



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #12-100-9016
DuPage County Health Department

In May 2012, the North Suburban Regional Human Rights Authority opened an investigation of possible rights violations within the DuPage County Health Department (DCHD) Residential Services Program. The complaints accepted for investigation are that a consumer's right to have visitors is being unduly restricted; staff members inspect the consumer's personal belongings without cause; over-the-counter nutritional supplements require a physician's orders; the agency does not respond to consumer complaints; when residential rules are broken a suspension is imposed requiring the consumer to leave the program during the suspension; medication is dispensed and conversations are held in the presence of outside parties (landlord).

Residents receiving services at the DCHD are protected by the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102, 2-103, 2-104).

According to the DCHD web-site, the goal of Adult Services is to preserve and promote the emotional well-being of DuPage County residents who have severe mental illness or are mentally ill and substance abusing. A variety of programs are offered to those individuals who have experienced serious psychiatric illnesses and are attempting to live independently in the community. Services include psychiatric rehabilitation (skill teaching and training, psychiatric services with the goal of helping the individual both manage their mental illness and build the skills and experiences to allow to re-integrate into normal community life), pre-vocational (pre-work skill training and experience), residential services (activities of daily living skills training in a supported or supervised residential setting), socialization and peer support (promotes consumer empowerment and involvement in consumer generated educational and recreational activities.)

Method of Investigation

Having received and reviewed clinical documentation from DCHD/Mental Health Services regarding the above noted allegations pertaining to the consumer, as well as the agency's policies that relate to visitation, personal belonging inspections, grievance procedure/process and consumer confidentiality, the HRA met with the program's Manager and the consumer's Mental Health Professional (MHP). The consumer whose rights were alleged to have been violated was interviewed by telephone and in person. The HRA acknowledges the full cooperation of agency personnel.

Findings

Consumer Interview

In late May 2012, the HRA interviewed the resident regarding his allegations at his apartment which is a Clustered Apartment Program in Westmont, Illinois. The allegations were discussed with the consumer and additional documentation regarding concerns with the DCHD's programs and procedures were provided by the resident to the HRA at that time. The consumer reiterated the above noted allegations to the HRA, summarizing his concerns by saying that because he lives in his "own apartment", he should not be bound by program rules and regulations. The consumer lives with two roommates.

Clinical Documentation

A review of program documentation showed that in April 2012, the MHP met with the consumer to address concerns that the consumer's roommate expressed to staff about the consumer constantly asking questions, yelling and criticizing the roommate. It was documented that the MHP had to constantly prompt the consumer to stop trying to deter the conversation, and the MHP noted he had to constantly reiterate the rules of the program. It was documented that the consumer kept indicating that the rules of the program are a violation of his rights. The documentation did not elaborate on what rules the consumer felt were a violation of his rights. No further documentation was found in the reviewed chart materials that addressed the specific allegations presented to the HRA. The reviewed materials contained a Residential Services Agreement signed by the consumer June 2006.

Policies/Procedures, Program Agreement

According to the Residential Services Agreement, the purpose of the program is to provide rehabilitation treatment services to assist the Program Participant in eventually obtaining and maintaining an independent living situation. In order to receive these rehabilitation treatment services, as a part of the Residential Services Program, participants stay in residential training sites provided through the DuPage County Health Department. It is expressly understood by Program Participant that the DuPage County Health Department provides residential training sites only as a part of the Residential Services Program and that this Agreement is not intended to establish any landlord-tenant relationship nor any leasee-lesor relationship nor any other tenancy rights on behalf of the Program Participant.

The Residential Rules document states that the DCHD has "established rules for the smooth and safe running of the Residential Services Program. DCHD and the Program Participant each agree that they will abide by the Residential Rules. Failure to comply with the Residential Rules may result in treatment intervention, oral warning, written warning, suspension or discharge from the Residential Services Program". The Rules state that "to provide privacy for roommates, permission must be obtained both from Residential Site staff and roommates before bringing any family or friends to the Residential Site to visit. Consideration for others is expected when family and/or friends are visiting. Visitors are expected to comply with the Residential Rules and instructions from Residential Site staff. Residential Site staff may inspect possessions and/or living areas at any time to determine if housekeeping chores are being completed and to determine if there are any items that pose a safety risk or the possession of which otherwise violates these Residential Rules. The Medication Rules includes the statement that says, "Any medication used while in the Residential Services Program, including over-the-counter medications, require a physician's order."

The program has a Grievance policy/procedure that outlines each step to be followed. To summarize, the steps include contacting: the primary staff person involved; unit supervisor; Mental Health Services grievance coordinator; Director of the MHS; Executive Director. This procedure is explained in the Client Handbook. The program also has an Individual Rights and Confidentiality policy that states that each individual receiving service shall be advised of their rights, responsibilities, and the means to present grievances and appeal decisions.

Staff Interview

In discussing the allegations with program personnel, it was stated that the consumer has resided at the CAP4 program for almost five years. Before this placement, he lived in a DCHD group home. The consumer is diagnosed with Bipolar 1 Disorder-Recent Episode Manic, Severe with Psychotic Features; Asperger's Disorder, and Attention-Deficit/Hyperactivity Disorder. It was stated that the consumer has showed much improvement since being in the program, but he is currently experiencing symptoms of obsessiveness, inattentiveness, anxiety and paranoia resulting from impairments in social, family and school functioning further exacerbated by limited supports and finances. The consumer often associates his negative experiences at the prior group home placement with his experiences at CAP4. The MHP stated that he needs to remind the consumer that he (the consumer) was projecting his fears prior to them happening. In addition, the consumer had struggled with his frustration with his job, the renovations that were occurring at the apartment complex and with the application process to a down-state college as well as finding support and assistance so that they are in place when he makes the move to college in August 2012.

