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HUMAN RIGHTS AUTHORITY- CHICAGO REGION

REPORT 13-030-9009

Chicago Read Mental Health Center

Case Summary: The HRA substantiated the complaint that the facility policy did not follow Code requirements when it did not allow a recipient to vote in the 2012 general election. The provider has issued a non-public response.

INTRODUCTION

The Human Rights Authority of the Illinois Guardianship and Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at Chicago Read Mental Health Center (Read). It was alleged that the facility policy did not follow Code requirements when it did not allow a recipient to vote in the 2012 general election. If substantiated, this would be a violation of the Mental Health and Developmental Disabilities Code (405 ILCS 5/100 et seq.).

Chicago Read Mental Health Center is a 215-bed Illinois Department of Human Services (DHS) facility located in Chicago.

To review these complaints, the HRA conducted a site visit and interviewed the Quality Manager and the Patient Advocate. Hospital policies were reviewed along with the recipient's records upon written request.

COMPLAINT SUMMARY

Allegedly the complainant notified the patient representative and requested the application for an absentee ballot. The recipient received the form, completed it, and returned it to the patient representative. Later, this representative gave the recipient another form, indicating that the first one was not the correct form. Again, the recipient filled out the form and resubmitted it. The recipient did not ever receive an absentee ballot. Allegedly, when she asked the patient representative why she did not get the ballot, she was told that it was because Read was in a different district than her home district.

FINDINGS

The recipient's clinical record facesheet indicates that she was admitted to Read on 8/30/12 and discharged on 12/04/12. There is no mention in the clinical record of the issue of voting.

FACILITY REPRESENTATIVES' RESPONSE

Facility staff were interviewed regarding recipients' right to vote. They indicated that the Patient Advocate, who has been the Election Coordinator since 1999, is responsible for implementing the voting procedure and it follows the protocol prescribed by state and federal law. The voting process begins at admission, when recipients are asked if they would like to vote and their preference is indicated on a DHS form which is filed apart from the clinical record. At the appropriate time before an election, signs are placed throughout the facility indicating that recipients can register to vote and apply for an absentee ballot. Recipients can request an application for an absentee ballot through their social worker, psychiatrist, or the Patient Advocate. The Patient Advocate then contacts the local election office and obtains ballots- any recipient in the facility who requests a ballot gets one and they are requested from the recipient's last address prior to admission. The Patient Advocate in this case remembered the recipient and remembered that she requested a ballot, and although she was not sure which county it was requested from, she believes it was requested from Cook. Voting laws will not allow recipients to use the address of the mental health facility for their voting address, so they are asked to request a ballot from the county they lived in prior to their hospitalization. In this case, the recipient was first given a ballot from Cook County and she completed it and it was submitted. Several days later the Patient Advocate was again on the unit and the recipient again approached the Patient Advocate and requested another ballot from her home county. The Patient Advocate stated that she told the recipient that she could not complete another ballot because this would nullify her first ballot however the recipient was very symptomatic at the time and she insisted that she be given another ballot. The Patient Advocate did not feel that she should continue to confront the recipient and is not in a position to determine the eligibility of submitted votes, which is the responsibility of the election officials. The Patient Advocate stated that all ballots are mailed through the regular postal service without overview after they are completed, and this recipient's ballots were both mailed, which is probably why she was notified that her vote was not accepted.

STATUTES

The Mental Health Code states that "No recipient of services shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution, or the State of Illinois, or the Constitution of the United States solely on account of the receipt of such services" (405 ILCS 5/2-100 a).

And, Rights of Individuals forms issued by the DHS to all recipients expands:
RETENTION OF RIGHTS: As a general rule, you lose none of your rights, benefits, or

privileges simply because you are an individual receiving mental health or developmental disability services. For example, you do not lose your right to vote or attend religious services.

Illinois Absentee Ballot Guide

The guidelines for completing absentee voting are available online and all forms are able to be downloaded for immediate use. Illinois state law dictates that absentee ballot applications cannot be made available until 40 days before an election. Applications must be received at least 5 days before the election if they are to be mailed back to the applicant. Applications may be submitted in person up until the day of the election. County election authorities process applications and absentee ballots are mailed within one day of receiving the application. After the ballot is completed, it must be postmarked one before the day before the election. There is a special absentee ballot available to persons who have been admitted to a hospital, nursing home, or rehabilitation center less than 5 days before an election. This form must be obtained from the local election authority and this information is available online. There is also an "Application for Illinois Voter's 5 Year Identification Card" form that is available for voters with disabilities, nursing home residents, and care facility residents to receive automatic ballot applications for every election for the next five years.

