



FOR IMMEDIATE RELEASE

**East Central Regional Human Rights Authority
Life Links
Report of Findings
Case # 17-060-9018**

Case summary: The HRA did not substantiate the allegations that the provider is payee for a consumer and the provider is denying the consumer access to banking statements and statements about how money is spent. Since all allegations are unsubstantiated no provider response is required.

The East Central Human Rights Authority (HRA) of the Illinois Guardianship and Advocacy Commission voted to pursue an investigation of Life Links in Mattoon, IL after receiving the following complaints of possible rights violations:

Complaints:

1. **Provider is payee for a consumer and the provider is denying the consumer access to banking statements and statements about how money is spent.**

If the allegations are substantiated, they would violate protections under the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105), the Administrative Code for Social Services (89 Ill. Admin. Code 509.30) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/4).

Investigation

The HRA proceeded with the investigation after having received written authorization from the adult consumer. To pursue the matter, the HRA visited the facility and the program representatives were interviewed. Relevant practices, policies and sections of the consumer's record were reviewed.

Interviews:

On September 26, 2017 at 10:00am, the HRA met with Life Links staff members, including: Life Links Executive Director and Behavioral Health Clinician. The meeting occurred at the Life Links office at 750 Broadway Ave East in Mattoon, IL. The meeting began with introductions, a review of HRA procedures, and a review of the allegations being addressed in this investigation.

The staff provided some general information about Life Links. The agency serves approximately 3,700 individuals each year. Life Links provides assistance to ages ranging from adolescent through adult. Programming includes but is not limited to Substance Abuse Programming and Community Support Services for Mental Illness.

Life Links reported that their staff receive annual training for Human Rights and Abuse and Neglect per Office of Inspector General (OIG) standards. All staff must be trained on the Mental Health and Developmental Disabilities Confidentiality Act during orientation and maintain all OIG standards for training through their RELIAS training system. Representative Payees for Life Links are all clinicians with a bachelor's degree or higher and complete an internal training with the Executive Director before managing any financial cases.

Life Links manages approximately 70 representative payee accounts. All accounts are opened through First-Mid II Bank. The individual account belongs to the consumer but the consumer has no signature authority. All financial needs are paid out via check whenever possible and each check requires two authorized signatures. Any cash that is distributed must be signed for. Each month the accounts are balanced by the Life Links representative payee staff, and checked by another Life Links staff member that has signature authority.

Each representative payee account is managed differently based on the capability and needs of the consumer. Some consumers' bills are paid at the beginning of every month and the consumer gets one check for the remaining amount. These consumers tend to have the cognitive ability to manage their own money throughout the month. Other consumers require more management and meet with Life Links staff weekly for money disbursement. There are ways to get money in an emergency; outside of those emergency situations checks are requested and then become available on the following Tuesday and/or Friday. The checks can be picked up by the consumer on those days. The consumers are responsible for cashing the check and using it for the reasons provided.

Life Links does have Representative Payee Procedures that outline the program and its requirements. Staff report that the procedures give 'loose guidelines' for the program because the needs of each of the consumers varies greatly. It is not policy or procedure to provide the consumer with a monthly statement or provide any documentation to the consumer regarding balances of bank accounts unless specifically requested by the consumer. The goal of the Representative Payee Program is to teach budgeting to the consumer and return payeeship to the consumer whenever possible.

The consumer listed in this complaint was referred to Life Links in 2015 by another community service provider for access to some of the agency's mental health services as well as to function as the consumer's representative payee after a family member proved to be unable to demonstrate fiscal responsibility. An assessment of capability was completed (and is recompleted every 6 months). Life Links reports that the consumer has had goals for financial management but struggles with impulse control and budgeting. The consumer has requested that Life Links recommend to the Social Security Administration that he is capable of being his own payee, however, Life Links does not believe that he has the ability to manage his own finances at this time. Life Links was given notice this month that the consumer has applied through the Social Security Administration to be his own payee and that he was granted his request. As of October 1, 2017 the consumer will be responsible for his own finances.

Life Links reports that the consumer did not request copies of his financial records until July 2017. When the records were requested the consumer was provided with copies of his bank

statements and cancelled checks. The consumer was asked to sign that he received the statements. Since the July 2017 request, all the consumer's monthly statements are provided to him and he signs that he has received them. The Life Links clinician responsible for the consumer's case believes that the consumer called the bank to get a balance and did not understand that some of the checks for the consumer's bills had not cleared and subsequently believed that he had more money than what was available. This confusion caused the consumer to be upset and feel that the finances were being mismanaged.

The consumer's bank account was overdrawn in May 2017. The clinician reports that it was an error on her part. Life Links contacted the bank and the error was corrected at no cost to the consumer. Other than this error, there have been no other concerns or questions regarding the account from the provider or the consumer. Life Links stated that they were surprised by the reports to the Human Rights Authority. The clinician reported that she was upset with the consumer for implying that she was withholding statements from him and may have been more "harsh" in her demeanor on the day that the consumer made the request; she was "offended and upset". She stated that she told the consumer "I cannot believe you don't trust me". The clinician then reported that the relationship with the consumer has been fine since that day. The clinician is scheduled to see the consumer one more time to close the consumer's case (since he will be his own payee). The consumer is not receiving any other services at Life Links at this time.

