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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #14-090-9006
Achievement Unlimited Inc.

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving complaints of possible rights violations at Achievement Unlimited Inc. The complaints alleged the following:

1. Lack of continuity of care and services regarding medications and services provided to residents during a transition between two facilities, including a lack of resident/guardian involvement in treatment planning with regard to medication/treatment changes related to the move.
2. Residents not discharged with all of their property or allowed the choice of decorating rooms at new facility.
3. Guardians not easily allowed to access resident's financial accounts.
4. Inadequate treatment.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (MHDD Code) (405 ILCS 5), ID/DD Community Care Act (210 ILCS 47) CILA regulations (59 Il Admin Code 115), the Probate Care Act of 1975 (755 ILCS 5/1), Social Security Administration regulations (20 CFR 416) and rules regarding medication administration in a community setting (59 Il Admin Code 116).

Achievement Unlimited recently transitioned individuals from an intermediate care facility for persons with developmental disabilities (ICFDD) named St. Mary's Square that closed. Both Achievement Unlimited and St. Mary's Square were part of the RFMS Inc. They transitioned 185 individuals into 23 homes of 8 beds each. They now have 29 homes in Galesburg with 214 individuals total. They geographically cover as far north as Silvas, as far west as Jacksonville, and as far east as Danville.

To investigate the allegations, HRA team members interviewed Achievement Unlimited staff members and reviewed documentation that is pertinent to the investigation.

COMPLAINT STATEMENT

The ICF/DD St. Mary's Square was determined to be closed and many of the residents were transitioned into Achievement Unlimited community integrated living arrangements (CILAs). In the process of the transition, a corporate nurse reportedly began changing physicians' orders without informing physicians or communicating this during treatment planning. Allegedly, the nurse would receive the order, make changes, send the order to a pharmacy that would send the order back minus the changes, and then the order would be sent to the physician for a signature. The complaint states the physician would not see what changes were made on the order. The reported reasoning for the changes was to make the orders "CILA friendly." Allegedly, the new CILA staff were also not prepared with information on the residents arriving at the CILA homes. Items like shower chairs and hospital beds were not being provided to residents who need them because staff were unaware of the need as per the complaint. Also, food orders are reportedly not being followed; including a resident not being provided peanut butter before receiving an insulin shot and a resident not receiving peanut butter and jelly sandwiches as requested. Allegedly, both items were in the individual service plans (ISPs) at St. Mary's Square but were not transferred to the new ISPs.

Another allegation is that, the residents at the ICFDD were not allowed to take all of their property with them to the CILA. Residents were reportedly allowed two tote bags of clothing, and six bags of other property. Also, only approved properties were are being allowed to be brought taken to the CILAs including pictures and posters, according to the complaint. Allegedly, a resident's family member went to the CILA and decorated for a resident and was then told that they would have to take down all the decorations. The complaint states that all decorations had to match, and there needed to be specific matching picture frames for all of the resident's pictures. Reportedly, the CILA allowed family pictures but would not allow others (ex. Spiderman poster). Pictures and frames had to be approved for appropriateness. Also only maintenance was allegedly allowed to hang pictures, residents could only use standing picture frames. According to the complaint, another resident passed away and the family was told that the resident's belongings were the corporation's, not the family's. Another resident had a large doll collection and was reportedly only allowed two dolls, while a different resident collected stuffed animals and was only allowed to keep part of the collection. If a resident had family, they were allowed to retrieve the items, if they did not, then the items were thrown away as per the complaint. The complaint states that a room at the old facility was packed with televisions, VCRs, radios, etc. that residents were not allowed to take to the new facility. These items were going to be a part of a liquidation sale. At the new facility, residents were provided a dresser, bed sheets, etc. They were also provided a new, flat screen TV in each room.

A third allegation states that, the facility did not provide residents with the start-up money needed with the transition and will not provide guardians information on personal accounts.

Additionally, the complaint states a resident was sick and not eating for 4 days before the QIDPs contacted a nurse to assess the individual. Also, nurses were allegedly told that the Qualified Intellectual Disability Professionals (QIDPs) were going to start assessing the medical needs of the individuals because the nurses were inadequate. The QIDPs were reportedly sending consultations to a physician's office for orders. When the orders are returned, they are given to the nurse to transcribe. According to the complaint, the nurses question if the QIDP's have the

ability to assess the resident's needs or if the physician even knows that the assessment is not from a nurse. Also, this procedure is causing issues because the QIDP sends the consultation and then reportedly leaves the house without relaying information that the assessment was done. An example of problems that were caused was a nurse discovered an order for an antibiotic that was two days old and the resident was yet to receive the medication.

