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HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 17-090-9003
Human Service Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at the Human Service Center. Complaints alleged the following:

1. Violation of confidentiality.
2. Inadequate grievance process.
3. Inhumane treatment, including a client being told to "shut-up" during a meeting and inadequate counseling by caseworkers.
4. Client not allowed to have designated individual participate in meeting.
5. Inadequate discharge.
6. Retaliation against clients, including tell them they will not receive their money if they complained.

If found substantiated, the allegations would violate the Mental Health and Developmental Disabilities Code (405 ILCS 5/2-102), Community Mental Health Provider Regulations (59 Il Admin Code 132) and the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110).

The Human Service Center, operated by Fayette Companies, provides mental health services to the Peoria County area with some exceptions. They provide services such as an emergency response service (ERS), wellness team, supported employment, mental health court, and a data link with the local jail. The Human Service Center provided services to 1,800 unduplicated clients last year.

COMPLAINT STATEMENT

The allegations state that a client's confidentiality was violated by a caseworker at the Human Service Center. Allegedly a client discussed being abused by his father with a caseworker. The caseworker was acquainted with the client's family and allegedly called the client's father against the client's wishes about the allegations. The client's father called the client and repeated what he was told by the caseworker and then forwarded text messages that the caseworker sent.

The Human Service Center called a meeting with the client and explained the meeting was about switching caseworkers and case management. The meeting was called after the client raised the issue of confidentiality but the client thought the meeting was only going to cover switching caseworkers and management. The manager in charge of the meeting started questioning about switching caseworkers and then asked about breaking confidentiality. The client tried to show the manager the text messages to prove the violation and the manager reportedly told the client to "shut up" and explained that they did not believe that confidentiality was breached and the situation was disregarded. The client asked if he could have someone present at the meeting to protect his rights per facility policy and was reportedly told no and that he does not need an advocate because staff would be fair. The client explained that he had a learning disorder and that he needed someone at the meeting for assistance and they allegedly said that they did not care. He was told that he was discharged for using too many caseworkers and then was told to "get out" of the meeting as per the complaint. Staff reportedly never sent him a discharge letter. The client wrote the agency President a letter about the discharge and he received a letter back stating that he was discharged because missed too many scheduled appointments.

Additionally, a caseworker at the facility allegedly acted like she did not believe his story regarding abuse and another caseworker acted like she did not care. Also, clients that have representative payees are reportedly told that they will not receive their money from the facility if they complain.

FINDINGS
Staff Interviews (10.31.2016)

Staff began by explaining that the meeting was held on 9/9/2015 to discuss the service being provided to the client. They also stated that the name that was given as the caseworker that was part of the complaint is not the name of any individual that works at the facility. They stated that none of the complaints brought up to the HRA about the meeting occurred in the meeting. There was no meeting in which the client showed text messages and the client was not told to "Shut Up." They said they could have told the client to wait a minute while they talked. They said that one of the physicians can come across as firm at times but the physician was not named in the complaint. Staff also said that they did not speak about confidentiality at the meeting. They stated that the client had longstanding issues with recovery specialists because the specialist would miss meetings with the client but it was not true; only one of the specialists had to cancel an appointment. Staff explained that the client missed frequent appointments. The September meeting was specifically about confidentiality concerns, and not meeting the client's needs and other complaints by the client. Staff explained that he was triggered by multiple situations, including aggressive men. The client would be on board with the plan for some time and then he would have an issue. They said his behaviors were consistent with his diagnosis. He wanted talk therapy, which Human Service Center does not provide, and they tried to refer him to a group that would provide that service. The meeting outcome was that the client was to start receiving only psychiatric medication from the facility. The client was not discharged at the meeting but he was eventually discharged after not showing up for services. The meeting was the last time the staff had saw the client and the last time he was seen by anyone was 9/27/2015 and that was an emergency response system contact. Staff explained that the client basically fired everyone he had as a specialist. Staff said they actually waited until June 2016 to discharge

the client because he usually returned for services. Staff said that no one called him about the discharge and it felt like he fell off the face of the earth. They said that the client seemed pleased that he was going to be able to see the individual who would perform talk services. He would complain that nobody believed him and that they did not care about him after a few meetings. The policy is that patients are discharged after missing six appointments.

Staff said that upon discharge someone, a Rule 132 Department of Human Services form is sent to the person discharged. That letter has a reason for the discharge. They said that the client did contact the facility President but they did not know what happened after contact. They said that the client always had excuses for missing the appointments and finally staff determined that they were not equipped to help. The client had three different recovery specialists while receiving services at the facility. They stated that a recovery specialist asked the client about trauma during his annual assessment because prior abuse is one of the questions. Administrators spoke with staff about finding delicate ways to discuss trauma. They explained they are not trauma experts but they refer out for those services.