FACILITY POLICY

Chicago Read provided the State of Illinois policy and procedure for voting at all DHS facilities:

The Administrator of Mental Health and Developmental Disabilities Services, Directors of Human Capital Development and Community Health and Prevention, and the Directors of the Divisions of Alcoholism and Substance Abuse and Rehabilitation Services shall designate a person to be in charge of the voter registration program in that Division, whose responsibilities shall include the keeping of the list of confidential numbers for the Divisions, facilities, and contractors, the assigning of new confidential numbers when needed, and other duties as may be appropriate. The supervisor of each local office and facility shall appoint a National Voter Registration Coordinator who shall be familiar with this Administrative Directive and the Administrative Rule, Voter Registration Program [89 Ill. Admin. Code Part 512] and who shall be responsible for compliance with this Administrative Directive.

1. **Staff Responsibilities**

1. Staff shall ask customers whether they want to apply to register to vote using the procedure set out below, at the time of application for services, annual review, recertification or reassessment of services. Mental Health Center staff may ask customers about voter registration after admission when it would be clinically ill-advised to do so upon admission.
2. At the appropriate time, staff shall provide the customer with a **Voter Registration Information** form (R-24), a **Voter Registration Information** form (R-24S) (Spanish language version) or a **Voter Registration/Food Stamp Recertification** form (IL444-0683L) in local offices and ask if he or she wants to apply to register to vote.

1. Voter registration forms are available in Chinese and Polish on the Chicago Board of Elections website, which is as follows: "chicagoelections.com". Further information is available at the following email addresses and hotlines:
 1. ChineseVote@chicagoelections.net (312) 223-0821
 2. PolishVote@chicagoelections.net (312) 223-0823
 2. If the customer indicates either by checking the appropriate box on the form or states (if he or she cannot write) that he or she wants to apply to register to vote, staff shall give the customer an **Illinois Voter Registration Application** form (**R-19**) or (**R-19S**) (Spanish language version). If the customer requests assistance in completing the form, staff shall provide such assistance. The assistance shall include, but not be limited to, sign language interpreters, readers, and an oral explanation of the application, as appropriate. Staff shall offer the same degree of assistance in completing the form as they would in completing DHS forms. Please note that a State-Operated mental health facility is not recognized as a valid address for voter registration. Therefore, Staff shall instruct customers of State-Operated mental health facilities to register with their last address prior to entering the mental health facility.
 3. If the customer indicates either by checking the appropriate box on the **Voter Registration Information** form (**R-24**), or **Voter Registration Information** form (**R-24S**) (Spanish language version) or orally that he or she does not want to apply to register to vote, staff shall ask the customer to sign the form (if the customer is unable to sign his or her name, the customer may affix his or her mark on the form) and shall retain the form in accordance with Section C., Disposition of Voter Registration Forms.
 4. If the customer does not check the appropriate box and does not communicate any choice, staff shall treat this as a declination. Staff shall write on the **Voter Registration Information** form (**R-24**), or **Voter Registration** form (**R-24S**) (Spanish language version) that the customer did not indicate a preference, fill in the customer's name if he or she does not, and retain the form in accordance with Section C, Disposition of Voter Registration Forms.
3. Staff shall not:
1. Seek to influence a customer's political preference;
 2. Display any political preference or party allegiance;
 3. Make any statements or take any action to encourage or discourage an applicant from registering to vote; or
 4. Make any statements or take any action to lead a customer to believe that a decision to register or not to register will affect the availability of services or benefits provided.
4. When a customer notifies DHS of a change of address, staff will provide him or her with an **Illinois Voter Registration Application** form (**R-19**) or (**R-19S**) (Spanish language version) and offer the customer assistance in completing the form.