INTERVIEW WITH STAFF (10.25.2013)

Staff began the interview by stating that they believe the continuity of care during the transition has been very good. The organization entered a downsize agreement with the state and eliminated St. Mary's Square. There were some medical practices that changed when the individuals transitioned because of the Illinois Department of Public Health regulations that were different between an Intermediate Care Facility for the Developmentally Disabled (ICFDD) and a CILA. As far as changing the individual's orders, there was one specific case where a phone call was made and an inhaler treatment was discontinued. When this was discovered, they found the account that a nurse sent to the physician and approved the order. Staff felt like they are dealing with a change of systems. They explained that Rule 116 regulates the facility now but it did not before. They had to teach staff a different system and they think that this new system caused some friction. For example, staff cannot make the determination regarding sliding scale insulin now under Rule 116; only nurses can make this determination. Also the direct staff personnel (DSP) can assist individuals with medication and nurses assist with what staff cannot do according to the mandates. Nurses are now in an environment where they have less job duties than before because DSPs have more responsibilities. Nurses used to perform all the medication passes and that no longer occurs. A DSP can make some of the changes that were requested and can make some decisions about the individual's medical care. The DSPs can make no medical judgment regarding changing the records which must be determined by a physician. Also DSPs cannot make a determination regarding individuals taking medication, for example if a physician's order states to take 1 or 2 tabs of a medication every 2 hours, they request that the order is rewritten to be more specific for the DSPs. For example they would not make a decision on individuals taking Ablution when it is not on their schedule. The DSPs follow the medication administration record (MAR) and assist individuals with taking medications and any questions are referred to nursing.

Regarding the allegation about orders changing, staff explained that they did update residents' orders to fit their individual needs. Some PRN orders were discontinued because of non-use, like the inhaler for the individual discussed above. There were also a few individuals who had G-Tubes who changed diets and staff met with guardians to make them aware of the change. The Registered Nurses (RN) perform a monthly review of the physician's orders and perform a more frequent review of the medical administration records (MAR). If someone has not used medication for 90 days, they request that it is discontinued. The resident's physician was at St. Mary's Square on a weekly basis. He wanted to see the individuals every three months.

Licensed Practical Nurses (LPNs) are on shift in the houses which means they are in the building and available to all the homes. There is a team of LPNs that works in 7 or 8 homes and

they occasionally use them in more than one building. Registered Nurses (RNs) are accessible 24 hours a day as well. They believe that because the LPNs do not make as many decisions about the medications, they may feel slighted.

Staff explained that any tasks that can be delegated to the DSPs, and they want them to be responsible for those tasks. They are trying to rid the facility of the nursing home mentality and make it less institutionalized. There have been changes in procedure since moving from St. Mary's Square, for example, any medication changes that were behavioral modifications needed guardian consent but there may have been some PRN (as needed) medications that were provided before that guardians were unaware residents were taking.

Staff stated that all staff members who transitioned from St. Mary's Square received DSP training with an additional week of training. One difference between St. Mary's Square and the CILA homes is that they had a dietary department. Staff provided training in family style dining like they would be performing in the CILA instead of the cafeteria style dining like they had at St. Mary's Square. In regard to the bed and shower chairs being available at the CILA, there were two physical therapists that went to St. Mary's Square with the administrator to assess residents in their environment to determine needs. Staff purchased new high-low beds for many of the individuals who needed them. They only actually transitioned a few pieces of equipment because the equipment was being actively used by the individuals. Much of the equipment was purchased new and staff could not recall of a specific incident where someone did not receive what they needed, as well as receiving additional items.

Approximately 150 of the staff at the CILA came from St. Mary's Square and about 75% of the staff were already familiar with the individuals. They attempted to bring the staff who were most familiar with residents so they would already be aware of their needs. They brought people from all over the state to put together information about diets and individual needs and then provided that information to staff at the trainings. The DSP training consists of 57 hours of classroom training and 98 hours of on the job competency training. The new DSPs hired received 40 hours of the 57 before beginning work at the facility. The training was the for all of their homes, the only exception was the 40 hours completed before working at the facility. Staff did not work alone in the facility until they were completely trained. When asked about the individuals named in the food complaint, staff said that they did not have anything specific in the individual's order about peanut butter. They said there was an order for protein at bedtime. Staff explained that it may have been an order that could have been changed at St. Mary's Square.

Staff werer unsure about the allegation that there was going to be a liquidation sale of the items left at St. Mary's Square. They stated that no individual's belongings would be sold in a liquidation sale. They said if the individuals had a flat screen TV, then it was taken to the facility, unless it was an older model, and then they asked the residents if they could purchase them a new TV. Staff explained that there were no restrictions on what individuals could bring but as an organization, they offered the individuals new items. For example, they bought one resident a new recliner to replace an older one. They were not aware that individuals were told they could not bring property from St. Mary's Square. Staff did explain that an individual who had been at the facility for 25 years may have more property than they have space for at the new location. They now had limited space when compared to the space at St. Mary's Square. Staff

also bought some individuals new posters if they were ripped and torn and they had the posters framed. They met with the individual's family who was upset about the pictures being reframed and they decided to put the pictures back into the old frames. Staff said that they were a little overzealous in trying to make the home look nice. They apologized to the family that was upset.

