



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #14-100-9013
Elgin Mental Health Center

Introduction

The North Suburban Regional Human Rights Authority (HRA) opened this investigation regarding Elgin Mental Health Center (hereafter referred to as Center) after receiving a complaint that alleged that the consumers are being served outdated food items. Safe food consumption is protected by the Food Service Sanitation Code (77 Ill. Admin. Code 750).

Consumers receiving services at EMHC's Forensic Treatment Program have been remanded by Illinois County Courts to the Illinois Department of Human Services (DHS) under statutes finding them Unfit to Stand Trial (UST) and Not Guilty by Reason of Insanity (NGRI). Placement evaluations determine the most appropriate inpatient or outpatient setting for forensic treatment based on a number of factors including age, gender, mental health diagnosis, and security need. Unless a person is specifically ordered to receive services in an outpatient setting, court ordered referrals under state forensic statutes call for placement in a secure inpatient setting. The Forensic Treatment Program has 315 beds.

To pursue this investigation, the HRA met with the Dietary Director to discuss the allegation presented.

Findings

The complainant stated that at times, the consumers receive outdated yogurt and potato chips. The Director of Food Services explained that while there are no federally mandated requirements for dating food items, many manufacturers label their food with a "sell by" or "use by" date to suggest a time frame for using the product. *Best if used by* and *use-by* date means that the product should retain maximum freshness, flavor and texture if used by the stated date. It is not a purchase-by or safety date. Beyond this date, some products might begin to deteriorate, although it may still be edible. If a food item has an *expiration date*, the item should not be used past the expiration date.

It was stated that every weekend, consumers at the Center receive a continental style breakfast that includes yogurt. The Director stated that the yogurt is ordered weekly and the yogurt delivered is for that weekend only. There might be a few extra yogurt products for the very few consumers that have a physician's order to have yogurt as part of a meal. The Director stated that it is possible that some yogurt products might have gotten out of the rotation procedure. The HRA observed where the yogurt was stored and only a few product items were observed as the delivery had not yet been made for that weekend. The yogurt containers are labeled with a "best by" date.

Regarding the allegation that the consumers receive outdated potato chips, it was stated that this item is ordered months in advance. At the time of delivery, the *best if used by* date might already be outdated on the item. It was stated that since this product has no protein, it is perfectly acceptable to use the item beyond that date.

The HRA asked if the Dietary Department personnel meet with the consumers to discuss matters such as this. It was stated that the staff members attend the consumer council meetings about once a month.

The Center's Refrigerator/Freezer Temperatures policy states (in part) that dated items with expiration dates are to be discarded based on the printed expiration date.

Conclusion

Pursuant to the Illinois Administrative Code 77 Section 750.151, “b) Commercially Processed Food (open and cold hold) Except as specified in subsections (d)-(f) of this Section, refrigerated, ready-to-eat potentially hazardous food prepared and packaged by a food processing plant shall be clearly marked, at the time the original container is opened in a food establishment and, if the food is held for more than 24 hours, to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded, based on the temperature and time combination specified in subsection (a) of this Section. 1) The day the original container is opened in the food establishment shall be counted as Day 1. 2) The day or date marked by the food establishment may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on food safety. c) A refrigerated, ready-to-eat potentially hazardous food ingredient or a portion of a refrigerated, ready-to-eat potentially hazardous food that is subsequently combined with additional ingredients or portions of food shall retain the date marking of the earliest-prepared or first-prepared ingredient. d) A date-marking system that meets the criteria stated in subsections (a) and (b) of this Section may include: 1) Using a method approved by the regulatory authority for refrigerated, ready-to-eat potentially hazardous food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft serve mix or milk in a dispensing machine; 2) Marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under subsection (a) of this Section; 3) Marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified under subsection (b) of this Section; or 4) Using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.”

The HRA recognizes that a consumer might perceive outdated food items as a harmful product to consume; however, based on the information obtained it is concluded that rights are not being violated. The allegation is unsubstantiated.

The HRA offers the following suggestion: Ensure that, for products with exceeded “used by” dates, the manufacturer determined “used by” dates are not based on food safety as per the Administrative Code (77 Ill. Admin. Code 750.151 (b) (2)).

RESPONSE

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



Pat Quinn, *Governor*

Michelle R.B. Saddler, *Secretary*

Division of Mental Health - Region 2
Elgin Mental Health Center

RECOVERY IS OUR VISION
Recovery is a Personal Journey of Hope, Healing, Growth, Choice, and Change

June 5, 2014

Ms. Kori Larson - Chairperson
North Suburban Regional Human Rights Authority
9511 Harrison Street, W-300
Des Plaines, IL 60016-1565

Re: HRA #14-100-9013

Dear Ms. Larson:

Thank you for your thorough review of this matter. I note that none of the allegations were substantiated. Regarding your suggestion to ensure that, for products with exceeded "used by" dates are safe for consumption based on Administrative Code, Elgin Mental Health Center will continue to monitor and research any products with expiring "used by" dates to determine if the products are safe for consumption. Elgin will also ensure that no products with exceeded "expiration dates" are served to consumers.

The staff at the Elgin Mental Health Center strives to provide the best possible care and treatment for our patients. As always, we will continue to work to quickly resolve any patient concerns.

Please include our response with any public release of your Report of Findings.

Sincerely,

Paul N. Brock, M.S., M.P.A., M.H.A.
Hospital Administrator

PNB/BD