



FOR IMMEDIATE RELEASE

**METRO EAST HUMAN RIGHTS AUTHORITY
REPORT OF FINDINGS
HRA CASE # 17-070-9004
COMMUNITY SUPPORT SERVICES**

The Metro East Regional Human Rights Authority (HRA) has completed its investigation of a complaint at Southern Illinois Community Supports and Services, INC (SICSS), a Community Integrated Living Arrangements (CILA) agency located in New Baden, Illinois.

The allegation being investigated is:

The facility violates the consumers' rights when it misuses funds intended for the consumers' needs. If found substantiated, the allegation represents violations of the Social Security Regulations, Social Security Protection Act, The Community-Integrated Living Arrangements Licensure and Certification Act and SICCS Mission and Values.

METHODOLOGY

To pursue the investigation, the HRA interviewed the Executive Director (ED) of SICCS on two separate occasions, during special closed sessions, at regularly scheduled HRA meetings. Policies and financial records were provided to the HRA and were reviewed and discussed with the ED.

The complaint involves residents of The Nathan House, CILA. According to SICSS, the 4 residents of The Nathan House receive assistance and supportive services from Community Support Specialists, to the least degree required, for the individual to live as independently as possible in order for the residents to maintain their individual freedom.

FINDINGS

The complaint alleges that funds are being used from residents' individual bank accounts to purchase groceries and other items for the entire homes' use. The financial records presented to the HRA indicate that groceries are purchased from one individual's account and they are later reimbursed for the other resident's portion of the groceries, which means funds are being transferred between residents' accounts on a regular basis, in check form.

The financial Statement for resident #1 from May 14, 2016 to June 29, 2016 reads as follows;

Withdrawals:
Check # 484 Groceries \$188.09 Wal Mart

Check # 486 Rent \$502.97
Check # 487 Pay back Groceries to Resident #2 \$10.12
Check # 488 Pay back Groceries to Resident #2 \$4.83
Check # 489 Pay back groceries to Resident #3 \$73.03
Check # 490 Pay back groceries to Resident #2 \$17.26
Check # 491 Pay back groceries to Resident #2 \$71.85

Deposits:

6/3 Pay back from groceries \$156.75
6/3 Pay back form overpayment on groceries \$0.59

As displayed in the above financial statement, in that time period, Resident #1 wrote checks on 5 separate occasions to other residents and received two reimbursement payments from other residents. The HRA has additional financial records that document similar deposits and withdrawals on additional residents' accounts.

According to the SICSS Management of Service User Social Security Funds as Representative Payee Policy, a special checking account is provided at First Community Bank of New Baden with the sole purpose of depositing residents social security funds for the individuals supported by SICSS for whom Clinton Manor Living Center is representative payee. This is a non-interest-bearing account. When social security funds are deposited into this account monthly, the designated Clinton Manor Resident Accounts clerical staff will verify all direct and manual deposits within this account and record the deposits. The clerical staff will then write out an individual check to each resident for their personal allowance of \$50.00 a month. The site leader then assists the residents with depositing this check in their personal, interest bearing checking accounts. The remainder of the funds from the non-interest-bearing account are then deposited into the SICSS general checking account. The Chief Fiscal Officer (CFO) then writes out individual checks, to each resident for monthly food allowance. The checks are then deposited into their individual interest-bearing accounts in order to purchase groceries. The clerical staff monitors all the residents' accounts monthly, verifies receipts and balances accounts to ensure that the proper reimbursements have occurred.

The ED of SICCS explained to the HRA that the residents' Social Security checks are deposited into their personal, interest-bearing checking account. Fifty dollars is allotted for personal use monthly.

The ED of SICCS indicated that the system works well for the agency and that they have a check and balance system in place. He stated that the person in charge of balancing the residents' accounts takes great pride in making sure all funds are accounted for and that each resident is reimbursed properly. Several HRA members commented that the transfer of funds between patient accounts is improper and provided suggestions on how the process could be improved. The ED agreed that the process looks improper and stated that he was open to reviewing the process and would explore other options on how to purchase groceries in a manner that didn't require funds to be transferred between resident accounts and would update the HRA on his findings. The ED attended the next HRA meeting and stated that they would be implementing a trial run of a proposed new policy at one home. If successful, he will then finalize the policy and

present it to the HRA. The HRA attempted to contact the ED on multiple occasions via mail and phone, with no response, thus the HRA deducts that no changes have been made to the policy in question.