Staff said that the client's confidentiality complaint dealt with follow-up with the hospital for medical information due to his appendicitis. The staff member was trying to contact the hospital for information and, because it was for coordination of care, they said no release was needed because the client was a common client. The client believed that staff were checking up on him and did not believe him but staff just wanted to coordinate pain medications. There were no calls to the patient's father and they saw nothing of that nature in the record. There was no discussion of abuse. Also, there was no recovery specialist employed by the facility by the name the client gave.

There was a reassessment meeting during which the client complained about there being too many questions on the reassessment. They switched to another recovery specialist and then there was another larger meeting about the client's services. They transferred the client to a third recovery specialist in April 2015 and she had a hard time contacting him. Staff said that he never brought up the learning disorder in the meetings but it was reported in his history. Staff said they do not remember him actually requesting an advocate. If someone were to ask for an advocate, it would be discussed with the individual's medical prescriber. They said that if this happened during the meeting, they would talk to the prescriber at the meeting to see if it was appropriate and if the prescriber was not present, they would stop the meeting to discuss the appropriateness. They said they have no advocacy policy but maybe it had something to do with the rights in the handbook. Staff explained that the meeting was their idea and they were not aware about the confidentiality issue with the client's father. They said the father was not part of the team but family or people who are good for recovery can come to the meetings. They request them for significant events like suicides because family contacts could be considered something supportive.

Staff explained they were not the client's representative payee and they were not sure if he was receiving social security benefits. They said they do receive complaints from individuals when they are payees but they are general complaints. Staff said they decline monetary requests and people do complain. Staff explained they are responsible for the money and they want to assure that they have money for specific items like bills. They never have received a retaliation complaint regarding money. Regarding monitoring staff, it was stated that when staff leave the agency they get to see what the recovery specialists have actually done and they have never seen evidence that the specialists have withheld money. Additionally, the recovery specialist is not the individual who provides payment; they are the liaison to the person who provides payment.

Staff did say that they received a grievance once for a staff person not allowing a patient to buy a lot of milk. They try to prioritize housing, food, and clothing first and then they divide up the rest for what they need.

Staff did state that the client filed a formal grievance, or at least they walked him through the process of filing a grievance, and he never filed a grievance regarding confidentiality. After the interview, the staff were asked to produce a grievance but discovered that they did not have one in the grievance file, indicating one was not completed. It was also stated later that staff did not remember the grievance. When the clients have a complaint, staff start the process immediately by providing them a form and offering to assist them in completing the form. The staff offer up grievance forms if they have complaints; they do not wait for the client to express that they want to open a grievance.

FINDINGS (Including record review, mandates, and conclusion)

Complaint #1 - Violation of confidentiality & Complaint #2 - Inadequate grievance process.

The HRA began by reviewing the client's treatment plan, dated 4/29/2015, which explains that the client has depression and as a child was abused by his father. The abuse started at the age of 6 and the client suffers with Post Traumatic Stress Syndrome (PTSD) because of the abuse. The HRA reviewed a "Content & Response" note, dated 4/22/2015, which stated that the facility received a call from someone outside of staff regarding the client and the note reads "Called and left a message to have a release of information faxed to us and then would love to speak with her, if we have a person by that name at HSC in Peoria." On 4/23/2015, there is another note that stated that Human Service Center staff contacted an individual outside the facility again as a follow up and requested the release again. Another note from the same day states that staff talked with the individual who works with Equip for Equality and the individual "requested that I fax this [treatment plan] to her for review, as she sent a release." Another note, dated 4/24/2015, reads "We discussed that I might ask him questions that might make him uncomfortable in my attempt to get to know him and that if he does not want to answer he needs to let me know I will stop but in order to get to know him I will need to ask questions. He said he understood that and really wanted someone to 'hear' him." Another note dated 4/28/2015 indicated that the patient spoke with the agency President/CEO about "'inappropriate' handling of his trauma history" but it was never defined what was inappropriate. In a note on 4/29/2015 it is stated that the client signed a release for his medical doctor and on 5/12/2015 there was discussion on the client signing a release to speak with his landlord. On 6/8/2015 there is documentation in the notes of another request for a release to be signed to speak with a landlord and on 6/25/2015 there is another note pertaining to a landlord and on 6/39/2015 a note reads that the client signed a release for two places to live.