Staff stated that in the process of trying to get other CILA homes open, they failed to discuss with a manager that the residents could personalize their rooms and families could assist with decorations. They spoke with the house manager about this topic and re-educated her. Staff never checked for appropriateness, but a family had decorated with items that were not age appropriate such as Disney items. The facility encourages age appropriate items with the individuals. The decorations were taken down and put into storage prematurely without speaking with the guardian. They met with the guardian and resolved the situation. They understand that prior to the move, the guardians were asked if they could come and take some of the resident's belongings home and the family requested to throw the items away. The facility did have ample storage room but some people have a lot of property. The families were the ones responsible for discarding items from St. Mary's Square. If individuals maintained their rights and did not have guardians, staff would have discussed their property directly with them. The state guardians would have discussed what property individuals would keep and discard at the discharge staff meetings and would have discussed the items that would not have moved with the wards. Staff explained that the homes were decorated prior to the individuals transitioning into the homes. They did not want people to move into sterile environments with nothing on the walls. Staff said that now the homes are personalized. There are no specific picture frames that needed to be used. In talking with St. Mary's Square staff, the philosophy of the building was that they wanted decorations to distract from the age of the building. If items were broken, they tried to provide the family with something that was not broken. They had no idea about the complaint regarding the quilts and did not know why the quilts would not be brought to the facility. They did not even know if the individual had a quilt collection.

They have had two residents who passed away and one was a ward of the state who had no belongings. Staff spoke with the other individual's family and asked them what should be done with the property. The family said to donate the resident's wheelchair and reviewed the remaining property. Staff stated that they held discharge meetings for each individual and the guardians were invited and attended. The Achievement Unlimited staff was present and the St. Mary's Square staff were also present at the meetings. The individual's needs were discussed during the meetings.

Staff explained that there were certain items that were left in the building, like the tables in the cafeteria and the deep freezer. Some of the equipment was donated elsewhere. Staff explained that for the transition, there is no written policy or procedure on what property individuals could bring from the facility and there were no determinations by the staff on what could be brought to the CILAs. They had some situations where guardians wanted the individuals to have their old furniture but when they saw the new furniture, they also requested new furniture.

All of the individuals in the CILA homes will have interest bearing checking accounts and staff stated that it was not an easy transition because they did not have individual checking

accounts previously. Staff stated that any guardian of estate has a statement mailed to them and that is the practice of the facility. Any other type guardian that has requested financial information will receive that information and staff have been directed to share that information. At St. Mary's Square they were automatically mailing a copy of financial information to every guardian. Achievement Unlimited are representative payees for many of the individuals and guardians wanted to maintain that information. They have received one phone call by a guardian requesting account information. In many cases the account is still in process of being transferred to representative payees. Staff stated that they do not know why they are not sending financial information automatically to the guardian of the person other than it is not currently a state regulation to send the information.

Regarding the complaint that the individual did not eat for 4 days, the staff were confident that the situation did not occur like that and all proper protocol was followed. They stated that the individual had eaten and did not go 4 days without eating, but the individual's appetite was poor for 4 days because he was taking antibiotics. The individual had been under the care of a physician. The DSPs would consult with the RNs if someone was sick or they may refer to an LPN first, depending on availability. Then the nursing staff would contact the physician. The physician would prescribe an order or ask to examine the individual. If an individual vomited twice, a phone call would be made to the RN. The RN may or may not ask the QIDP to provide information to the physician. They also may ask the DSP to contact the physician. When an order arrives, a nurse initiates the treatment. RNs are told to transcribe the order to the MAR. DSPs or QIDPs cannot take a verbal order from a physician. If someone is sick, the RN may say request the QIDP to relay the info to the physician, then the physician can give an order and if that order is written, the QIDP can send it to the pharmacy. These actions are all under the RN's discretion. DSPs and QIDPs have similar roles as far as dealing with physicians. The staff explained that QIDPs are not working outside of the scope of what they can do as far as providing information to the physician. Staff were not aware of a situation involving an antibiotic.

The staff was aware of a conversation that the Director of Operations had with a guardian and they thought that there was a resolution regarding start-up money. The facility takes the stance that the money was given to the agency to provide for the individual. They feel like they purchased the items necessary for the individual's arrival at the facility. It was not intended to be a wish list but more based on needs.

FINDINGS (Including record review, mandates, and conclusion)

The HRA reviewed records and policy pertinent to the complaints in this investigation.

