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**FOR IMMEDIATE RELEASE**

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**HUMAN RIGHTS AUTHORITY – NORTHWEST REGION**  
**REPORT 14-080-9012**  
**ROSECRANCE HEALTH NETWORK**

**INTRODUCTION**

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving a complaint of possible rights violations at the Rosecrance Health Network in Rockford. It was alleged that a client was refused services for not consenting to have the facility become her payee, potentially violating standard practices under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105).

According to the Rosecrance website, Rosecrance Health Network is a private not-for-profit organization offering comprehensive addiction services for adolescents and adults, including prevention, intervention, detoxification, inpatient and outpatient treatment, experiential therapies, dual-diagnosis care and family education. Rosecrance serves more than 14,000 families each year with two major building projects underway that will result in improving the continuum of care for clients who turn to Rosecrance for mental health services. By the end of 2014, Rosecrance will move the outpatient services to a new 40,000 square foot location which will allow for program expansion and is designed specifically to meet the needs of clients and staff. The other projects involve creation of a Crisis Stabilization Center (CSC) to respond to the needs of individuals who are experiencing psychiatric emergencies, and the crisis residential program, which offers residential support for up to 14 days to individuals who don't need to be hospitalized but who need supervision and support.

To pursue the matter, the HRA visited the facility where the administrator, corporate compliance officers and a community support team leader were interviewed. Policies were reviewed as were relevant sections of the client's records with written authorization.

**COMPLAINT SUMMARY**

The complaint states that the client applied for a housing program and was told the service would be contingent upon her making Rosecrance representative payee for her entitlements, of which she was not in agreement.

## FINDINGS

### Interviews

The administrator explained that the client is homeless and currently receiving mental health services at Rosecrance, and has never been refused services for not consenting to elect Rosecrance as her payee. The compliance officer added that the client's Care Plan is good for 6 months, with her last one being January 30, 2014 and the current one is due by July 31, 2014. She went on to state that the client frequents the county jail and hospitals due to inconsistencies regarding taking her medications. "There have been numerous times when the client thinks she is doing just fine and everything is okay, and then she will stop taking her medications and end up in a bad place mentally and emotionally again".

The community support team leader began to explain in depth that although the client had stated to him that her main issue is receiving housing services, the real issue he said, is about her mental health, because "if the mental health issue is not under control, Rosecrance cannot even begin to seriously consider the housing issue again". He added that there are times when the client does not mind being incarcerated or going to the jail or the hospital because it gives her a chance to get away from her boyfriend. The client was incarcerated in June, 2014 and within the last couple of weeks she has visited 2 different local hospitals. The community support team goes to the jail and conducts an assessment whenever the client is incarcerated. The community support leader went on to state that after the client is released from the jail and the hospital, it takes the community support team quite some time to prepare the client before she can meet a landlord who would possibly rent an apartment to her. The time is taken, he added, to "set her up for success and not for failure". "She has a daughter and success for her would mean being able to go back to her family members who live in a nearby state and have a good relationship with them". The client is currently on a waiting list for the Rosecrance Shelter Plus Care housing program. With this program, Rosecrance receives federal grants through the city to provide housing subsidies for individuals with mental illness. The client had an appointment with the community support team leader to possibly sign a lease for a new apartment on 7/14/14, but she did not show for the appointment.

Per the administrator, the Rosecrance representative payee program was made available to the client as an aide on her journey to success, making certain that the client was aware that she was not obligated to have Rosecrance act as her representative payee, and she could withdraw from the program at any time. The

community support team leader added that since Rosecrance was able to meet the client's basic mental health needs, the client was not deemed to be involuntary for the payee program by an order from the Social Security Administration and a physician's statement of capability. Therefore, the client was free to make the choice of not electing Rosecrance to become her payee. Per the community support team leader, Rosecrance honored this decision by the client and faithfully continued mental health services to her, adding that "the client will often relapse and stop taking her medications and start having problems again." He went on to state that the goal of Rosecrance is to get the client back to the dimension of success that she once had in the program, including at one point being employed at a couple of the major retailers in the area.

## Records

The Plan of Care Dated 1/30/14 lists several objectives for the client, including cooperating with her primary care physician regarding recommendations resulting from check-ups and exams, using journaling as a coping skill when she is feeling anxious or depressed, utilizing a local church for extra support and contacting landlords to complete 1-3 applications per week for housing. The most current Rosecrance Shelter Plus Care Program form was signed by the client on 4/4/14. As a result of signing this form, an appointment for the client to sign a new rental lease was set up by the community support team leader for 7/14/14, but per the progress notes the client did not show for this appointment due to being admitted to a local hospital from which she has since been released. She requested to meet with the community support team leader on 7/18/14. Per the progress notes dated 7/18/14, the client did not show for this appointment either, for a reason that was unknown to the community support team leader.