A note regarding the meeting that was held on 9/9/2015 that states that the client discussed "… concerns with his most recent RS [Recovery Specialist], her rudeness, and confidential information being given to him." Another content and response report dated 2/18/2016 regarding a landlord states that "The client state that the guy is following around and making him have flashback of his father. The client stated it's not good for him to start seeing the guy as his father because he would snap and hurt him." The HRA read physician progress notes regarding the meeting on 9/9/2015 in which they met to discuss the client's concerns and care; confidentiality concerns were one of the issues. The actual confidentiality concerns where

not addressed in the summary but it was stated that "Misconceptions were corrected." The anger towards the RS was mostly discussed. Also the client wanted to speak with a psychotherapist and they referred him to one and determined he would remain on medication management.

The employee handbook states that: "The unauthorized use or disclosure of any confidential or non-public proprietary organizational information or aiding or permitting such use or disclosure, is strictly prohibited. If you are found to have disclosed confidential information you will be subject to disciplinary action (including possible discharge) and legal action, even if you do not actually benefit from the disclosed information." The HRA reviewed a blank agency consent which reads "I understand that records compiled by the Agency regarding my treatment will be kept confidential (except as provided by law) and except for disclosure to persons employed by the Agency as may be necessary in the course of my treatment (eg. Treatment staff, billing department, transcription department)." Another billing consent form states that "I understand that my records are protected under the Federal Confidentiality Regulation (42 CFR Part 2) and the Mental Health and Developmental Disabilities Confidentiality Act of Illinois and cannot be disclosed without my written consent unless otherwise provided for in the regulations. I also understand that I may (in writing) revoke this consent at any time except to the extent that disclosure was made prior to the time I revoked it."

The HRA reviewed the client handbook which states that the recovery specialist and/or team will "Share information about the client only in accordance with confidentiality rules and regulations." The handbook also states that "Client information is confidential, and except as required by law, is shared with family and others only if the client agrees, and only to the extent that the client agrees." According to the handbook, there is information required to release clinical records to another person or organization and it must be in writing. The information needed is who will receive the information, what exactly will be released, the purpose for disclosure, the client signature (or guardian) and a witness, the consequences of refusing to authorize the release (if there are any), the awareness that consent may be revoked at any time, and that the written consent is valid for 90 days. The handbook also states who may consent to the release of records. The handbook includes the following section dedicated to email and text messaging: "It is important to understand what types of information can be shared, and the risks and benefits of communicating by text messaging and/or email." The handbook states that messages that can be sent are "…only for reminders, notifications, and sending informational notices – and only if the patient agrees, and authorizes this type of electronic communications" and "Confidential or sensitive information will not be sent in a text message or email, such as diagnosis, personal information about specific problems, treatment plans, or medical records." The handbook describes information that may be disclosed without consent, including demographic information for funding, emergencies, leaving appointment information on answering machines unless told not to, legal requirements, criminal activity or dangerous activities, among others. The HRA reviewed no documentation regarding the client's trauma being relayed to the client's father.

Regarding the complaint about grievances, the HRA reviewed a content and response note dated 4/2/2015 stating that the client "… left a voicemail on this staff's phone, so conversation was to address his concerns about services by HSC. [Client] stated that he was not happy with the communication by HSC staff. [Client] discussed situations where he met with [staff members]. He still felt as if resolution was not found." The notes state that the client felt he did not receive help with his housing situation and "He reports concern with an in depth conversation with [Staff], RS, around his legal and trauma past. He reports that she asked too

many in depth questions and just let him leave, without doing an in depth check-in." The section also states that the client reports being off medications because they do not appear to be working and he had issues with an appointment being cancelled. There was discussion about the client receiving a new RS. In the client's response to the session, it reads that the client was angry and "very confrontational, talking over this staff" but "As the phone conversation progressed, he became calmer, more responsive to ideas and better able to communicate concerns in a respectable way. At the end, he said that he felt much better and liked the plan generated, moving forward." As per the objectives/interventions, "This staff will coordinate placement with new RS, coordinate scheduling psych appt with another prescriber while [Physician] is out of town, give [Client] updated number for [Motel] contact, have RS provide updated Tx plan." Another note on 4/6/2015 indicates that staff met to discuss "the case and client's needs for service and treatment. Discussed client history and previous caseworkers and the level of engagement that the client is requesting for care. [Staff] called client together and left voicemail for engagement for services." Another note on 4/6/2015 regarding the client states that: "He reports many concerns and complaints. The team in its attempt to be client centered and strength based is transferring [Client] to a new RS. He continues to have many difficulties in communication and his ability to achieve his ends." Another note dated 4/20/2015 reads that "This staff offered to meet with him before the appt. to discuss goals, expectations of treatment. This staff gave him information for Illinois Guardianship and Advocacy Commission and phone number. [Client] said that he wanted to record phone and in person sessions, this staff responded that I didn't know if we could allow that, but would be happy to find that out. This staff attempted several times to see if he would like me to find out information, he would not answer." As mentioned previously, there were phone calls noted on 4/22/2015, and 4/23/2015 with staff from Equip for Equality. A note on 4/24/2015 states the following regarding the client: "He said he received papers in the mail from our agency 'that upset him' discussed the procedure to call in if he is unable to make it and the expectations to attend appointments as scheduled." The note stated that the client was upset because staff had missed appointments in the past and then there was a statement that Equip for Equality had been contacted. According to another note on 4/28/2015, the"[Physician] sent ERS [Emergency Response Service] a letter she had receive from client dated 4/23/2015, expressing his frustrations with treatment at HSC. She has not seen client, as he had missed an appointment on 4/23/2015, and asked that ERS evaluate him. … He had also talked to [President] about difficulties he has had accessing treatment, such as RS no shows, 'inappropriate' handling of his trauma history, inability to get medications adjusted even though he asked repeatedly, et. … He feels he has just been given the run around and he wants to move forward."