Complaint #1 - Lack of continuity of care and services regarding medications and services provided to residents during a transition between two facilities, including a lack of resident/guardian involvement in treatment planning with regard to medication/treatment changes related to the move.

The HRA reviewed four different residents' physician orders from St. Mary's Square prior to the transition and physician's orders from Achievement Unlimited after the transition. For

resident #1, the physician's orders for St. Mary's Square and Achievement Unlimited shared the dates of 4.1.13 and 4.30.13 and the individual had a transition date of 4.29.2013. Both physician's orders had a physician signatures. There are changes on the Achievement Unlimited physician's order such as a switch from Zocor to Lipitor, a lowered dose of Acetaminophen, and Albuterol inhalers were dropped from the St. Mary's Square physician's orders. Additionally, the diet order for "No Bread" was dropped from the St. Mary's Square physician's order as well as ear drops and a medical test. Some items were added such as Benadryl, Robitussin, other creams and a mammogram. There are also some medications including the inhaler, which appear in the discharge staffing but do not appear in the Achievement Unlimited physician's order.

The second resident's orders are similar to the first resident. There is a copy of physician's orders from St. Mary's Square dated 6.1.13 and the copy of the Achievement Unlimited physician's orders have the same date. This individual moved to the new CILA on 6.4.13. With this set, the St. Mary's Square physician's orders are actually unsigned but the Achievement Unlimited orders are signed. The diets appear to be unchanged but Bisacodyl was dropped as well as a yearly Prostate Specific Antigen (PSA) and ear drops. Milk of Magnesia, Benadryl, Acetaminophen, Robitussin, and ointment were added to the new physician's order. The discharge staffing still has the Bisacodyl and does not mention the Milk of Magnesia, Benadryl, Acetaminophen, Robitussin and ointment. The 3rd resident moved to the CILA on 8.22.13 and has signed physician's orders from both facilities. The orders from the CILA eliminated needles, nasal spray, ibuprofen and ear drops and added Milk of Magnesium and Benadryl. There was not much of a medication change so the discharge staffing medications mentioned are relatively the same minus the nose spray. The physician's orders were signed. The 4th resident moved to the CILA on 6.24.13 and the St. Mary's Square physician's order is dated 6.1.13 through 6.30.13 while the Achievement Unlimited physician's orders are from 6.24.13 through 6.30.13. Both physician's orders have a physician's signature. The new physician's order eliminated Benadryl and B12 shots were changed from every 3 months to every 6 months. Folate was also moved from 3 months to 6 months. PSA was moved from 6 months to yearly and there were no more Uric Acid levels. These changes were not documented in the discharge staffing. The facility stated they were unable to locate the discharge staffing documents for two additional individuals requested.

The HRA also reviewed the records of the two individuals involved in the allegation about receiving peanut butter and peanut butter sandwiches. The facility stated that they did not have copies of the discharge staffing document for the individual who was to receive a lunchmeat sandwich with lunch as well as a peanut butter sandwich. The facility did have the individual's current ISP dated 9.5.13 which reads that the individual "... prefers peanut butter and jelly for lunch but will eat lunchmeat sandwiches." The ISP also states that the individual may refuse his lunch on a regular basis. It does not state that the individual should be provided peanut butter and jelly sandwiches as well as lunchmeat sandwiches per the complaint. The HRA reviewed an annual ISP staffing from St. Mary's Square dated 12.13.12 which reads that at day training the resident "... continues to like lunchmeat sandwiches, and peanut butter sandwiches." There is no specific mention of the individual having two sandwiches sent with him to day training.

The second resident's discharge staffing states that she is on a general diet "receiving a good protein source as a bed time snack." The individual's ISP, dated 9.17.13, reads that the individual "... has an order for a protein snack at HS to help regulate her blood sugar. To ensure that she is receiving this protein source daily, the CST [community service team] agreed that a formal goal should be written as a self-medication program for [resident]." The HRA reviewed an annual ISP staffing from St. Mary's Square dated 9.19.2012 which reads that the resident is "... on a general diet receiving a good protein source as a bed time snack." There is no specific mention of the individual having peanut butter as a protein snack.

The HRA saw instances where discharge staffing documents stated that a resident utilized a shower chair (or even other accommodations) but saw no confirmation that the resident received this or other accommodations at the new location.

The HRA reviewed the Achievement Unlimited facility policy titled "Ordering Medications" which reads "The physician shall order medications in writing in accordance with applicable laws and regulations." The policy proceeds to read "All medications/treatments shall be given only upon the written order of a prescribing physician, advance practice nurse, or physician assistant in one of the following methods ..." and states that the physician may provide a written order and the facility manager/appropriate designee will notify the nurse trainer of medication orders. The policy also states that staff will fax or deliver the order to the pharmacy to be filled. The policy states that the physician, physician's assistant, or advanced practice nurse may provide an order by faxing a signed order to the facility for the staff to take to the pharmacy for filling. The same group can also phone the pharmacy and the order must be signed within 10 days.