MANDATES/REGULATIONS

Social Security Regulations (20 CFR 416.635) state:

“(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” (20 CFR 416.635).

Social Security Regulations that govern representative payeeships (20 CFR 416.640) further state that:

“(a) Current maintenance. We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary’s current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care and personal comfort items....(b).... If a beneficiary is receiving care in a Federal, State, or private institution because of mental or physical incapacity, current maintenance will include the customary charges for the care and services provided by an institution, expenditures for those items which will aid in the beneficiary’s recovery or release from the institution, and nominal expenses for personal needs (e.g., personal hygiene items, snacks, candy) which will improve the beneficiary’s condition.”

Social Security Protection Act, §1631(a)(2)(A)(iv) states:

“Misuse occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person”

The “Guide for Organizational Representative Payees” published and available on-line through the Social Security Administration further detail best practices including using payments to meet beneficiary needs, conserving money left over, and conserve/spend wisely in the best interests of the beneficiary. The Guide further describes payee limits including using the benefits for anything other than the beneficiary’s needs, depositing benefits in another person’s account, and lending the funds to other beneficiaries. Finally, a section on “collective accounts” address

accounts when a payee serves many beneficiaries. The payee may request from Social Security payment of funds into one deposit account but the account must show that the beneficiaries own the account and there must be individual account ledgers for each beneficiary. In addition, organization operating funds cannot be intermixed with an account for beneficiary funds.

The Mental Health and Developmental Disabilities Code (405 ILCS 5/2-105) guarantees the right of a service recipient to "...use his money as he chooses.... A recipient may deposit or cause to be deposited money in his name with a service provider or financial institution...."

The Community-Integrated Living Arrangements Licensure and Certification Act (210 ILCS 135/9.1) states:

§ 9.1. Recipient's funds; protection.

(a) To protect a recipient's funds, a service provider:

(1) May accept funds from a recipient for safekeeping and management if the service provider receives written authorization from the recipient or the recipient's guardian.

(2) Shall maintain a written record of all financial arrangements and transactions involving each individual recipient's funds and shall allow each recipient, or the recipient's guardian, access to that written record.

(3) Shall provide, in order of priority, each recipient, or the recipient's guardian, if any, or the recipient's immediate family member, if any, with a written itemized statement of all financial transactions involving the recipient's funds or a copy of the recipient's checking or savings account register for the period. This information shall be provided at least quarterly...

(5) Shall keep any funds received from a recipient in an account separate from the service provider's funds for safekeeping, and shall not withdraw all or any part of the recipient's funds unless the service provider is (i) returning the funds to the recipient upon the request of the recipient or any other person entitled to make the request, (ii) paying the recipient his or her allowance, or (iii) making any other payment authorized by the recipient or any other person entitled to make that authorization.

(6) Shall deposit any funds received from a recipient in excess of \$100 in an interest-bearing account insured by agencies of, or corporations chartered by, the State or the federal government. The account shall be in a form that clearly indicates that the service provider has only a fiduciary interest in the

funds and that any interest earned on funds in the account shall accrue to the recipient. The service provider may keep up to \$100 of a recipient's funds in a non-interest-bearing account or petty cash fund, to be readily available for the recipient's current expenditures.

(7) Shall, upon written request of a recipient or the recipient's guardian, return to the recipient or the recipient's guardian of the estate all or any part of the recipient's funds given to the service provider for safekeeping, including the accrued interest earned on the deposits of the recipient's funds.

(8) Shall (i) place any monthly allowance that a recipient is entitled to in the recipient's personal account or give the monthly allowance directly to the recipient, unless the service provider has written authorization from the recipient, the recipient's guardian, or the recipient's parent if the recipient is a minor, to handle the monthly allowance differently, (ii) take all steps necessary to ensure that a monthly allowance that is placed in a recipient's personal account is used exclusively by the recipient or for the recipient's benefit, and (iii) require any person other than the recipient who withdraws funds from the recipient's personal account that constitute any portion of the recipient's monthly allowance to execute an affidavit that the funds will be used exclusively for the benefit of the recipient.

(9) If an adult recipient is incapable of managing his or her funds and does not have a guardian or immediate family member, the service provider shall notify the Office of the State Guardian of the Guardianship and Advocacy Commission....