According to the content and response notes from the September meeting discussed in this complaint, "Tx team met with [client] regarding concerns with his care, [five staff members named] were present, along with [client]. [Client] discussed concerns with his most recent RS, her rudeness, and confidential information being given to him. He also expressed concern around medications and prescribing psychotropics and interactions with pain meds. He reported that staff is not giving him information for services, including groups. [Staff member] discussed his dislike of HSC RS services, stress brought on by staff, and introduced psych meds program and a referral to outside counseling services. Decision was made by team to move him to psych meds, aid in facilitating first appointment."

The physician's note discussed previously, dated 9/9/2015 describes the meeting as "The patient, myself, the medical director, VP of mental health services, and OP MH management met

to discuss the patient's concerns and care. The patient voiced his concerns of: 1. Needs not being meet by RS 2. Confidentiality concerns 3. Feeling like RS was rude on one occasion. We explored these concerns and addressed the fact that this is the patient's 3rd RS and he has been unhappy with all of them. Misconceptions were corrected. We discussed how having an RS seems more stressful than helpful for the patient. When asked what he wanted from an RS, he said, 'someone to talk to.' We explained that he would likely be better served by a psychotherapist which we, unfortunately, do not offer here. We determined that the patient will remain in medication management with myself as part of meds only. A second referral was also sent to [hospital] for psychotherapy. There were no safety concerns."

Another physician progress note dated 8/27/2015 states that "The patient is here to complain about not being happy with HSC service. He reports that his RS hasn't been accommodating his needs with getting home from the hospital after appendectomy and helping with shopping and lifting requirements. The patient says that his doctor at [Hospital] was going to file a grievance on his behalf because HSC should have come to the hospital when he called at night from the hospital when he had appendicitis. He further says that his surgeon was very unhappy with HSC because we should have been arranging his discharge, transportation, and after care s/p lap appy. The patient went to the RS's supervisor and a meeting is set to discuss this case in the near future."

There is another physician's note dated 8/18/2015 that is a transcribed voicemail which reads "I am very upset with the agency. I am very upset with you [RS]. I am very upset with all ___. You know I missed my doctor's appointment last Friday because someone told me they were going to take me and no one showed up. So I missed my doctor's appointment, cause now I have to wait til the 26th til I can see my surgeon. I am still having problems lifting and carrying stuff which again … you know, I gotta go to the store, I gotta go to the store cause I have to eat. And now I think I damaged my left side. My doctor said 'I think you need to get a lawyer because they should be helping you. Because I am going to write a letter because this is ridiculous. They should be helping you.'" The rest of the transcript confirms a date with the RS and then reiterates the complaint. Another message that was transcribed in a physician's note began by stating it was the client and "Hey she is still texting me arguing, wants to argue with me about my surgery. This is ridiculous. I am going to do what the legal people told me to do right now. Hear me out. I want a staff meeting before I ____ anybody. I will go meet [physician] by herself cause I respect her, but I am not going to … Forget it, I will catch the bus tomorrow to my doctor's appointment. I will walk. So if I hurt, I hurt. You know what, I don't care at this point. I need a staff meeting with [staff], to get off his butt and listen to me. I did talk to agency. They are going to have [staff] call me back and they are first ____. Let me tell you right now, I got all your stuff and you are absolutely right. [Staff] wants to fight you because he is not very happy with what is taking place. So anyway, this is getting ridiculous. She still wants to argue with me about the surgery, about it didn't happen, and oh my god it is just ridiculous. I am still waiting on [name] to call me back to schedule my doctor's appointment. I'm sure he wants to argue with me about that too. I'm not calling to ___ yes I did. I left a voice message with [name] about my doctor. I am tired of being called a liar by you guys. I really am. That's discriminating." Another physician note from 2/25/2015 states that the patient reported frustration because of the case manager cancelling appointments and the team leader spoke with him.