The HRA reviewed another Achievement Unlimited facility policy titled the "Individual Service Plan (ISP) Development" which lists the resident's guardian as a part of the community support team. There is also a section defining discharge staffing which reads "A discharge staffing shall be conducted whenever a resident is considered for movement from the facility for any reason. The purpose of the staffing is to review and establish the current condition of the resident and come to consensus on the proposed move. Both the assessment of current condition and CST consensus regarding the move shall be included in the written report of the meeting." The policy also states that ISPs are to include current medications.

The Department of Human Services Rule 115 reads "a) A physician shall be responsible for the medical services provided to individuals and the management of individuals' medications" (59 IL ADC 115.240). Rule 115 also reads "A) A licensed physician (MD or DO) shall assume medical and legal responsibility for medical services offered in any program, including prescription of medications." (59 IL ADC 115.320) The Rule also states "Agencies licensed to certify CILAs shall provide for services through a community support team (CST). a) The CST shall consist of the QMRP or QMHP, as indicated by the individual's primary disability, the individual, the individual's guardian or parent (unless the individual is his or her own guardian and chooses not to have his or her parent involved, or if the individual has a guardian and the guardian chooses not to involve the individual's parent), providers of services to the individual from outside the licensed CILA provider agency, and persons providing direct services in the community" (59 IL ADC 115.220). The Rule also reads "c) The CST shall be

directly responsible for: 1) Modifying the services plan based on on-going assessment and recommendations; 9) Providing assistance to the individual in obtaining health and dental services, mental health treatment and rehabilitation services (including physical therapy and occupational therapy), and substance abuse services" (59 IL ADC 115.220). "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" (59 Ill. Admin Code 115.200 C).

The ID/DD Community Care Act, which pertains to St. Mary's Square but not the CILAs, reads "Transfer or discharge plans. The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In nonemergency, and where possible in emergencies, the Department shall design and implement such plans in advance of transfer or discharge" (210 ILCS 47/3-418).

Rule 116 (59 Ill. Admin. Code 116.70) states that "All medications, including patent or proprietary medications (e.g., cathartics, headache remedies, or vitamins, but not limited to those) shall be given only upon the written order of a physician, advanced practice nurse, or physician assistant.... All orders shall be given as prescribed by the physician and at the designated time...."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), which pertains to both St. Mary's Square and Achievement Unlimited CILAs, requires that "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....If the services include the administration of ...psychotropic medication, the physician or the physician's designee shall advise the recipient, in writing, of the side effects, risks, and benefits of the treatment, as well as alternatives to the proposed treatment, to the extent such advice is consistent with the recipient's ability to understand the information communicated.... If the recipient is under guardianship and the guardian is authorized to consent to the administration of...psychotropic medication pursuant to subsection (c) of Section 2-107.1 of this Code, the physician shall advise the guardian in writing of the side effects and risks of the treatment, alternatives to the proposed treatment, and the risks and benefits of the treatment."

Complaint #1 - Conclusion

After reviewing the records and policy, the HRA found no evidence that a corporate nurse changed physician's orders without the physician's knowledge. Additionally, the HRA also saw no evidence that individuals did not receive accommodations such as shower chairs. The HRA also found that, according to the documentation, their appeared to be continuity of care regarding food.

However, the HRA contends that there were definite differences in the medication treatment between physician's orders from St. Mary's Square and Achievement Unlimited and it

appears that these changes were not documented in the discharge staffing. Because of this, the HRA questions as to how staff could have included the guardians in changes. Also, for two individuals, the facility could not produce discharge staffing documents, which further indicates that the facility could not provide continuity of care if they no longer maintained the documentation. For these reasons, the HRA finds this complaint **substantiated** and offers the following **recommendations**:

- Per Rule 115 regarding community support teams (59 IL ADC 115.220) and the Mental Health and Developmental Disabilities Code assure that the guardian participates in all areas of service planning. The HRA requests evidence of compliance with this recommendation such as evidence that the guardian is invited to, participates in or reviews treatment plans and changes in treatment.
- To ensure compliance with the Code's requirement for adequate care and treatment and consistent with Rule 115 requirements regarding the role of the CST, ensure adequate discharge planning to and from facilities, keeping the CST apprised of any changes made when there are transitions in and out of facilities. The HRA requests evidence of compliance with this recommendation such as explanations for any treatment differences from the prior facility to the current living arrangement.