In response to the allegations, it was offered that the consumer must keep in mind that he is in a residential treatment program - he is not living independently in his own apartment. It was stated that all consumers in the program can have visitors, but they must keep in mind when inviting guests over that the rules/guidelines of the program as well as roommates and neighbors must be considered. Permission must be obtained from both the residential site staff and roommates before bringing visitors to the site. Visitors are expected to comply with the residential rules and instructions from the residential site staff. The program does not allow for over-night guests.

It was explained by program personnel that inspections of consumer personal belongings are not done without cause as the inspections take place to determine if housekeeping chores are being completed, if there are any items that pose a safety risk to self and others, if possession of the personal property creates significant disagreement amongst roommates, and if there is clutter build-up due to limited space and storage issues. These inspections are mandatory, occur weekly, are scheduled at designated times, and, whenever possible, are completed in the presence of the consumer.

Regarding the over-the-counter supplement, it was explained that each program participant is expected to take medications as prescribed. Residential site staff monitor medications until such time as the program participant's service plan indicates otherwise. For the health and safety of the consumer, over-the-counter nutritional supplements require a physician's prescription. If prescribed by the physician, then supplements will be allowed. It was stated that the consumer identified in this case had requested supplements, but his physician did not approve the request.

Clients who have grievances concerning specific services received through the Mental Health Services are encouraged to follow the steps outlined in the Mental Health Services Policy and Procedures to resolve their grievances. Grievances are limited to unresolved matters of dissatisfaction and/or perceived harm through alleged staff abuse, neglect, inadequate or inappropriate services, unprofessional conduct, or violation of legally defined civil rights. At present time, personnel stated that the consumer has preceded no farther than step one of the designated steps. It was stated that he seems to become agitated and jumps from "A to Z" rather than following established guidelines. After a while, he loses his momentum, becomes less agitated, and the situation eases.

In discussing the allegation that broken rules result in suspension, it was explained that failure to comply with the Residential Rules established for the smooth running of the program may result in treatment intervention, oral warning, written warning, suspension or discharge from the Residential Services Program. Prior to entering the program, the DCHD and the consumer each agree that they will abide by the rules and sign a contract stating the same. In one instance the

consumer had been suspended for repeated rule violations. It was expressed that the DCHD does not like to suspend or discharge participants and stated that it will only do so as a last resort. It was further expressed that if a desired outcome will not be achieved by the suspension, then DCHD will choose not to suspend the participant.

Concerning the confidentiality matter, according to program personnel the program participant has the right of confidentiality regarding his/her records or any and all information regarding his/her participation in the program as outlined in the Illinois Mental Health and Developmental Disabilities Confidentiality Act. It was stated that the consumer's concern surrounding this allegation was for another consumer in the residential program. The consumer observed the landlord entering a room with a site staff member and the other consumer. When the landlord left the room, the consumer immediately expressed his concern about a violation of confidentiality to his MHP. However, the consumer was not present in the room to know first hand what was or was not said with the landlord in the room. The Mental Health Professional said that he did discuss the consumer's concern with him to assure him that confidentiality is always maintained.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code (Code), Section 2-103, "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". The Community Living Facilities Code (77 ILCS 370.3050) states that, "No visitor shall enter the immediate living area of any resident without first identifying him or herself and then receiving permission from the resident to enter. The rights of other residents present in the room shall be respected".

Pursuant to Section 2-104 of the Code, "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".

Pursuant to Section 2-102 of the Code, "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."

Based on the information obtained, it is concluded that visitors are not being unduly restricted; the allegation is unsubstantiated. However, the HRA takes issue with the language of the policy. Permission from residential site staff is not needed to receive a visitor, unless there are reasonable restriction causes as mandated in the Mental Health Code.

Staff members inspect the consumer's personal belongings to determine if housekeeping chores are being completed and to determine if there are any items that pose a safety risk; it is concluded that rights are not being violated; the allegation is unsubstantiated.

Over-the-counter medications require a physician's orders pursuant to agency policy; it is concluded that this policy does not violate consumer rights; the allegation is unsubstantiated.

The agency does have a policy in place to address consumer complaints; the HRA found nothing to show that the agency does not respond to consumer complaints; the allegation is unsubstantiated. When residential rules are broken a suspension might be imposed requiring the consumer to leave the program during the suspension as per of agency policy; it is concluded that this policy does not violate consumer rights; the allegation is unsubstantiated. The HRA found

nothing to support the claim that medication is dispensed and conversations are held in the presence of outside parties (landlord); the allegation is unsubstantiated.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.



DUPAGE COUNTY HEALTH DEPARTMENT

Everyone, Everywhere, Everyday

September 21, 2012

Ms. Julie Sass
Rights Coordinator
9511 Harrison Street
W-300
Des Plaines, Il 60016-1565

RE: HRA #12-100-9016

Dear Ms. Sass:

I received the report of findings for the case cited above. Based on the feedback provided in the letter, the rules were revised to reflect current practice that visitors are not restricted. Enclosed please find our revised Residential Rules that clarify visitation in residential programs.

If you have questions or need additional information, please do not hesitate to contact me at [REDACTED].

Respectfully,

Michelle Inman
Assistant Director of Performance Improvement
[REDACTED]