The progress notes dated 12/11/13 denote that the client was renting an apartment with the assistance of the Rosecrance Shelter Plus Care Program, but was upset that her boyfriend could not live in the apartment with her and she wanted to make him her payee. According to the progress notes written on 1/15/14, the client was currently in another city and state and requested that Rosecrance help her find a new apartment in Rockford. On 6/25/14, the progress notes state that the client was incarcerated at the local jail for behavior as a result of not taking her medications. The client visited a local grocer and attempted to leave the store without paying for food. The community support team leader met with the client in the jail via video presentation. The client was very upset about her lack of housing. According to the progress notes dated 7/9/14, the client was again in a local hospital due to medication inconsistencies.

The record does not contain a Rosecrance Health Network Agreement For Representative Payee Services For Social Security/Supplemental Security Income form signed by the client.

## CONCLUSION

Rosecrance Health Network policy states that “clients are placed in the most appropriate, least restrictive, treatment program/level of care for substance abuse services (SAS) and mental health services (MHS). The treatment plan will be developed in collaboration with the client and will be written using language the client understands and in the client’s own words when appropriate. A client may require varying combinations of services and treatment components during the course of treatment and recovery. In addition to counseling or psychotherapy, a client may require medication, other medical services, community integration, supportive housing and/or social and legal services.”

The Rosecrance standard operating descriptor refers to the eligibility criteria for establishing a representative payee. In order “to initiate the representative payee as voluntary, the client must demonstrate a clinical need or medical necessity to have a representative payee, and must agree to allow Rosecrance to serve as his or her representative payee. The client must complete and sign an Agreement for Representative Payee Services for social security/supplemental security income”.

The policy goes on to define the process for initiating a representative payee as involuntary. “The client must demonstrate a clinical need for a representative payee, but the client does not agree with this determination and/or does not want Rosecrance to serve as his or her representative payee. A clinician/physician must complete a Physician’s/Medical Officer’s Statement of Patient’s Capability to Manage Benefits (Form SSA-787) concluding that the client is in need of representative payee services. The client may opt to terminate representative payee services with Rosecrance and select a new payee at any time by going to the Social Security Administration with the new representative payee and completing the appropriate paperwork in order to select a new payee.”

According to the Mental Health and Developmental Disabilities Code (ILCS 5/2-105) regarding money; deposits; payees:

*§ 2-105. A recipient of services may use his money as he chooses, unless he is a minor or prohibited from doing so under a court guardianship order. A recipient may deposit or cause to be deposited money in his name with a service provider or financial institution with the approval of the provider or financial institution. Money deposited with a service provider shall not be retained by the service provider. Any earnings attributable to a recipient's money shall accrue to him.*

*Except where a recipient has given informed consent, no service provider nor any of its employees shall be made representative payee for his social security, pension, annuity, trust fund, or any other form of direct payment or assistance.*

*When a recipient is discharged from a service provider, all of his money, including earnings, shall be returned to him.*

Section 5/2-102 of the Code requires that services be provided in the least restrictive environment using an individualized treatment plan which is developed with the recipient when possible. To determine least restriction, the service provider is to take into account the views of the recipient.

According to regulations that govern Medicaid Community Mental Health Services (59 Ill. Admin. Code 132):

*132.10. Purpose*

*a) The requirements set forth in this Part establish criteria for participation by providers in the Medicaid community mental health services program. The Medicaid community mental health services program shall include the provision of specific mental health services pursuant to this Part supported financially in whole or in part by a public payer, as defined in Section 132.25.*

*b) These requirements are for the purpose of assuring that clients receiving Medicaid community mental health services shall receive services in accordance with this Part and in accordance with 42 CFR 440 and 456 (2003) for Medicaid-eligible clients.*

*c) The Department of Human Services (DHS) and the Department of Children and Family Services (DCFS), pursuant to an executed interagency agreement with the Department of Healthcare and Family Services (HFS), shall use these requirements to certify, recertify, and periodically review providers participating in the Medicaid community mental health services program, including the certification and recertification of the provider's eligibility for enrollment in the Illinois medical assistance program (89 Ill. Adm. Code 140).*

*d) Applicability of Program*

*1) The Medicaid community mental health services program is for clients who require mental health services as indicated by a diagnosis contained in the International Classification of Diseases, 9<sup>th</sup> Revision, Clinical Modification (ICD-9-CM) (Centers for Medicare and Medicaid Services (CMMS) (2003)) or the Diagnostic and Statistical Manual of Mental Disorders, 4<sup>th</sup> Edition (DSM-IV) (1994) or DSM-IV-TR (2000) (American Psychiatric Association).*

*2) This shall include services designed to benefit clients:*

*A) Who require an evaluation to determine the need for mental health treatment;  
or*

*B) Who are assessed to require medically necessary mental health treatment to reduce the mental disability and to restore an individual to the maximum possible functioning level; or*

*C) Who are experiencing a substantial change/deterioration in age appropriate or independent role functioning, acute symptomatology, and who require crisis intervention services to achieve stabilization; or*

*D) Who, because of substantial impairment in role functioning, require multiple coordinated mental health services delivered in a variety of settings.*