The HRA also offers the following **suggestions**:

- The HRA noticed in some cases in the discharge staffing plans that there is a statement that the resident requires a shower chair and then later in the document there is an area for adaptive devices. In the future, the facility should explore putting all adaptive devices together in the discharge plan to assure that they are all seen and not forgotten or missed.
- When transitioning residents, the facility should create a quality control measure to assure accommodations reach the new facility.
- Assure that all resident documents are kept with the resident's record so that records are not lost and a resident's treatment history is maintained.

Complaint #2 - Residents not discharged with all of their property or allowed the choice of decorating rooms at new facility.

Although it was stated that property was discussed at the discharge staff meetings, the HRA reviewed the discharge staffing plans for 7 different individuals and reviewed no discussion of property in the records. The HRA also reviewed those individuals' service plans and discovered no documentation of property within those records.

The HRA requested the annual inventory from St. Mary's Square and any property inventory in conjunction with the transition to Achievement Unlimited. The HRA compared the inventories for 4 different individuals.

With the first individual, the St. Mary's Square inventory was taken on 8.13.12 and the Achievement Unlimited inventory was taken on 5.24.13. The individual moved into the facility on 4.29.13. There are definite discrepancies between the two inventories. In some cases the individual gained items, for example 3 more shirts, 2 more coats, 6 more gloves, 2 more hats,

and gained a television. In other areas, there were items that were on the St. Mary's Square inventory that did not appear on the new inventory, such as house slippers, socks, sweaters, underpants and undershirts. The individual also had one picture/poster while at St. Mary's Square and none at Achievement Unlimited. The second individual was similar to the first in the fact that items were lost and gained but went unaccounted for. In the second comparison, the St. Mary's Square inventory was completed on 2.16.12 and the Achievement Unlimited inventory was completed on 9.18.13. The individual had moved into the Achievement Unlimited house on 6.4.13. The individual gained more items than appeared on the inventory, such as 20 shirts, 1 pair of jeans, 2 pajamas, 12 underpants and 3 undershirts. Items that did not appear on the new inventory were a pair of gloves, a pair of slippers, and a pair of shoes. The individual also did not have 1 picture/poster that appeared on the St. Mary's Square inventory.

The third individual has a similar inventory as the first two, with the significant changes being he went from 5 wall hangings, 20 photographs, and 2 picture/posters at St. Mary's Square to 30 picture/posters at the CILA. The individual also gained 3 tapes/CDs at the CILA and had 17 records that were not accounted for. The individual no longer had certain items including 6 books, 3 games, 7 pants, 8 undershirts, and 5 puzzles. There were also 8 stuffed animals on the first inventory that did not appear on the second inventory. This individual moved into the CILA on 8.13.13 and the inventory was taken on 9.18.13. The St. Mary's Square inventory was taken on 5.29.13.

The fourth individual's inventory was also similar to the others, with the significant differences being that the individual gained one picture and no longer had 1 sweater, 1 radio, 7 pants, 1 pair of glasses, and 20 VHS/DVDs. This individual moved into the house on 8.5.13, and the St. Mary's Square inventory was completed on 1.23.13 and the Achievement Unlimited inventory was completed on 9.18.13.

The HRA requested inventory documents for 3 additional individuals that the facility stated that they could not locate in their files.

The Achievement Unlimited rights statement reads "You have the right to receive, possess and use personal property unless it is determined that certain items are harmful to our others. When you stop receiving services from an agency, all lawful property must be returned to you." The HRA also reviewed the "Individual Service Plan (ISP) Development" policy (see complaint #1) which indicates a CST consensus on the move is to be documented. The HRA also reviewed the Achievement Unlimited discharge policy which indicates that for the day of discharge, the QIDP will complete a discharge inventory of personal items (which has the same form number as the inventories we reviewed) and then that the QIDP "Accumulates records and personal items to be taken with the individual."

The ID/DD Community Care Act, which applies to St. Mary's Square but not the CILAs, reads that discharge or transfer plans should assure the resident's rights (see 210 ILCS 47/3-418 in complaint #1). The Act also reads "Personal property. A resident shall be permitted to retain and use or wear his or her personal property in his or her immediate living quarters, unless deemed medically inappropriate by a physician and so documented in the resident's clinical record ... The facility shall provide a means of safeguarding small items of value for its residents in their rooms or in any other part of

the facility so long as the residents have daily access to such valuables. The facility shall make reasonable efforts to prevent loss and theft of residents' property. Those efforts shall be appropriate to the particular facility and may include, but are not limited to, staff training and monitoring, labeling property, and frequent property inventories ..." (210 ILCS 47/2-103).

The Act also reads "No resident shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the State of Illinois, or the Constitution of the United States solely on account of his or her status as a resident of a facility" (210 ILCS 47/2-101).

The CILA regulations (59 Ill. Admin. Code 115.100) state that "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." Section 115.320 requires that "Services shall be provided in the setting most appropriate to the needs of and reflecting the preferences of the individual...."

