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HUMAN RIGHTS AUTHORITY – NORTHWEST REGION

REPORT 14-080-9013
WILLOWGLEN ACADEMY

INTRODUCTION

The Human Rights Authority (HRA) of the Illinois Guardianship & Advocacy Commission opened an investigation after receiving complaints of potential rights violations at Willowglen Academy in Freeport. It was alleged that the facility mismanaged a resident's funds, required the resident to earn money that already belonged to him, and restricted him from personal choice and activity.

Substantiated findings would violate rights protected under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102a; 105), CILA (Community Integrated Living Arrangement) Rules (59 Illinois Administrative Code 115.100; 200c, d) and Social Security representative payee requirements (20 CFR 404.2025, 404.2035 and 404.2065).

Willowglen Academy, a subsidiary of Phoenix Care Systems, Inc., was developed in 2002 to provide comprehensive and highly-structured treatment to children, adolescents, and their families through an array of residential and educational services, including a day program to serve adolescents and adults with developmental disabilities. The Willowglen Academy special education program serves over 32 students and the day program serves over 32 adults.

The HRA met with representatives from Willowglen Academy, including the director of clinical & residential services, a clinician as well as a lead clinician. Relevant policies were reviewed as were sections of the resident's file with authorization from his legal guardian.

COMPLAINT SUMMARY

The complaint states that the facility mismanaged the resident's funds. An actual theft of the funds report was referred to the appropriate state enforcement agency. The complaint goes on to allege that the facility requires the resident to earn money that already belongs to him, and restricts the resident from personal choice and activity. The resident reportedly has to clock-in and perform chores to earn his own money. The resident desires to attend community dances for individuals with developmental disabilities and to visit a shopping mall.

FINDINGS

It was explained by the clinician that funds in the amount of \$290.00 for spending/programming belonging to the resident, were locked in a cabinet in her office. Reportedly, she cannot remember if she actually locked the cabinet upon leaving the office. Theft of the money was discovered on 3/17/14. The incident was reported to the guardian on 4/1/14. The clinician does not have a reason for the delay in notifying the guardian. The clinician went on to explain that the appropriate place where the money should have been kept, is locked in a safe in the executive director's office. She does not have a reason for keeping the money in her office, only that it was a mistake. The clinician stated that the money has since been refunded to the resident by a check from Willow Glen written to the clinician and deposited into the trust account of the resident.

The lead clinician stated that the resident perseverates on spending his money right away. Therefore, with approval from the previous guardian in 2013, the facility adopted a plan whereby the resident has to earn money to purchase items. When asked what is the source of the money that the resident earns, she stated that the funds are taken from the resident's trust account. The facility is a representative payee for the Social Security benefits of the resident. The lead clinician added that although the facility does not have a policy that addresses or supports this procedure; the matter was reviewed and approved by the Willowglen Human Rights Committee at meetings conducted on 4/1/14 and 4/5/14. She went on to state that they are also teaching the resident how to save money and to encourage good behavior. After he saves a small amount, the remainder of money needed for an item is always released to him. Per a teleconference on 4/22/14 between the lead clinician, the guardian, the guardian's supervisor, a court appointed attorney for the resident and the director of clinical and residential

services, the resident receives a weekly allowance regardless of chores or targeted behaviors.

Per the clinician, the resident has a desire to go the shopping mall and the community dances that are designed for individuals with developmental disabilities. When the HRA asked the clinician if she made the following statement regarding the shopping mall, “it would be too difficult because he would want to go into every store and what if he has a behavior while there, then we would be too far from home”, she stated yes. When asked if she made the following statement in regard to the park district dances, “we don’t allow our clients to go to these dances due to the inappropriate behavior that occurs, we don’t want to expose our folks to that”, the clinician said yes. She added that she is aware that the park district dances are for individuals with developmental disabilities. The director of clinical and residential services explained that the Willowglen Academy staff receive annual training in de-escalation and behavior crises, including training at monthly house team meetings. When the HRA asked if a one-on-one should be considered for the success of this resident in community outings, the director and both clinicians agreed that the staff ratio of 1 staff to 5 residents was sufficient. They stated that a huge amount of preparation is done starting many days prior to the outing to prepare the resident. The clinician added that the resident has had instances of ISB (Inappropriate Sexual Behavior), one being when he was a minor and constantly staring at another minor girl at a pool area. When HRA asked for the 2014 ISB records, the clinician stated that the resident has had no ISB in 2014 (the last 7 months) and the objective has been removed from his 2014 BIP (Behavior Intervention Plan). The resident has never carried a pedophile or similar diagnosis that would limit his contact with any specific group.