CONCLUSION

The HRA finds that the allegation that states the facility violates the consumers' rights when it misuses funds intended for the consumers' needs is **substantiated**. The practice of exchanging funds between resident accounts for groceries conflicts with Social Security requirements that funds only be used for the individual beneficiary and not for other persons or beneficiaries. This practice also may also impact a payee's responsibility to conserve funds on behalf of a specific beneficiary and misrepresents the accountings provided to the Social Security Administration and the guardians when funds are used for the expenses of others, even if rectified at a later date. The HRA recommends that:

Southern Illinois Community Supports and Services, INC, disband the practice of transferring funds between resident accounts for grocery expenses to ensure compliance with Social Security representative payee requirements. Provide the HRA with evidence that the practice has been disbanded.

The HRA also suggests that the agency review its special checking account for depositing social security benefits to ensure compliance with Social Security guidelines for collective accounts.

RESPONSE

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

REGIONAL HUMAN RIGHTS AUTHORITY

HRA CASE Numbers 17-070-9004

SERVICE PROVIDER: Community Support Services

Pursuant to Section 23 of the Guardianship and Advocacy Act (20 ILCS 3955/1 *et seq.*), we have received the Human Rights Authority report of findings.

IMPORTANT NOTE

Human Rights Authority reports may be made a part of the public record. Reports voted public, along with any response you have provided and indicated you wish to be included in a public document will be posted on the Illinois Guardianship and Advocacy Commission Web Site. (Due to technical requirements, your response may be in a verbatim retyped format.) Reports are also provided to complainants and may be forwarded to regulatory agencies for their review.

We ask that the following action be taken:

We request that our response to any recommendation/s, plus any comments and/or objections be included as part of the public record.

We do not wish to include our response in the public record.

No response is included.

James A. Lepore
NAME

Executive Director
TITLE

7-23-18
DATE

Response of
Southern Illinois Community Support Services
To Report of Findings of HRA Case # 17-070-9004

Southern Illinois Community Support Services (SICSS) acknowledges that it is in receipt of the Findings of the HRC as set forth in the Report of Findings referenced above. Please allow me to first address our response to the conclusions listed in the last section of the report. We have indeed disbanded the previous practice which allowed for one individual to purchase groceries for others living in the same home and then that other individual initiating a payback upon return from shopping.

As evidence of this we have attached to this response a copy of our most recent revision (dated 04-01-2018) of our Policy regarding Management of Service User Social Security Funds. Although we have made several small changes to update and make our policy more clear, the major change to address this issue can be found in a new section added at the end of the policy entitled "Purchasing of Groceries". In this section we outline the provision of "agency cash" to be used for the purchase of groceries that will be used by the group. It also further stipulates that "at no time will the funds of one service user be used to make a grocery purchase for another service user".

As further evidence we have attached copies from the checking account check register of 4 individuals (10% sample) dating back from April to July showing compliance with this policy.

Since this concern was originally brought to our attention we have reached out to other service providers in search of other methods of both safeguarding funds and assisting those we support in learning how to select and purchase their own groceries. Most responses involved the agency simply ordering the groceries in bulk. This certainly safeguarded funds. However, we believe that this method denied individuals the opportunity to learn and exhibit their independence. We experimented with and tried several ways over a few months. We finally instituted the method which we finalized in our current policy revision (provided). We have also made a copy of this revision available to Social Security for their review.

While revising our procedure we felt that we needed to add more clarity as to the issue of handling of Social Security funds. We made a statement in our most current revision to make clear our handling of these funds. Our procedure is to have the Social Security funds direct deposited into a "collective" account which was established in accord with the "Guide for Organizational Representative Payees". Before this account was established we involved representatives from Social Security in helping us establish the right kind of account and the proper naming of the account. We also reviewed with them the process Clinton Manor would use for both ledgering and disbursing funds.

The process involves the depositing of Social Security funds into a "collective" account near the beginning of each month. Within days of this deposit the funds are ledgered to each individual. Then they are disbursed in accord with Social Security policy. The current personal allowance of \$60 is given by check directly to each individual to deposit into his personal account and use for his personal expenses. The remainder is paid directly to SICSS as payment of 3rd Party payments as required by both