2. Disposition of Voter Registration Forms

1. The DHS office or facility shall retain the completed declaration and registration forms in a confidential manner separate from the customer's DHS file for a minimum of two (2) years. After two (2) years such forms may be destroyed in accordance with Administrative Directive 01.05.04.030, Records Management, Disposal and Protection Guidelines.
2. If the customer has chosen to apply to register to vote, and completes the registration application prescribed by the Illinois State Board of Elections, the office or facility shall forward the application to the appropriate local election authority in a manner that protects the confidentiality of the customer.
3. The office or facility shall submit the completed voter registration application to the local election authority where the customer resides, as follows:
 1. Within ten (10) days after the date of acceptance by DHS; or
 2. Within five (5) days if the application is accepted within five (5) days before the last day for registration to vote in an election.
4. The dates for close of registration are the 28 days before the General Election (the first Tuesday after the first Monday in November of even numbered years); the 28 days before the General Primary Election (the third Tuesday in March in even numbered years); the 28 days before the Consolidated Primary Election (last Tuesday in February in odd numbered years); the 28 days before the Consolidated Election (first Tuesday in April); and the 28 days before a court-ordered or Constitutionally required election.
5. DHS customers who were unable to register to vote or change their addresses prior to the traditional close of registration deadline (28 days prior to an election) may utilize a "grace period" to register to vote. The "grace period" is from the normal close of registration through the 14th day prior to an election.
6. Registration application forms shall be sent in plain envelopes with no indication that the mailing originated from a DHS office, using a return address of the Illinois State Board of Elections, 1020 South Spring Street, P.O. Box 4187, Springfield, Illinois 62708-2999.
7. Such mailings shall include a **Voter Registration Application Transmittal** form, **(R-25)** with the confidential office number, but no other indication from where the mailing originated.

Chicago Read also provided their own policy (PC-05-40-85.00) regarding voting procedure and it states that prior to each primary and general election, information such as that which is required for requesting an absentee ballot will be given to all recipients. It indicates that the Election Coordinator will get applications for absentee ballots from the 38th Ward Office. The applications are then completed by the recipients and mailed to the Board of Election no later than 30 days before the election. The Board will review the voter's eligibility, and if eligible, will send an absentee ballot to the recipient at the address indicated on the application form. There is no mention on this policy of the procedure for mailing applications to precincts or counties outside of Cook County.

The facility policy indicates that the Election Coordinator will be available to assist patients with this process and remind them to return their ballots no later than 10 days before the election. Unit psychiatrists are also involved in the voting process: "The unit psychiatrist

/treatment team leader has responsibility to ensure that each patient's request to vote is honored in a manner which is consistent with the patient's clinical condition. The unit psychiatrist will lead treatment team discussion in this regard for each and every patient assigned to the psychiatrist. The clinical treatment team, under the leadership of the psychiatrist, will discuss how each patient's right to vote will be honored, including the following options:

A. A patient who is registered to vote on an extended care unit, may be given an off-grounds pass (or, in some cases, home visit), to vote, if his/her clinical condition warrants.

B. A patient who is registered to vote, but whose clinical condition does not warrant the otherwise appropriate option or who is on an acute care unit, should be offered an absentee ballot.

CONCLUSION

The absentee voting policy and procedure presented by the facility indicates that if a recipient has chosen to apply to register to vote, and completes the registration application prescribed by the Illinois State Board of Elections, the facility must forward the application to the appropriate local election authority where the recipient resided prior to admission. The Board then reviews the voter's eligibility, and if they are eligible, an absentee ballot is sent to the recipient at the address indicated on the application form. The facility's only involvement in the absentee voting process is to assist the recipients in completing their registration, and this policy is outlined for all DHS facilities. In this case it is not clear what happened in the registration process, but it appears that ballots from Cook County are provided by the facility staff, however it is not clear how voters from other counties are receiving their ballots. The process is confusing and unclear, even to facility staff. The HRA substantiates the complaint that Read did not follow Code requirements when it did not allow a recipient to vote in the 2012 general election.

RECOMMENDATION

1. Review with staff the state law regarding registration and voting for all recipients and ensure that the ballots are obtained in compliance with these mandates.

SUGGESTION

1. It is not clear from the record or staff interview that that the clinical team discusses how each recipient's right to vote will be honored by determining if they are able to go off grounds to vote or require an absentee ballot. This is the stated facility policy and the HRA requests that the facility adhere to it.