The lead clinician stated that they granted the resident’s requests to go to a dance in the community in April 2014, and a shopping mall in June 2014. She added that Willowglen had their first dance at their own facility in the month of June.

RECORDS

The written incident report dated 3/17/14 depicts the details of the theft of the resident’s funds and includes the report number and information regarding the local law enforcement officer who recorded the complaint. The copy of a check written by Willowglen Academy to the clinician dated 4/18/14, the stub from the

check, and the deposit slip into the resident's trust account all confirm the statement by the clinician that the stolen money has been refunded to the resident.

The Individual Service Plan (ISP) covering the period of 2/16/12 through 2/16/13, on page 8 of 19, states that the resident "has a behavioral contract where he clocks in at the group home 2 nights per week to help with chores and earns a paycheck for these services each Friday." The resident "will save \$2.00 each week, to put towards a new pair of shoes, 50% of the time over the next 3 months".

The Individual Service Plan dated 2/12/13 through 2/12/14 records that the resident "will earn \$5.00 each week for clocking in to work on Tuesdays and Thursdays at the group home. Staff will encourage the resident to save \$3.00 each week to put towards a new pair of shoes".

The Individual Service Plan dated 2/11/14 through 2/11/15 states that the resident has "a behavioral contract where he clocks in at the group home 2 nights a week to help with chores and earns cash for these services each Friday." The resident "will earn \$5.00 per week for participation in completion of household chores. At any given time, the resident has in mind an item he would like to purchase". Per the progress notes, the guardian was present at the ISP and there was a discussion regarding the above stated behavioral contract. The progress notes do not address whether the guardian was in agreement or not.

The Willowglen Academy Human Rights Committee consists of a facilitator, a DSP (Direct Support Professional), as well as parent and client volunteers. The committee conducted meetings on 4/1/14 and 4/5/14. The minutes from the meetings state that per the review of the 3/17/13 incident report and the Individual Service Plans dated 2/16/12 through 2/16/13, 2/12/13 through 2/12/14, and 2/11/14 through 2/11/15, the following items were approved by the committee concerning the resident: review of medication reduction plan in regard to diagnoses and behavioral manifestation, safety risk management regarding community time, and restrictions which may include restraint utilization if necessary. Although the minutes do not specifically state the "earning of money", the director of clinical and residential services states that this matter was addressed and approved in the aforementioned items.

Progress notes dated 4/18/14 and 4/21/14 written by the clinician, state "...3.00 to be spent on a park district dance to occur on 4/25/14, as client wishes to attend". Progress notes dated 4/29/14 state that "...\$100.00 to be spent on clothes/item of client's choosing at a shopping mall". Per written documentation

from the guardian dated 4/22/14 and 5/9/14, the resident and the guardian were in approval of the expenses, and in agreement for the resident to attend the park district dances, moose lodge dances and trips to the shopping mall. The documentation also depicts that the clinician was in agreement with the resident attending the above stated activities and said that the events are already being planned and will be added to the May 2014 activity calendar. The Individual Service Plan dated 2/11/14 through 2/11/15 denotes that as of 4/29/14, a “group home trip to a shopping mall to be scheduled for next month, at which time client may purchase items of his choosing”. On the activity calendars from January, 2014 through June 2014, there is no mention of a trip to the park district dance, nor to the shopping mall. There is also nothing on the aforementioned calendars regarding a dance held at Willowglen Academy. The director of clinical and residential services explained that the “Structured Therapeutic Program Schedule is more detailed and has these types of outings listed on them”. The Structured Therapeutic Program Schedules for the months of April 2014 through July 2014 were requested at the site visit, but Willowglen Academy only provided the month of July 2014 to the HRA later, on 7/22/14. It is noted that there are no outings at all listed on the July 2014 Therapeutic Program Schedule that was provided. In addition, it is also noted that on the activity calendars for the following “no school” days, there were only 2 activities listed on each day with both activities after 4:00 p.m.: 1/1/14, 1/2/14, 1/20/14, 2/17/14, 2/28/14 and each day of 3/24/14 through 3/31/14.