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-104), which applies to both St. Mary's Square and the CILAs, requires that "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,... when a recipient is discharged from the mental health or developmental disabilities facility, all of his lawful personal property which is in the custody of the facility shall be returned to him."

Conclusion - Complaint #2

The ID/DD Community Care Act and the Mental Health Code indicates that the individual has a right to their personal property and that the facility will make reasonable efforts to prevent loss of that property (210 ILCS 47/2-101). The HRA found no conclusive evidence that individual's property was taken into consideration. The inventories completed were often inconsistent, with items appearing on one inventory and then not appearing on other inventories. Also, per the staff interview, the property was to be discussed at the discharge staffing but the HRA saw no evidence that this took place. There was an overall lack of attention paid to documenting individual's property and there did not even appear to be a means for staff to be aware of what was or was not moved. HRA did not see evidence that residents were only allowed six tote bags of items and two tote bags of clothes nor did the HRA see that items were thrown away, made part of a liquidation sale, or that the facility stated that resident belongings were part of a corporation. By staff's admission, there was a lack of communication over residents'/families' ability to decorate individual resident rooms or staff approval for personal items to be moved. In addition, personal property was not discussed as part of discharge planning. Because of the evidence that individual's property was not considered or safeguarded, the HRA finds this complaint **substantiated** and gives the following **recommendations**:

- Assure that all individuals' right to access to property is not being violated per the Mental Health Code and all property is being safeguarded. Upon discharge, assure that all property is returned to individuals as required by the Code. If transitioning residents between facilities, ensure that property is transferred with them; if property cannot be transferred with residents, address in the treatment planning process with the involvement

- of the resident and guardians. The HRA requests evidence for action taken on this recommendation.
- Consistent with Mental Health Code protections related to personal property, address inventory discrepancies. Assure that individuals are returned any lost property related to the transition from St. Mary's Square to Achievement Unlimited or provide explanations as to why an item was not transitioned with individuals. Provide evidence that actions were taken on this item.
 - Follow CILA requirements that the setting is to reflect the preferences of the individual and assure that individuals are allowed to personalize and decorate their rooms as desired.

The HRA also offers the following **suggestions**:

- Some of the inventories indicated some individuals are not in possession of undergarments. The HRA suggests that the facility investigate this situation to assure that individuals have proper clothing.
- Because it appears that inventories may have been completed a month later at times, the HRA suggests the facility complete the initial inventory upon admission.
- The HRA is gravely concerned about the facility not having inventory documents from St. Mary's Square for individuals and we question the ability to properly provide services to individuals, or a history of services, without these documents. The HRA strongly suggests evaluating the transfer of documents to alleviate any further loss of resident records as well as treatment and social history.

Complaint #3 - Guardians not easily allowed to access resident's financial accounts.

The HRA reviewed Achievement Unlimited policy W6.25 titled "Individual Banking" which is the policy provided when the HRA requested records regarding consumer's finances. The policy makes no statement regarding resident's finances being accessible by guardians. The policy does not have a procedure for sending a statement to the guardians of estate or other guardians. The HRA also reviewed an email exchange between Achievement Unlimited administrative staff and a guardian which indicated that the guardians would not have the financial statements sent to them on a regular basis but they are able to review the statements in the facility.

At the January 29th, 2014 HRA meeting, staff from Achievement Unlimited said that they have no policy regarding the start-up money from the Illinois Department of Human Services (DHS) and that they have no plan regarding the money because it is money for the provider and not for the resident. The HRA requested information on start-up money from the DHS and a DHS representative stated that the only information regarding start-up funding for CILA was on the website. The DHS website reads "When a CILA residence is being developed, one-time initial costs are incurred as the home is being prepared. Such costs can include the purchase of the person's bedroom furniture, shared living room and kitchen furniture, utensils and appliances, home hookups or security deposits on rental units. Base Start-Up Funding can also be used for general staff training prior to an individual's enrollment in the program. For all new CILA capacity, a one-time Base Start-Up Funding stipend of \$2,500 per person will be awarded. Base

Start-Up Funding is not provided in cases where the individual CILA rate is being 'redetermined' using the Rate Model."

The Mental Health Code (405 ILCS 5/2-105) requires the following with regard to recipient finances:

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.

The Probate Act of 1975 reads that "(a) To the extent ordered by the court and under the direction of the court, the guardian of the person shall have custody of the ward and the ward's minor and adult dependent children and shall procure for them and shall make provision for their support, care, comfort, health, education and maintenance, and professional services as are appropriate ..." (755 ILCS 5/11a-17)

Social Security Administration regulations (20 CFR 416) guide representative payee arrangements. Section 416.620 identifies the factors the Administration considers when selecting a representative payee and includes "any" legal authority that acts on an individual's behalf. Section 416.621 identifies the order of priority when determining representative payee selection and lists the legal guardian in the first order of priority.