Social Security and the Illinois Department of Human Services. At the point of payment of these funds to SICSS they become the property of the agency and are no longer treated as Social Security funds. This would be the same as if they had been paid to a dentist in payment of a dental bill. At the point the dentist received the payment it became the money of that dentist and was no longer treated as Social Security funds. After these two disbursements have been made then the account ledger shows a balance of zero as ALL funds have been duly disbursed. Therefore the money which SICSS gives to each individual to use to pay for groceries is at that point "agency" funds which we are giving to the individual so that he can not only obtain groceries but also so that he can engage in the process of learning how to provide for himself and responsibly learn greater independence. In other words, we are safeguarding the Social security funds in accord with the rules. But, we are taking the risk of using our money to help the individual learn how to use money properly. This is also called for in the Social Security "Guidelines" referenced above. We state this here only to call attention to the reason we were using the process we had been using. We in no way were intending to misuse Social Security funds. And indeed we maintain that this is not the misuse of Social Security funds. However, we do concede that it could get to be confusing and could lead to abuse. Therefore we made the modification of using agency cash for grocery purchases and then having each person pay the agency for his part of the bill from the money we gave him for this purpose.

Finally, we will continue to monitor this process QA our results and make needed changes. We expect that as a result we will continuously work toward improving the process. Therefore, we thank you for the opportunity to improve.

Southern Illinois Community Support Services, Inc. (SICSS)
Clinton Manor Living Center
Joint Policy
Management of Service User Social Security Funds as Representative Payee
(Revised 4/01/2018)

Joint Policy Statement: (CMLC) will manage individual social security and personal spending funds in accordance with Social Security rules and regulations as representative payee. In addition it is the policy of SICSS to provide each individual the opportunity to decide and participate in his/her personal funds in a way that actively involves him/her in routine activities of money management.

Procedure:

Service Users Funds Account ("Clinton Manor Living Center Community Representative Payee for SICSS Soc. Sec. Benefits" account)

A special checking account is provided at First County Bank of New Baden with the sole purpose of depositing Service Users Social Security Funds for individuals supported by SICSS for whom Clinton Manor Living Center is representative payee. This is a non interest bearing account.

- A. Signatures required to withdraw from this account will be one of the following: 1. Executive Director, 2. Director of Community Supports, 3. CFO, 4. Clinton Manor Accounts Receivables Manager.
- B. All Service Users supported by SICSS who request that Clinton Manor act as their representative payee will have their Social Security Checks directly deposited into this account.
- C. Once this request is made the QIDP responsible for supporting the service user will make all necessary arrangements with the Social Security Administration and will work with the person assigned to Clinton Manor Resident Accounts clerical to set up a direct deposit of the service users funds into the Service Users Funds Account.
- D. The designated Clinton Manor Resident Accounts clerical staff will be responsible for managing the account ("Clinton Manor Living Center Community Representative Payee for SICSS Soc. Sec. Benefits" account) keeping clear and up-to-date records in an account ledger showing the amount of each beneficiary's funds in the collective account and following proper procedures for documenting credits and debits and reporting account activities/reconciliations to the Executive Director on a monthly basis.
- E. A \$25 minimum balance is required by the bank to keep this account open and as a norm there are no regular fees associated with maintaining this account. So as not to tie up any of the service users benefits SICSS will open the account with \$25 from SICSS funds and this sum shall remain static in that account for the duration of time that the account is open. This shall be ledgered separately.

Monthly Distribution of funds deposited into the (Clinton Manor Living Center Community representative payee account)

- A. The designated Clinton Manor Resident Accounts clerical staff will verify all direct and manual deposits within this account and record the deposits in a software program (QUICKEN) that tracks all activities within the account.
- B. Once SS funds are deposited (between the 1st and 3rd of the month) the designated Clinton Manor Resident Accounts clerical staff will write out an individual check to each service user for their personal allowance (currently \$60.00 a month).

- C. The Clinton Manor Resident Accounts clerical staff will distribute these individual personal allowance checks to the Site Leader designated to assist the Service User. The Site Leader will assist the Service User in depositing their personal allowance into their personal checking account.
- D. After all the social security funds are deposited into the account around the 3rd of each month the Clinton Manor Resident Accounts clerical staff will write out one check to SICSS for the balance of their social security check(s) less their \$60 allowance. This will be ledgered for each individual as payment for supports. The SILC/CMLC Director of Accounts Receivables will deposit this payment in the SICSS General Checking account. (This balance is due based on the IL Department of Human Services Individual CILA Rate calculations for Services and Supports provided by SICSS to the service user.) Since this is required as a payment for supports then, once deposited in the SICSS General Checking account these funds are then no longer treated as Social Security funds but have become SICSS agency funds.
- E. During the first week of each month, the CFO will write out an individual check from the SICSS General Checking account to each service user for a monthly food allowance based on the DHS/CILA Base Rate Allowance less the DHS/DDD assumed food stamp allowance of \$30. (this \$30 is reduced from the allowance even if the individual does not qualify for food stamps) these checks will be given to the AP Clerical Employee to distribute to the Site Leader designated to assist the service user. The Site Leader will assist the Service User in depositing their food allowance into their personal checking account.
- F. The balance held in the (Clinton Manor Living Center Community representative payee account) will be an amount equal to the sum total of all individuals' ledgered accounts plus \$25 ledgered to SICSS. These funds shall remain static and are in place only to serve to hold the account open. Once all Social Security funds have been distributed the balance remaining in the account will be zero for individuals' accounts and \$25 ledgered to SICSS until the next month's Social Security funds have been deposited.
- G. SICSS CFO will write out all rental payments from the SICSS General Account to the property owners on behalf of the service users to cover their individual rental amounts due monthly.

