



FOR IMMEDIATE RELEASE

**REPORT OF FINDINGS
SOUTHWEST COMMUNITY SERVICES, INC.— 12-040-9004
HUMAN RIGHT AUTHORITY— South Suburban Region**

[Case Summary— The Authority did not substantiate the complaint as presented; the public record on this case is recorded below. The agency did not provide a response to the report.]

INTRODUCTION

The South Suburban Regional Human Rights Authority (HRA) has completed its investigation into an allegation concerning Southwest Community Services, Incorporated. The complaint alleged that a recipient was inappropriately terminated from services. If substantiated, this allegation would violate the Illinois Administrative Code (59 Ill. Admin. Code Part 119 et seq.), Standards for the Developmental Training Centers and the Illinois Administrative Code for Medicaid Home And Community-Based Services Waiver Program (Medicaid Waiver Program) (59 Ill. Admin. Code 120.100 and 120.110).

Southwest Community Services provides developmental training, social and recreational opportunities, psychosocial rehabilitation, community support, job development and community employment opportunities to adults and children with disabilities. The focus of this complaint is the agency's day training program for adults in Tinley Park.

METHODOLOGY

To pursue the investigation, the complaint was discussed with the agency's Quality Assurance and Recruitment Manager several times during closed sessions at the South Suburban Regional public meetings. The complaint was discussed with the recipient, his parent and the Individual Service and Support Advocacy Worker. Sections of the recipient's record were reviewed with consent. Relevant agency policies were reviewed. Additionally, the community advocacy worker provided the HRA with progress notes and correspondences that were not part of the record reviewed.

The recipient's parent reported during the investigation that she was the legal guardian, but the HRA later determined that the adult recipient maintains his legal rights.

COMPLAINT STATEMENT

The complaint stated that the recipient was informed that he could no longer attend his day training program in July 2011. It was reported that the recipient's parent had permanently

removed the eligible person from his Community Integrated Living Arrangement managed by another agency in December 2010. The termination of services request reportedly did not include the recipient's day training program. It was reported that the agency did not properly notify the recipient of the discharge decision.

FINDINGS

According to the recipient's "Individual Support Plan" dated October 10th, 2010, he became a client of the agency's day training center in 2009. His primary diagnosis is Mild Mental Retardation; he is verbal and able to communicate his needs. At the time, he lived in a Community Integrated Living Arrangement (CILA) managed by another agency and often visited his mother on weekends. His plan documented that rights were explained to the recipient and his parent. A copy of recipients' rights was also provided.

The HRA reviewed many entries written by the Individual Service and Support Advocacy (ISSA) worker that was not a part of record received from the day training agency. On October 14th, 2010, the recipient's parent was asked to keep the worker updated on her plans to take the recipient home to live with her so that she could work on changing funding from CILA to Intermittent CILA services. On December 17th, 2010, the worker was informed by the CILA agency that the parent had picked up the recipient and all of his belongings. On that next month, the parent was asked to reconsider her request for an exit meeting to prevent loss of services. Again, it was reportedly explained that Intermittent CILA services would allow the recipient to attend day training and to live at home with services. It was documented that the recipient had agreed to accept Intermittent CILA services from a named agency. A bed hold was requested, and his CILA agency also was asked not to complete the service termination request form. We note that Intermittent CILA services are provided to individuals who do not require 24-hour supervision. These services are based on the person's needs and desires and funded through the Illinois Department of Human Services.

On February 11th, 2011, the ISSA worker documented that the recipient's parent said that the process was taking too long and that the individual needed his monthly Social Security checks. The parent was informed that the recipient could return to his CILA program until his funding was changed. But, she requested a discharge staffing and said that the recipient was not attending his day program because of transportation problems. On that same month, the recipient reportedly told the worker "no" when she asked if he wanted services. It was documented that the recipient and his parent were informed that Intermittent CILA services and day training program would be terminated. As before, the parent said that the recipient was not attending his day training program because of transportation issues. And, the worker asked the recipient's CILA agency to complete the service termination form.

The "Service Termination Approval Request" form documented that all Individual Division of Developmental Disabilities service authorizations (including day programs, therapies and ISSA) will be terminated, even if your agency is not the provider, when the services package is terminated, unless an Application for Individual Service Authorization, or other written notice, requesting continuation of a specified service is attached to the form. On the form was checked that the recipient had refused to continue with residential and day program services. It was

requested that services should be terminated on December 17th, 2010, and the form was signed by a CILA employee on April 25th, 2011. It was also signed by the ISSA worker. There was no application or written notice for continuation of any service attached to the form.

An Illinois Department of Human Services Community Reimbursement form indicated that Southwest Community Services billed the Department for services provided to the recipient from December 2010 to June 2011 in the amount of \$5,722.30. On July 21st, 2011, the billing was rejected, and the agency's Quality Assurance and Recruitment Manager called the ISSA worker who said, "I am surprised you are still providing services for [the recipient] he was closed in 2010." The staff person documented that the day training agency was never informed about case closure until the rejected billing statement was received. Six days later, the agency's Quality Assurance and Recruitment Manager told the Program Manager that the recipient would no longer be able to attend the agency's program because of funding problems.

A Consumer Exit Summary report, completed on that same day, documented that the recipient was discharged from the agency because his funding was terminated. The report documented that the recipient was advised to contact a specific advocacy agency for assistance in getting his funding restored. On that next day, the recipient's parent reportedly told the agency's Quality Assurance and Recruitment Manager that she believed the recipient had been approved for Intermittent CILA services. She was encouraged to call the ISSA worker, and the recipient's CILA agency faxed a copy of the service termination form to the day training agency as requested. For August 2011, documentation indicated that the agency's Quality Assurance and Recruitment Manager encouraged the recipient to write letters regarding "violation of rights" and contact information to send the letters was provided. A copy of "Defending Your Rights" and information on the appeal process were reportedly emailed to the recipient and parent. On the 29th, the recipient's parent was reportedly encouraged to appeal the termination decision although 60 calendar days had passed.