Conclusion - Complaint #3

The facility staff interviewed indicated that estate guardians are sent copies of the resident's financial information but personal guardians can also receive that information. The HRA saw no indication in policy or procedure that either instances are occurring but they also did not see evidence that documents are being restricted from guardians and because of this, the HRA finds this complaint to be **unsubstantiated**. Current CILA regulations provide no direction on resident finances or accounts. However, the Mental Health Code allows for representative payeeship with informed consent; for individuals who have been legally adjudicated as disabled, the guardian would need to provide informed consent for payeeship. In addition, Social Security looks to the guardian, not just guardian of the estate, as the legal authority for determining the appropriate payee. Furthermore, the facility needs to assure that guardians are able to carry out their legal obligation to "make provision for [wards] support, care, comfort, health, education and maintenance, and professional services." (755 ILCS 5/11a-17) The HRA **strongly suggests** that the facility document policy regarding guardian access to resident financial documents so that there is no confusion by Achievement Unlimited staff as to who has access to the records.

The HRA is also concerned about staff miscommunication on access rules considering access rules were described one way to the HRA during HRA's interviews with staff but a different set of rules were described in e-mail communications. Given the guardian's legal authority, the guardian's legal responsibility to make provision for a ward's care and services, the Social Security Administration's deference to the legal guardian when selecting a representative payee and the Mental Health Code's reliance on informed consent to establish a payeeship, the HRA contends that any legal guardian have access to a ward's financial information and **strongly suggests** that, besides developing policy to address this issue, the facility provide consistency in the practices they follow.

Complaint #4 - Inadequate Treatment

Due to the fact that the HRA did not have a release of records for the individual involved in the complaint that a resident was sick and not eating for 4 days before QIDPs contacted a nurse to assess the individual, the HRA can only perform a policy review on this aspect of the complaint. The HRA did review an Office of Inspector General (OIG) report in which the OIG investigated the incident and found it unsubstantiated.

The facility provided the HRA with a policy titled "Physical Injury and Illness/Individual Medical Emergencies" which reads that "Individuals served by the agency shall receive timely and effective medical service for physical injuries and illnesses and medical emergencies." The policy states that if there is an injury or illness determined to be an emergency, the DSP is to contact 911. Part of the procedure also reads that the DSP is to "observe the individual to determine basic information necessary for nurses or physicians to make further judgments." They are also to "Notify the House Manager, QMRP [QIDP], or Administrator for consultation and direction." The procedure also states that "The House Manager, QMRP [QIDP], or Administrator shall notify the RN for consultation and direction, if necessary." If the DSP is unable to contact any of these supervisors they may contact the RN for consultation and direction. If none of the above mentioned staff is available, the DSP is to contact the local emergency room for consultations. The consultation is to be relayed to the House Manager, QIDP or Administrator prior to implementation unless the delay could cause more harm to the resident.

The HRA reviewed policy W7.02 which deals with nursing services. The nursing policy reads "All individuals shall receive proper treatment of minor accidents and/or illnesses through the RN consultant." The policy also states that staff will be available 24 hours a day to identify and report symptoms of illness, injuries and emergencies. The RN trainer shall provide care for minor illnesses, injuries and emergencies and provide healthcare information for individual service plans for each individual. The RN trainer shall provide individuals nursing care and complete health assessments. The procedure in the policy also states that the when DSP observes an illness (or is approached about an illness) and this is relayed to the RN consultant. The RN consultant makes a decision based on the info and the DSP documents it. If the illness requires a physician's visit, the appointment can be made by the DSP or QIDP and then they can relay the results to the RN consultant.

The HRA reviewed an illness progress note where a staff member saw that a resident had hives and contacted the nurse who told them to give the resident allergy medication and to monitor the situation in one hour.

Rule 116 which regulates medication administration in a community setting reads "a) The registered professional nurse shall assess an individual's health status at least annually or more frequently at the discretion of the registered professional nurse" (59 IL ADC 116.90). Rule 115 reads "B) All services shall be provided by appropriately trained employees, operating under the supervision of qualified clinical professionals" (59 IL ADC 115.320).

Conclusion - Complaint #4

As previously stated, due to lack of release, the HRA could not confirm or deny a complaint regarding a resident not eating for 4 days before a nurse was contacted, but, through evaluating the records provided, the HRA saw that the facility policy indicated that the nurse was to be contacted and that there were no instances where the QIDPs were to start assessing the medical needs of individuals. Due to these findings, the HRA finds this complaint **unsubstantiated** but offers the following **suggestion**:

- One policy indicates the DSP is to contact administration for guidance, then administration contacts the nurse while another policy indicates the DSP can contact the RN directly. The HRA questions the practicality of contacting other channels before the nurse and also that the two procedures do not seem consistent.