Upon review of the Group Home & Resident Activity Tracking calendar for April 2013 through April 2014, within the span of a year the resident only had 1 nearby/out of town outing in February and it does not specify the location of the trip.

All trust fund accountings are routinely supervised by the legal guardian. Per the guardian and the clinician progress notes dated 9/5/14, there is no problem with the receipts/disbursements of the resident’s funds.

CONCLUSION

Willowglen Academy Policy and Procedure For Operations, Subsection: Accounting, Subject: Client Funds, states that “It is the responsibility of Willowglen Academy staff to ensure the security, accountability and management of client funds. Client money that is in the group home must be kept secured under double lock. It will be kept in a locked room in a container that is locked. If money is missing, an incident report must be written. Client money

kept in a group home must not exceed \$100.00”. “To access client funds from their account managed by the accounting department, a purchase requisition must be submitted to the accounting department. Included on the request must be the guardian approval of the request”. The policy does not address reporting stolen money to the guardian.

The Leadership Policy and Procedures Manual of Willowglen conveys that “Each case manager with a consumer on their case must contact each consumer’s (1) guardian and (2) referent/case manager by telephone minimally one time every other week. The assigned case manager will complete a monthly progress summary, to be completed and distributed by the 5th business day of each month, which shall competently report progress towards the achievement of the DOT (Desired Outcome of Treatment)”. Monthly “my voice” meetings, otherwise referred to as “client input meetings”, must be conducted a minimum of once per month.

Per the Willowglen Policy and Procedures for Case Management, “Together, the consumer and case manager will identify the necessary resources for transportation, equipment needed and what, if any, speech and/or behavioral supports are needed to overcome barriers to the consumer’s participation in any therapeutic activities”.

The Off Grounds Activity Manual dated May 2002, states that “a ratio of one staff to five residents is maintained. (May be 1:8 for group home residents)”. During the site visit when this was called to the attention of the director of clinical and residential services that the 1:8 ratio may not be the best practice for this resident, an updated policy dated July 2014 was provided to the HRA on 7/22/14 which states that “a ratio of one staff to five residents is maintained”, removing the 1:8 ratio for group homes.

According to the policy manual for Leadership/Case Management Services, Willowglen staff are annually trained for the safety and well-being of all residents. “Specifically, to coordinate the implementation of the subsidiary approved de-escalation program for any behavioral crises and the implementation of the appropriate healthcare policies and procedures for any medical and/or psychiatric crises”.

Under Section 5/2-102a of the Mental Health Code regarding care and services:

§ 2-102. (a) 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. The Plan shall be formulated and periodically reviewed with the participation of the recipient to the extent feasible and the recipient's guardian, the recipient's substitute decision maker, if any, or any other individual designated in writing by the recipient. ...In determining whether care and services are being provided in the least restrictive environment, the facility shall consider the views of the recipient, if any, concerning the treatment being provided.

And Section 5/2-105 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.

According to The Standards and Licensure Requirements for Community-Integrated Living Arrangements (59 Ill. Adm. Code 115.100) regarding purpose:

b) ...The objective of a community-integrated living arrangement is to promote optimal independence in daily living and economic self-sufficiency of individuals with a mental disability.

And Section 115.200 regarding description states:

c)...Services shall be oriented to the individual and shall be designed to meet the needs of the individual with input and participation of his or her family as appropriate. Individuals are recognized as persons with basic human needs, aspirations, desires and feelings and are citizens of a community with all rights, privileges, opportunities and responsibilities

accorded other citizens. Only secondarily are they individuals who have a mental disability.

d) Based on their needs, individuals shall receive supervision and supportive services which may range from continuous to intermittent. CILAs shall be designed to promote optimal independence in daily living, economic self-sufficiency and integration into the community through the interdisciplinary process.