According to the Code of Federal Regulations that governs Supplemental Security Income for the Aged, Blind, and Disabled - Representative Payment (20 C.F.R 416.601):

*(a) Explanation of representative payment. This subpart explains the principles and procedures that we follow in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds he or she receives on behalf of a beneficiary. A representative payee may be either a person or an organization selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interest of a beneficiary will be served by representative payment rather than direct payment of benefits. Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage or direct the management of benefit payments in his or her own interest.*

*(b) Policy used to determine whether to make representative payment.*

*(1) Our policy is that every beneficiary has the right to manage his or her own benefits. However, some beneficiaries due to a mental or physical condition or due to their youth may be unable to do so. Under these circumstances, we may determine that the interests of the beneficiary would be better served if we certified benefit payments to another person as a representative payee. However, we must select a representative payee for an individual who is eligible for benefits solely on the basis of disability if drug addiction or alcoholism is a contributing factor material to the determination of disability.*

*(2) If we determine that representative payment is in the interest of a beneficiary, we will appoint a representative payee. We may appoint a representative payee even if the beneficiary is a legally competent individual. If the beneficiary is a legally incompetent individual, we may appoint the legal guardian or some other person as a representative payee.*

*(3) If payment is being made directly to a beneficiary and a question arises concerning his or her ability to manage or direct the management of benefit payments, we will, if the beneficiary is 18 years old or older and has not been adjudged legally incompetent, continue to pay the beneficiary until we make a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.*

And Section 416.610 addresses when payment will be made to a representative payee:

*(a) We pay benefits to a representative payee on behalf of a beneficiary 18 years old or older when it appears to us that this method of payment will be in the interest of the beneficiary. We do this if we have information that the beneficiary is--*

- (1) Legally incompetent or mentally incapable of managing benefit payments; or*
- (2) Physically incapable of managing or directing the management of his or her benefit payments; or*
- (3) Eligible for benefits solely on the basis of disability and drug addiction or alcoholism is a contributing factor material to the determination of disability.*

Section 416.615 addresses information considered in determining whether to make representative payment:

*In determining whether to make representative payment we consider the following information:*

*(a) Court determinations. If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the basis of our determination to make representative payment.*

*(b) Medical evidence. When available, we will use medical evidence to determine if a beneficiary is capable of managing or directing the management of benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage or direct the management of benefit payments.*

*(c) Other evidence. We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage or direct the management of benefit payments.*

And Section 416.620 regarding information considered in selecting a representative payee states:

*In selecting a payee we try to select the person, agency, organization or institution that will best serve the interest of the beneficiary. In making our selection we consider--*

*(a) The relationship of the person to the beneficiary;*

*(b) The amount of interest that the person shows in the beneficiary;*

*(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;*

*(d) Whether the potential payee has custody of the beneficiary; and*

*(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.*

Section 416.621 addresses the order of preference in selecting a representative payee for you:

*As a guide in selecting a representative payee, categories of preferred payees have been established. These preferences are flexible. Our primary concern is to select the payee who will best serve the beneficiary's interests. The preferences are:*

*(b)...For individuals who are disabled and who have a drug addiction or alcoholism condition our preference is--*

*(1) A community-based nonprofit social service agency licensed by the State, or bonded;*

*(2) A Federal, State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;*

*(3) A State or local government agency with fiduciary responsibilities;*

*(4) A designee of an agency (other than a Federal agency) referred to in paragraphs (b)(1), (2), and (3) of this section, if appropriate; or*

*(5) A family member*

Complaint: The client was refused services for not consenting to have the facility become her payee. The complaint was filed in the month of March 2014. Per the progress notes dated between the period of December 2013 and March 2014, it is clear that Rosecrance has been servicing the client regarding her mental health issues, including helping her obtain her prescriptions, assisting her in reaching the plan of care objectives, and providing her with referrals to the appropriate community agencies such as the WCC (Women's Crisis Center). Additionally, the progress notes between the period of December 2013 and March 2014 depict that the client had visited the hospital emergency rooms and the local jail due to her inconsistency with taking her medications. The client was given the opportunity to have Rosecrance assist her in managing her finances in becoming her payee, but the client chose not to do so, as it was her right to make that choice. The client was not an involuntary participant for the representative payee program by a physician's order or by the Social Security Administration. The community



support team leader is not aware that client has made anyone else her representative payee. Rosecrance is currently providing mental health services to the client and the progress notes depict that at no time was the client refused services. Rosecrance has been consistent in establishing and adapting a plan of care with continual follow-up with the client in assisting her in reaching the objectives listed on the Plan of Care. The Plan of Care is updated every 6 months with the last one updated on 1/31/2014 and the next plan of care update is due by 7/31/14. Therefore, it cannot be concluded that the client was refused services for not consenting to have the facility become her payee. The complaint is not substantiated.

### SUGGESTIONS

1. As part of treatment planning with the inclusion of the service recipient, discuss the need for or benefits of representative payeeship.