The facility handbook for clients includes a procedure on filing a grievance. The procedure states "Every Human Service Center client, family member, visitor, or other consumer

of services has the right to make a complaint or grievance. A formal complaint, however, must be in writing. Grievances may address any aspect of service or the provision of services." The procedure starts by stating that the original staff member dealing with the grievance shall explain the procedure and document the grievance in the client's chart. That staff member is to contact the client within 72 hours to arrange an appointment to resolve the grievance. The procedure states that if the individual does not want to bring the issue directly to the RS, it can be brought to the next staff level or initiated by another staff. The procedure states that individuals can receive assistance with the grievance and request a blank form whenever wanted. The procedure states that "If resolution is not reached to the satisfaction of both the client and staff member, a completed Grievance Report Form and Grievance Resolution Form shall be sent immediately to the next staff level, up to the Human Service Center President." The next step states that if there is no resolution attained, the client is provided the names, addresses and telephone numbers of available client advocacy "and/or arbitration organizations. If such an organization becomes involved, a final decision shall be based on agreement with the Human Service Center President and the advocacy or arbitration organization. Clients who choose not to accept the final decision and terminate treatment shall be provided with any appropriate and indicated referrals for the purpose of continuity of care and any continued critical interventions needed." The HRA was provided another policy which states that "Clients are involved in decisions about treatment and the resolution of dilemmas" and the end of the policy reads "Clients have the right to question services, and may request the opinion of a consultant, at their own expense" and "May request an in-house review of their treatment plan" and "Have the right to file a grievance or complaint."

The Mental Health and Developmental Disabilities Confidentiality Act states that: "All records and communications shall be confidential and shall not be disclosed except as provided in this Act. Unless otherwise expressly provided for in this Act, records and communications made or created in the course of providing mental health or developmental disabilities services shall be protected from disclosure regardless of whether the records and communications are made or created in the course of a therapeutic relationship" (740 ILCS 110/3). Regarding the grievance process, Rule 132 reads "5) The right or the guardian's right to present grievances up to and including the provider's executive director or comparable position. The client or guardian will be informed on how his or her grievances will be handled at the provider level. A record of such grievances and the response to those grievances shall be maintained by the provider. The executive director's decision on the grievance shall constitute a final administrative decision (except when such decisions are reviewable by the provider's governing board, in which case the governing board's decision is the final authority at the provider level)" (59 Il Admin Code 132.142).

Compliant #1 & 2 conclusion

There was no evidence that the client's history of abuse was discussed with the client's father as illustrated in the complaint statement. There was discussion of mishandling of trauma history and also concerns documented that the resident had issues with confidentiality, but none of the documentation indicated that confidential information was shared. The HRA saw that there were consents for information that were signed and occasions when staff would not speak to entities until a consent was completed. The HRA also saw no evidence that the grievance procedure was inadequate. Staff stated in the interview that they did assist the client with completing a grievance form but it was verified that a grievance was not on file. The facility

does have a grievance procedure that complies with regulations (59 Il Admin Code 132.142). Because of this, the HRA finds the complaint **unsubstantiated** but offers the following **suggestions:**

- It is documented that the client had confidentiality issues but it was never exactly stated what the confidentiality issues were. The HRA **suggests** that when there are issues, they are documented and elaborated on within the documentation so that all staff are aware of the issues. Although the HRA did not find evidence to substantiate the grievance complaint, the same **suggestion** is made for the grievance process. In this case, the grievances and complaints were all well documented but it is never stated that the grievance process was initiated outside of what staff stated in the interview. The HRA **suggests** that the facility document when the grievance process is proposed to the individual and the steps taken through the grievance with the individual.

Complaint #3 – Inhumane treatment, including a client being told to "shut-up" during a meeting and inadequate counseling by caseworkers & Complaint #6 – Retaliation against clients, including telling them they will not receive their money if they complain.