Individual Service User Checking Accounts

- A. The QIDP will work with the AP Clerical Employee, Site Leader assisted to Service User, Executive Director and CFO to establish a personal checking account at a bank located within the Services Users community. This account will be used by the Service User to deposit their Personal Allowance, work earnings, food allowance into as well as to write out check to pay for groceries, personal purchases, cable TV in bedroom, work earning applied to DHS/CILA supports etc. The account will be open requiring a signature of one of the following SICSS employees (Executive Director, Director of Supports and Services, CFO) in addition the Service User Signature will be required on all checks unless they are absent e.g. hospitalized, on vacation or are otherwise not available to sign. The Site Leader will assist individual service users in writing out checks as required.
- B. The AP Clerical Employee will monitor all the Individual Service User Accounts monthly by visiting each site, assuring all deposits and expenses are recorded and verified by receipts and making sure of accurate balances.
- C. Site Leaders designated to assist the service users will assist them in depositing work earnings and other non-social security funds received by the service user into their individual checking accounts.

Current Service Users with others as Representative Payee

- A. Service Users who have others outside our organization as representative payee will follow a slightly different procedure as noted below.
- B. Other representative payees will write out a check to the Service User for their \$60.00 allowance and distribute (mail, hand deliver) the check to the designated Site Leader for that specific service user who will assist in depositing into their personal checking account.
- C. Other representative payees will write out a check for the balance of their social security monthly income (less the \$60 Allowance) to SICSS based on the IL. Dept. of Human Services Individual CILA Rate calculations for Services and supports provided by SICSS to the service user.
- D. SICSS CFO will write out a check to the Service User for their Food allowance in the same way noted above in item E. Monthly Distribution of funds...
- E. All Individual Service User checking accounts will be managed as noted above.

Service Users who manage their own funds and do not require a Representative Payee

- A. Social Security funds will continue to be direct deposited into their personal checking accounts monthly.
- B. Service Users will write out a check to SICSS for the balance less their \$60 allowance based on the IL. Department of Human Services Individual CILA Rate calculations for Services and Supports provided by SICSS to the service user.
- C. SICSS will write out a check for their monthly food allowance.

Purchasing of Groceries

- A. SICSS encourages all service users to always purchase and pay for their own groceries and will support them in doing this. However, it is recognized that at times issues such as illness, conflicts in an individual's schedule, absence or otherwise not available to pay may preclude this from happening. Additionally, when a group of individuals are purchasing shared items which will be used by all it often becomes burdensome for store employees to hold up the checkout line to wait as the total bill is divided out and each person writes a check for their portion of the total bill.
- B. In cases such as the above, the following process will be followed:
 - 1. SICSS will make agency cash available in advance to the Direct Support Person (DSP) who is assisting the service users in the purchasing.
 - 2. The DSP will use agency cash to pay for the entire group purchase. At no time will the funds of one service user be used to make a grocery purchase for another service user.
 - 3. Once they return from the shopping trip and groceries have been put away, the SICSS DSP will assist each individual in breaking out the bill and writing a check to SICSS to reimburse or payback their portion of the amount SICSS paid for their purchase.

4. The SICSS DSP will see to it that the receipt for the purchase, all checks and any remaining cash to equal the full amount withdrawn from the Grocery Fund for the purchase is turned in to the SICSS Office.
5. The SICSS AP Clerical Employee will review to verify the receipts and assure accurate balances. Assurance will also be made to verify that only agency funds were used for purchases and that any checks written to SICSS are properly ledgered as "Pay back to Grocery Fund".
6. The checks will be deposited in the SICSS General Checking account and cash will be withdrawn to replenish the Grocery Fund for future purchases.