Life Links Policy/Records Reviews:

Life Links provided the HRA with the following records: Life Links Representative Payee Procedures, consumer bank statements dating back to the account opening, initial assessments, progress notes dating back to 3/10/15, an initial mental health assessment, and consumer's bills and budgeting records.

Life Links Representative Payee Procedure states that all accounting will be completed monthly. "A monthly accounting form shall be completed upon consumer request. These shall be signed by the consumer and filed with the financial institution with the financial information. A copy shall be given to each consumer. This form may also be utilized for a projected budget for future months." In addition, the procedure states that a payee can request a change in payee assignment and a copy of this request shall be kept in the individual's clinical record.

Bank statements and billing reflect that the consumer's bills were paid in a timely manner. All bank statements have correlating cleared check copies that document that the money was either paid to a financial obligation such as rent or utilities or paid to the consumer. The bank statement for May 2017 confirms that there was an accounting error that resulted in a negative balance. All fees associated with the error were replaced and the consumer's account was repaired. Signatures on the bank statements are not dated.

A progress note for 7/7/17 states that the consumer accused the clinician of not providing statements. The clinician noted that the consumer had not asked for the statements prior to today and subsequently gave the statements and required that the consumer sign them. The clinician and the consumer agreed to provide the statements each month going forward.

Mandates Reviewed:

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105) states:

“Money; deposits; payees

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.”

Illinois Department of Human Services (DHS) regulations (89 Ill. Admin. Code 509.30) require:
“Fiscal Requirements/Management

c) If the agency has the responsibility for the management of funds for the individuals it serves, such funds shall be accounted for on an individual basis in a single separate account. Funds of an individual served by the agency may not be converted for use by the agency. The use of these funds is restricted to the direct needs and support of the individual.

d) An agency that assesses fees/co-payments to individuals for services shall maintain a written policy for billing and collection of fees/co-payments. This policy will include a system for billing individual's, with appropriate financial assistance based on the ability of the individual or the individual's responsible relative to pay. The system shall also provide a record of charges and a method of collecting third party payments.”

The Mental Health and Developmental Disabilities Confidentiality Act (Act) (740 ILCS 110/2) states:

“‘Record’ means any record kept by a therapist or by an agency in the course of providing mental health or developmental disabilities service to a recipient concerning the recipient and the services provided.”

The Act (740 ILCS 110/4) also states:

“Persons entitled to inspect and copy recipient's record

§ 4. (a) The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof:

(1) the parent or guardian of a recipient who is under 12 years of age;

(2) the recipient if he is 12 years of age or older;

(3) the parent or guardian of a recipient who is at least 12 but under 18 years, if the recipient is informed and does not object or if the therapist does not find that there are compelling reasons for denying the access. The parent or guardian who is denied access by either the recipient or the therapist may petition a court for access to the record. Nothing in this paragraph is intended to prohibit the parent or guardian of a recipient who is at least 12 but under 18 years from requesting and receiving the following information: current physical and mental condition, diagnosis, treatment needs, services provided, and services needed, including medication, if any;

(4) the guardian of a recipient who is 18 years or older;"

Conclusions

1. The provider is payee for a consumer and the provider is denying the consumer access to banking statements and statements about how money is spent.

The Mental Health and Disabilities Code (405 ILCS 5/2-105) states, "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." In addition, DHS regulations (89 Il. Admin. Code 509.30) state that "If the agency has the responsibility for the management of funds for the individuals it serves, such funds shall be accounted for on an individual basis in a single separate account. Funds of an individual served by the agency may not be converted for use by the agency. The use of these funds is restricted to the direct needs and support of the individual." The Act (740 ILCS 110/4) states that "The following persons shall be entitled, upon request, to inspect and copy a recipient's record or any part thereof: ... (2) the recipient if he is 12 years of age or older...". Life Links procedure requires that monthly statements be made available to the consumer upon request. A progress note from 7/7/17 states that the consumer requested copies of banking records and they were provided. A plan was then made to provide the records going forward.

After completing the interviews, records reviews, and assessing applicable mandates, there is no evidence to support that Life Links violated the consumer's rights by denying the consumer access to the banking statements. The consumer requested copies of his banking statements and the statements were provided. While the HRA believes that Life Links provided the statements per the requirements, there is some concern that the consumer's request for the statements was met with anger and offense on the part of the clinician. A request to obtain copies of a consumer's own financial records should not be met with animosity or statements such as "I

can't believe that you don't trust me". Hopefully, Life Links and their staff will review this reaction and make corrections to assure that this behavior does not happen in the future.

Based on the findings above the East Central Human Rights Authority concludes that the consumer's rights were not violated and, therefore, the complaint is unsubstantiated. No recommendations are being made in relation to this complaint.

While reviewing the records, the HRA noted that when Life Links requested that the consumer sign that he received the statements they did not request that the consumer date the signature. It would be our suggestion that Life Links date any signed documents, especially in circumstances of financial records, in order to ensure the validity of the signatures.

The HRA would like to thank the Life Links staff for their cooperation with this investigation.