The HRA reviewed a content and response note on 2/25/2015 when the client was upset because he felt as though staff were not helping him. In another note on 4/2/2015 it was stated that the client was not happy with the communication with the staff and he was concerned with an in-depth conversation he had with an RS about his "legal and trauma past." He reports that she asked him too many in depth questions and just let him leave, without doing an in depth check-in." Later in the notes "He identified being more angry than normal and thinks it is related to poor services at HSC." Another note dated 4/24/2015 states that "We discussed that I might ask him questions that might make him uncomfortable in my attempt to get to know him and that if he does not want to answer he needs to let me know I will stop but in order to get to know him I will need to ask questions." Another note on 4/28/2015 indicates that the client thought there was "inappropriate" handing of his trauma history. Another note on 8/11/2015 states "He was frustrated regarding being told not to contract RS after hours. He had texted his RS in the evening but said he is on so much pain medication he didn't realize what time it was. He said he felt that she was saying 'quit bothering me.' He said he could be dead on the street and no one at HSC would care." Notes from the 9/9/2015 meeting state that the client was upset with the "rudeness" of an RS and the physician progress notes also stated that the rudeness of the RN was a concern of the client.

The facility employee handbook reads "You are expected to conduct yourself in a professional manner with supervisor, coworkers, our clients, and the public and to treat everyone with respect and dignity." In the facility handbook for clients it reads that each individual "shall have their personal dignity recognized and respected in the provision of all care and treatment" and "will be free from mental, physical, sexual, and verbal abuse, neglect, and exploitation in the treatment relationship."

Regarding the complaint that clients are not provided money if they complain, the HRA reviewed the client's record and the treatment plan, dated 9/28/2015. The plan reads that the individual receives social security, is his own payee and is able to manage his own finances. A content and response note dated 4/2/2015 states that the client "… still felt as if resolution was not found. He spoke about his frustration with a lack of help with his housing situation, stating

that HSC is only in business for money. This staff clarified why staff would have told him because we are not payee, we will not be helpful in ensuring rent is paid – he said it was never explained to him." The HRA saw no other evidence that he discussed finances or other client's finances with the staff.'

The HRA reviewed a document titled "Information for Recovery Specialists with Payee Clients" which reads "When you get a payee client please make sure the client knows what is expected from them. Let them know what the rules/guidelines are and what we expect from them. This will hopefully make things easier for you, the client and the payee clerk. We want to set the client up for success and teach them that maybe they can do this on their own someday." In the section which reads "What is expected from the client" it states: "Let your clients know that only one change from budget per month is allowed (this includes both changing a date for spending money and requesting an additional check). Of course, if your client has housing, food or medical emergency, additional requests will be honored as long as he/she has sufficient money in her account." It also reads "Let your clients know they are not allowed to go see Payee, they must do everything thru RS." The policy states that "Clients will NOT receive more than $200.00 in one spending check. If more is budgeted the payee will divide it up into a couple check in the month. The exception to this is when furniture or something large is being purchased. Even then, we prefer to write the check to the store and must have receipt per social security. We are responsible for their money and need to know how it is spent. Social Security feels if we are giving them large amounts of money they should be able to be their own payee." There is also a procedure illustrated for check requests for the payee which states they must go to the payee clerk 24 hours before the check is needed and "This is to help the payee make sure the money is available in the account and get the check written." There is another section that is information for payee clients and that reads "Please *do not* attempt to contact the payee. Communicate Payee issues through your RS – It is the RS's responsibility to communicate with the payee." The section also states that "You may have a need for spending money which is unplanned in your budget. Be advised only one change or additional check request is allowed per month. For this, you will complete a check request with your RS. Check requests must be received by the Payee clerk at least 24 hours before the check is needed! This is to help the payee make sure the money is available in the account and have time to get the check written." The client handbook reads "Clients who exercise the right of filing a grievance shall be protected from any retribution or clinical interference as a result of the grievance" and also "No individual shall be denied, suspended, or terminated from services or have services reduced for exercising any of their rights."

Rule 132 states that the client has "6) The right not to be denied, suspended or terminated from services or have services reduced for exercising any rights" (59 Il Admin Code 132.142). The Social Security representative payee regulations 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 … (e) Submit to us, upon our request, a written report accounting for the benefits received on your behalf, and make all supporting records available for review if requested by us" (20 CFR 416.635). The regulations also state "(e) Submit to us, upon our request, a written report accounting for the benefits received on your behalf, and make all supporting records available for review if requested by us" (20 CFR 416.640).

Compliant #3 & 6 conclusion

The HRA saw no documented evidence that the client was told to "Shut up" during the meeting that was held nor did staff indicate that they believed the confidentiality complaint. Staff also denied that the statement was made. There is no documentation that the client was misinformed about the nature of the meeting that was being held, or that staff acted as though they did not care or believe the client's discussion of his past abuse. Also, there was no documented evidence that the client was told to get out of the meeting. The notes regarding the meeting outlined in the report document that there was a conclusion that the individual would be referred for psychotherapy and in the staff interview, they indicated that they thought the client was pleased at the outcome of the meeting. Additionally, there was no RS staff member at the facility with the name that was given to the HRA. In reviewing the record, the HRA saw no complaints or discussion regarding the client or other individuals not receiving their money due to retaliation for complaints and the facility stated that they have never received a retaliation complaint regarding money. The HRA reviewed the representative payee policy and also saw that the facility handbook has a policy regarding retaliation. Due to the lack of evidence, the HRA finds this complaints number 3 and 6 **unsubstantiated.**

Compliant #4 – Client not allowed to have designated individual participate in meeting.

