducted twice in May 2011. The investigation team was informed that the QMRP is responsible for updating the resident's bank ledger.

Additionally, the resident's banking statements further showed direct deposited amounts of \$202.12, \$100.00, \$293.74, \$202.31, \$128.74, \$118.08 and \$110.76 from wages earned. For January and May, checks for \$103.28 and \$86.10 were paid to the facility for earned income. Two months later, a check for \$1486.53 was paid to the facility and "A/R Balances for May 2008 through February 2011" was written on the memo line. According to the Facility Director, an audit showed that earned income had not been applied toward cost of care for some time. This was reportedly explained to the guardian, and he was given a copy of the rules regarding this issue. The HRA was informed that the resident has sufficient amount of clothing, shoes and other items. The facility provided program/cash receipt forms and Department of Human Service's calculation forms to support the amounts and corrections. For the period reviewed, there were no more deductions regarding earned income reflected on the resident's banking statements.

The resident, who is somewhat difficult to understand, told the HRA that he has been at the facility for a long time. He wants to live in a Community Integrated Living Arrangement (CILA) because people were in his "business." He reported that his guardian said that he would be moving soon. His roommate sometimes directs profanity toward him and staff members do

not intervene. He does janitorial work at his day training program and volunteers at a nearby hospital in the same occupational capacity. He reportedly receives \$5.00 every week and money for special activities when needed. The investigation team noticed that the resident has a flat screen television, a DVD player, clothes and many DVD movies in his bedroom. We were informed that the guardian had purchased the television for the resident's birthday in 2011. The staff will not reimburse his guardian for the DVD player, although he had requested the item. His guardian had recently purchased a new pair of gym shoes for him. He has another pair of gym shoes for work and a pair of dress shoes. He reportedly wants more pajamas, tee shirts and socks. According to the resident, his guardian told him that the QMRP had taken all monies from his banking account. The Authority questions the staff's authority as the representative payee to deny the purchase of the DVD player, if the resident requested it.

After the site visit, the Facility Director reported that the guardian had opened a banking account for the resident's wages from his employment. He was transferred to another agency at his guardian's request. He reportedly owes the facility about eight months of earned income for cost of care under the retention rules.

According to Carole Lane Terrace's "Individual Banking" policy, every individual will have a checking account within 30 days of admission to the facility. All Social Security checks will be directly deposited in residents' account, and the facility will be representative payee for all individuals. The assigned staff person will review budget needs with the individual on a weekly basis. A resident's spending allotment is based on needs and resources. The policy states that checkbooks are monitored by the facility administration and that individuals may discuss their financial needs with the QMRP at any time. The QMRP is directed to keep running balances in the checkbook. The staff person shall prepare a monthly report of account balances by reconciling banking statements, using the back of the statements, and with the individual's checkbook.

CONCLUSION

According Sections 47/2-104 of the DD/DD Community Care Act and the Mental Health and Developmental Disabilities Confidentiality Act Section 110/4, the parent or guardian shall be entitled, upon request, to inspect and copy a recipient's record. The Code also states that whenever access or modification is requested, the request and any other action taken thereon shall be noted in the recipient's record.

Sections 47/2-201 (3) (4) of the DD/DD Community Care Act and the 77 Administrative Code 350.3260 (d) (e), states to protect residents' funds the facility,

Shall maintain and allow, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, access to a written record of all financial arrangements and transactions involving the individual resident's funds.

Shall provide, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written itemized statement at least quarterly, of all financial transactions involving the resident's funds.

Section 47/2-212 of the DD/DD Community Care Act states that the facility shall ensure that its staff is familiar with and observes the rights and responsibilities enumerated in this Article.

The Illinois Probate Act Section 5/11a-17 states that the personal guardian shall make provision for the ward's support, care, comfort, health, education and maintenance.

According to the Code of Federal Regulations 42 USCA 1383 (A) (ii) (I),

Upon a determination by the Commissioner of Social Security that the interest of such individual would be served thereby, such payments shall be made, regardless of the legal competency or incompetence of the individual or eligible spouse, to another individual, or an organization, with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's "representative payee") for the use and benefit of the individual or eligible spouse.

It is the intent of the law that a resident' guardian make provisions for the individual in all areas including financial. The QMRP told the HRA that the guardian had requested financial records several times before they were provided. However, there was no documentation of the guardian's request to access financial records found in the record. The Facility Director reported that the facility's practice is to provide records to those appropriate. An IDPH report further indicated that the guardian was not provided with quarterly financial records in a timely manner. The Authority substantiates the complaint that the facility did not provide the resident's guardian with financial records upon request. The facility violates all of the above Sections.

To correct the problem and to prevent further occurrences, the facility provided documentation that the QMRP was trained on the facility's banking policy and its responsibility to provide quarterly financial records to guardians prior to the HRA's intervention.

The complaint that the resident was charged twice for room and board for the same month is unsubstantiated. A bank book maintained by the facility erroneously showed that his Social Security benefit of \$1165.00 was credited twice and cost of care (check #1185) was deducted twice from the resident's funds in May 2011.

RECOMMENDATION

1. Carole Lane Terrace is reminded to follow the DD/DD Community Care Act Section 47/2-201 (3) (4), 47/2-104 47/2-212, the 77 Administrative Code 350.3260 (e), the Mental Health

Developmental Disabilities Confidentiality Act Section 110/4, the Illinois Probate Act 5/11a-17, and the program policy by providing financial records as required by laws and noting the request in the record.

SUGGESTION

1. Included in the treatment planning process should be a review of resident funds and how trust fund accounts are to be spent with input from the resident and guardian.

COMMENT

In regard to the facility's concerns about the guardian possibly exploiting the resident's funds, the Facility Director was informed that he should write to the guardianship judge regarding this issue.