The Quality Assurance and Recruitment Manager told the HRA that the recipient had been attending the agency's day training program for about two years before services were discontinued in July 2011. She reportedly told the recipient's parent that the eligible person's funding had been terminated. A copy of the Service Termination Approval Request form was provided by the CILA agency upon her request. She said that the ISSA agency had checked that all services should be terminated on the form. According to the ISSA worker, the recipient still had funding when she received a call from his parent in February 2011. She explained that she was working on getting approval for Intermittent CILA services through a named agency, but the parent said that the process was taking too long. She reportedly spoke to the recipient who said that he did not want services from the named agency. She completed the service termination form because the parent said that the recipient needed his Social Security checks. On questioning, the worker said that her supervisor also explained to the parent that she needed to fill out another application for funding, but she did not follow this suggestion. The recipient or his parent could call her supervisor or the community agency's intake worker to complete an application. The recipient's parent told the HRA that neither she nor the recipient had requested that day training services should be discontinued. She reportedly filled out another application after the investigation team called her in March 2012.

Southwest Community Services' "Consumer Service" policy states that each consumer will be provided with supervised programming through the Interdisciplinary Team process in order to provide a comprehensive approach in coordinating services and to design an array of community support services.

According to Southwest Community Services' "Human Rights" policy, the agency will have a Consumer Advisory Committee (Peer Advisory Committee) for each program so that participants can express their opinions or concerns for program improvement and activities.

The agency's "Transfer/Exit/Discharge" policy states that a summary will be completed on all consumers exiting program services when one of the following has occurred: 1) goals and objections have been obtained and maintained as agreed, 2) the consumer has obtained maximum benefits from services, 3) the consumer has been noncompliant with services, 4) the consumer's behavior poses a threat to self or others, 5) the consumer funding is terminated, 6) the consumer's physical disability or medical condition placed the individual in danger, 7) the consumer has moved to an area that is not served by the agency or chooses to transfer to another program, and, 8) the consumer chooses to terminate services. The policy directs that all necessary paperwork that includes at the minimum: the date and reason for exit, plan for follow-up or referral services and address of consumer must be placed in the consumer's file.

The agency's "Follow-Up Services" policy includes providing services as requested or needed to persons who are involuntarily discharged and referred to other agencies. It states that follow-up services are conducted through community or facility based in-person contacts, telephone or third party contacts such as family, letters, etc.

CONCLUSION

According to Section 119.210,

(a) Exclusion, suspension or discharge may occur due to the individual's: 1) desire to stop participation; 2) attainment of the exit criteria; 3) physical disability or medical condition which places the individual in danger; or 4) maladaptive behavior that places the individual or others in serious danger.

(b) Before exclusion, suspension or discharge, the team shall discuss, summarize and place in the individual's record the date and reason for this action.

Section 120.100 of the Medicaid Waiver Program Notice of action states that,

(d) Individuals requesting or receiving program services have the right to a written notice of disposition of the request, or reduction, suspension, denial or termination of services. Such notice must be mailed at least 10 calendar days prior to the effective date of the action, except, in an emergency...

Notices shall contain the following information: 1) A clear statement of the action to be taken; 2) A clear statement of the reason for the action; 3) A specific policy reference which supports such action; and 4) A complete statement of the individual's right to appeal, including the provider's grievance process, Department review and Department of Public Aid hearing.

Section 120.110 of the Medicaid Waiver Program under Appeals and fair hearings states,

- (i) (1) Services may be suspended, terminated or reduced before the final administrative decision only if all of the following conditions are met: A) The physical safety of the individual or others is imminently imperiled; B) Appropriate services are not available at the provider agency; C) The provider agency has documented attempts to identify and ameliorate the probable causes of maladaptive behaviors and to seek training or technical assistance to meet the individual's needs; and D) The PAS agent has: i) Reviewed the individual's record; ii) Gathered the necessary clinical information; iii) Reviewed the action of the provider; iv) Met with the individual; and v) Determined that a delay in termination, suspension or reduction in services would imminently imperil the physical safety of the individual or others and has documented that fact in the individual's record Services to the individual may be terminated, suspended or reduced and the notice of action shall be given in accordance with Section 120.110 (d), but in no case later than 48 hours after the termination, suspension or reduction in services.

The investigation revealed that all services were actually terminated under the Division of Developmental Disabilities service authorizations when his parent permanently removed the individual from his CILA program on December 17th, 2010. At the time, his case was not closed with the Department because the ISSA worker was working on getting approval for Intermittent CILA services. The recipient reportedly changed his mind about wanting services in February 2011, and case closure was actually the date he left the CILA. By documentation, Southwest Community Services was not aware that the recipient's funding had been terminated by the Department, and the agency provided day training services until billing was rejected in June 2011. No violations of rights under Sections 119.210, 120.100, 120.110 or the agencies policies were found because funding was terminated long before the day training agency discharged him. We also note that his appeal rights had expired prior to his discharge from the agency in 2011.

The Authority cannot substantiate the complaint that the recipient was inappropriately terminated from services in regard to the day training agency.

COMMENT

This case demonstrates problems that can arise when services are provided by different agencies. It should be said that the ISSA worker involved in the case should have worked better with the day training agency and provided the approved service termination request form sooner.

Additional Suggestions:

Ensure that clients, guardians and parents are fully informed of the resulting impact from decisions made to terminate services.

Provide the client/guardian/family with contact information for Illinois Department of Human Service representatives when conflicts arise involving the ISSA, service terminations or service changes.