The HRA reviewed a content and response note dated 4/8/2015 that reads "[Client] requested an advocate to sit in while he meets with HSC staff, reporting that HSC has to provide this service, as providers in the past with whom he had this same issue, provided. This writer reported finding out what we can offer and getting back to him within the next several work days (clarified that I could be next week and he reported that this was okay)." In the content and response notes for the 9/9/2015, which is the day for the meeting, there are no notes referencing the client requesting an advocate on that day or mentioning a learning disorder. The HRA also reviewed the physician's notes regarding the meeting and saw no request for an advocate or mention of a disability during the meeting. In the content response notes describing the meeting in September reads "Tx [treatment] team met with [Client] regarding concerns with his care" and in the physician's notes describing that same meeting it reads that staff "met to discuss the patient's concerns and care" but it is never stated that the meeting was an individual service plan meeting. In those meetings it was determined that the patient will remain in medication management and the patient would be better served by a psychotherapist. Also a referral was sent to another facility for psychotherapy. The physician's notes do indicate that the individual has a learning disability "by history" and the client's initial psychiatric evaluation also indicates that he has a learning disorder. The learning disability is never directly addressed in the treatment plan.

The facility handbook reads "It is important to be aware that family or significant others are welcome to participate in treatment planning, with the client's permission and consent. The client will determine the role of family members and their access to information (depending on their age and laws and regulations). As decided, treatment plans will reflect the roles and participation of those people who provide support to those in recovery." Family is defined as "… anyone important to the consumer's life; anyone the client thinks should be included in their treatment. This can include those who provide support, maintain the household, provide financial resources, or with whom there are emotional bonds." The section explains why the Human Service Center believes family involvement is important, explains confidentiality with

family involvement, and discusses sharing information with a physician. The HRA also was provided a document titled "Partnering with Families for Recovery" which is similar to the section of the handbook discussing family participation in recovery. The document defines family and explains why involvement is important. There is a discussion of the treatment and recovery planning process and then in another part of the document it is discussed when a friend or family member may need help (eg. When they believe things that aren't true, threaten to hurt themselves, have not eaten or slept in several days) and gives some examples on how to talk to someone in crisis. Also there is a section describing how to plan ahead for a crisis.

The HRA was provided an email that was indicated to be a policy regarding patient support dated 10/31/2016. The policy reads "Clients who are 12 years of age and older are encouraged to actively participate in treatment planning, and to voice their preferences. Parents, guardians, and other legally responsible representatives are identified to act on behalf of the client when the client is not able to make decisions on their own." The policy also states "Clients are encouraged to involve family members and/or other supportive persons in their treatment, treatment planning, and treatment dilemmas and decisions." Then the policy states "The client, and/or the client's parent, guardian, or advocate, as applicable, actively participate with development and modification of the treatment plan, with making treatment decisions." That some group should also "actively participate with resolving dilemmas about issues including, but not limited to admission, services." The policy states "When an individual wishes the involvement of an advocate, proper releases are signed according to confidentiality guidelines, so staff can communicate with the designated person."

The Mental Health and Developmental Disabilities Code requires that: "(a) A client 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 client to the extent feasible and the client's guardian, the client's substitute decision maker, if any, or any other individual designated in writing by the client. The facility shall advise the client of his or her right to designate a family member or other individual to participate in the formulation and review of the treatment plan" (405 ILCS 5/2-102).

Compliant #4 conclusion:

The HRA reviewed that the client did request an advocate but this occurred five months prior to the September 9th meeting. The HRA saw no evidence that an advocate was requested at the September 9th meeting and that the client was told no. Because of this, the HRA finds the complaint **unsubstantiated** but the HRA does recognize that when the client asked for an advocate to sit with them in April, the client was told that the staff member would get back to him to find out "what they could offer;" the HRA found no evidence that this was resolved. Additionally, during the interview staff it was said that the medical prescriber would have to determine if having an advocate present was appropriate. It was never determined whether this meeting was a treatment plan meeting but treatment was discussed and revised at this meeting. The Mental Health and Developmental Disabilities Code states that the client can have any individual at the treatment meeting that is designated in writing by the client and that the facility is to communicate this fact to the client (405 ILCS 5/2-102). The facility policy does state that an advocate can participate with the treatment plan but, because of the notes from April and the interview, the facility did not appear to be in compliance with the regulation or their own policy.