In addition, Section 115.220c 7, 8 regarding the community support team:

The CST shall be directly responsible for:

7) Assisting the individual in developing community supports and fostering relationships with non-paid persons in the community, e.g., neighbors, volunteers and landlords;

8) Providing personal support and assistance to the individual in gaining access to vocational training, educational services, legal services, employment opportunities, and leisure, recreation, religion and social activities;

Effective August 2014, additional requirements (59 Ill. Admin. Code 110.20) for the handling of resident trust funds were instituted as follows:

a) Definitions

For purposes of this Section, the following terms are defined:

“Code.” The Mental Health and Developmental Disabilities Code [405 ILCS 5].

“Informed consent.” Permission voluntarily granted by the recipient or properly empowered guardian for the release of information, for participation in the program services specified in the treatment plan, for the use of a specific procedure in the plan, or for designating the facility director as representative payee. Informed consent means full disclosure to the recipient or properly empowered guardian of the information required for him or her to make the decision intelligently.

“Properly empowered guardian.” A court-appointed guardian of the person with specific authority to make decisions concerning the recipient's financial transactions or a court-appointed guardian of the estate.

b) Introduction

1) When a recipient is admitted to a Department facility such recipient or the recipient's properly empowered guardian may authorize the facility to establish a trust fund account in accordance with Section 20 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/20], using form DMHDD-623, Trust Fund Deposit Authorization. Any monetary assets in the recipient's possession at the time of admission may be deposited in such an account. The recipient shall be advised that:

A) He or she may retain money and deposit it in a financial institution or use it as he or she chooses, unless he or she is a minor or is prohibited from doing so under a court guardianship order, in accordance with Section 2-105 of the Code.

B) He or she may revoke the authorization for the trust fund account, using form DMHDD-623c, Revocation of Authorization.

C) Any funds deposited in the trust fund shall earn interest based on the end of the month balance and if funds are withdrawn prior to the end of the month, no interest will be paid for the period.

2) Accounting records shall provide separate entries for those funds (checks) made payable to the recipient and those funds (such as checks from the Social Security Administration, Railroad Retirement or the Veterans' Administration) made payable to the facility director on behalf of the recipient. Only qualified clinical personnel at the facility can make statements or answer questions on applications for facility directors to be selected as payee of these benefits which relate to the recipient's ability to manage his or her own funds.

3) Except when a recipient or the properly empowered guardian has given informed consent, no service provider nor any of its employees shall be made representative payee for the recipient's Social Security pension, annuity, trust fund, or any other form of direct payment or assistance, as

provided by Section 2-105 of the Code. When a facility director is selected as representative payee, benefit checks are credited to the recipient's trust fund account.

If the facility serves as representative payee for any CILA residents, the following Social Security representative payee requirements also apply:

Anytime after we select a representative payee for you, we may ask your payee to give us information showing a continuing relationship with you, a continuing responsibility for your care, and how he/she used the payments on your behalf. If your representative payee does not give us the requested information within a reasonable period of time, we may stop sending your benefit payment to him/her--unless we determine that he/she had a satisfactory reason for not meeting our request and we subsequently receive the requested information. If we decide to stop sending your payment to your representative payee, we will consider paying you directly (in accordance with [§ 404.2011](#)) while we look for a new payee. (20 CFR 404.2025)

Social Security representative payees are also required to keep records and file annual reports on how benefits were spent, what benefits were saved, and if the savings were invested (20 CFR 404.2065). Furthermore, representative payees have specified responsibilities as outlined below:

A representative payee has a responsibility to--

(a) Use the benefits received on your behalf only for your use and benefit in a manner and for the purposes he or she determines, under the guidelines in this subpart, to be in your best interests;

(b) Keep any benefits received on your behalf separate from his or her own funds and show your ownership of these benefits unless he or she is your spouse or natural or adoptive parent or stepparent and lives in the same household with you or is a State or local government agency for whom we have granted an exception to this requirement;

(c) Treat any interest earned on the benefits as your property;

(d) Notify us of any event or change in your circumstances that will affect the amount of benefits you receive, your right to receive benefits, or how you receive them;

(e) Submit to us, upon our request, a written report accounting for the benefits received on your behalf, and make all supporting records available for review if requested by us; and

(f) Notify us of any change in his or her circumstances that would affect performance of his/her payee responsibilities. (20 CFR 404.2035)

Complaint: The facility mismanaged the resident's funds. The clinician stated that she neglected to lock the \$290.00 in a safe in the executive director's office. The incident report dated 3/17/14 depicts the theft of the money due to the aforementioned neglect. The policy of the facility is that the money is to be kept in a locked container and the door to the room where the container is located must also be locked. The complaint is substantiated.

Complaint: The facility requires the resident to earn money that already belongs to him. The lead clinician explained that in regard to a behavioral contract, the funds earned by the resident from clocking in to work at the group home to perform chores, comes from the resident's trust account. The ISP (Individual Service Plan) progress notes dated 2/16/12 and 2/12/13 state that the parent/guardian of the resident helped establish and was in agreement with the process of the resident earning money from his trust account in exchange for performing chores at the group home. In the ISP dated 2/11/14 through 2/11/15 with a new court appointed guardian (effective 12/4/13) who was present at the meeting, the behavioral contract procedure was discussed regarding the resident clocking in to the group home to earn money from his trust account. At the 4/1/14 and 4/5/14 meetings of the Willowglen Academy Human Rights Committee, they were in agreement with all of the aforementioned ISP plans. But per the guardian and progress notes by the lead clinician, during a teleconference on 4/22/14 which included the guardian's supervisor, a court appointed attorney for the resident, the director of clinical and residential services and the clinician, it was discovered that the

behavioral contact was not put in place to target behavior problems, but specifically for the resident to earn money by performing chores at the group home. The guardian went on to request that the program be revised to include only the behaviors the resident currently has, as the resident should not be earning his own money, but programming money could be used if Willowglen Academy wants to add something more appropriate as an incentive for not engaging in target behaviors. The guardian continued and requested that the current behavior contract be cancelled, and the resident be given \$5.00 weekly allowance regardless of chores or target behaviors because he has a right to have it. The resident himself, is in agreement with this procedure. In conclusion, the use of the money is a right, not a privilege, and the Code specifies that a recipient may use his money as he chooses, unless he is a minor or prohibited from doing so under a court guardianship order. For the reasons given above, the complaint is substantiated.

Complaint: The facility restricts the resident from personal choice and activity. Per the Individual Service Plans and the progress notes, the resident expressed a desire to attend the park district dances and to go a shopping mall. Although the facility documented the wishes of the resident, they have not provided documentation of the actual occurrence of the activities. The clinician verbally admitted her resignations regarding the activities due to possible behavior issues by the resident, but she also stated that a one-on-one was not needed for the resident. She stated that the 1:5 ratio (previously 1:8) was sufficient for such outings for the resident to have success. Yet in 7 months the facility has not fulfilled what is recorded in the Individual Service Plan. Per the activity calendars for the following “no school” days, there were only 2 activities listed on each day with both activities after 4:00 p.m.: 1/1/14, 1/2/14, 1/20/14, 2/17/14, 2/28/14 and each day of 3/24/14 through 3/31/14. This was brought up by the HRA at the site visit. A few days later, the facility provided a July 2014 activity calendar with the following notation on it “re: no school days there will park activities before lunch”. Even so, it is concluded that the facility has restricted the resident from personal choice and activity. The complaint is substantiated.

RECOMMENDATIONS

1. Ensure that money that belongs to a resident is kept per facility policy, under double lock and that the amount kept in the group home does not exceed \$100.00. Review new CILA requirements regarding resident trust accounts and revise policy accordingly. And if serving as

representative payee for any client, ensure that representative payee requirements are incorporated into policy.

2. Since Willowglen's client funds policy requires guardian approval on a purchase requisition form and an incident report to be completed for missing funds; naturally guardians should be alerted in timely fashion whenever funds are missing or stolen and this should be added to policy.
3. Formulate the Individual Service Plan with the participation of the recipient and the guardian, consider the views of the recipient regarding least restrictive environment. (405 ILCS 5/2-102a, 105) (59 Ill. Adm. Code 115.100b, 200). Follow ISPs as written and if the ISP goals cannot be met, revise the ISP.
4. Ensure that the facility identifies the necessary resources for behavior supports to assist the resident in overcoming barriers in the participation in community outings and all therapeutic activities. (59 Ill. Adm. Code 115.200).
5. Document Human Rights Committee reviews of programs.

Suggestion:

Ensure activity participation, including community events, are documented.