Because of this, the HRA finds the complaint **substantiated** and **recommends** that when a facility is having a meeting discussing/updating patient treatment, that the Code is followed (405 ILCS 5/2-102) rather than the practice of asking the medical prescriber if an individual is appropriate for the meeting. The HRA requests evidence that the facility is compliant with this regulation.

Complaint #5 – Inadequate discharge.

In reviewing the two notes regarding the meeting between the client and staff on September 9th, which were the physician progress notes and the content and response notes regarding the meeting, neither stated that the individual was discharged from the facility and both indicated that they would refer the client to a psychotherapist due to his issues with RS and the client would still be receiving medication through Human Service Center. The HRA counted 7 missed appointments documented in the content and response notes, although one was cancelled the day of the appointment when staff contacted the client to remind him of the appointment. The HRA reviewed the individual's discharge instructions which indicate that he was discharged on 6/26/2016. The reason for discharge reads "last saw [physician] 9.9.15." The discharge instructions read "Follow up with HSC at Hamilton [phone number] for reassessment or ERS at [phone number]." The HRA clarified that this is the discharge letter that is sent out to the client and that the referral is to come back to the Human Service Center.

The HRA reviewed a letter from the President and CEO of the Human Service Center dated 12/16/2015 which reads "I was recently forwarded a note from you dated 12/8/15 indicating that you are being refused services by Human Service Center. I apologize for the delay in responding, but wanted to investigate your treatment services prior to responding. Your file indicates that you have had some difficulty keeping appointments and/or arriving on time for the appointments that have been made. You are still able to receive psychiatric services with [physician] as long as you attend the scheduled sessions on time or make notification of your inability to attend. It appears that there have been some documented conflicts with previously assigned recovery specialist and referrals have been made for you to receive individual counseling services from other community organizations. Individual counseling is a service that Human Service Center does not provide." The letter then states that if the client would like to continue services, he can contact staff and schedule an appointment. According to the documents provided, the last time the staff met with the client was the 9/9/2015 meeting and then on 2/18/2016 the client contacted the ERS. Staff suggested he consider coming to the CCC (Community Crisis Center) which is through the Human Service Center or the actual Human Service Center to which the client agreed. The last document was a content and response letter which indicated that on 3/11/2016 the individual did not show up for a scheduled physician's appointment. The client's discharge date is 6/26/2016.

Part of the facility handbook reads that clients must "Agree to make every effort to keep mutually scheduled appointments, and to notify the recovery specialist in a reasonable time in advance if cancellation becomes necessary." The HRA reviewed a policy which is titled "End Enrollment Due to Lack of Contact in Adult Programs" and the HRA was informed that this would be the policy by which the client would be served. The policy reads "In order to make the best use of available resources, it is important to distinguish between individuals who have actively engaged in services and those who are not actively engaged. Individuals will be advised of pending discharge due to lack of contact with the program. If no response is received,

enrollment may be ended. Individuals who have been un-enrolled from services may seek re-enrollment at any time by contacting Intake and Assessment or ERS." The policy states that "After failure to keep any scheduled appointments for 30 days" there will be a documented attempt to contact by phone, then a documented attempt to contact by mail, then a documented attempt to contact client "and/or family or other supportive person in community" and this may be completed by the ERS or community recovery staff for new clients who have not had face-to-face contact with their RS. After this "If there is no response from the client within 14 days, enrollment may be ended." Another section reads that ACT (Assertive Community Treatment) clients are to "follow ACT fidelity Outpatient Mental Health programs (excluding Psychiatric Meds Only, and Psychiatric Services)." It was clarified to the HRA that because this client was psychiatric medication only, the instructions in the discharge policy would not be followed for him.

Rule 132 requires that "A provider shall comply with the following: … f) When discharging a client from services, the provider shall ensure the continuity and coordination of services as provided in the client's ITP. The provider shall: 1) Communicate, consistent with the requirements of Section 132.142, relevant treatment and service information prior to or at the time that the client is transferred to a receiving program of the provider or is terminated from service and referred to a program operated by another service provider, if the client, or parent or guardian, as appropriate, provides written authorization; and 2) Document in the client's record the referrals to other human service providers and follow-up efforts to link the clients to services" (59 Il Admin Code 132.145).

Compliant #5 conclusion:

The documentation indicated that the client was not discharged for having too many caseworkers nor was the client discharged after the September meeting. Additionally, the letter from the President of the company did not state that the individual was discharged. On 6/26/2016, there was a discharge instructions sheet provided to the HRA that states that the client was discharged on that date and the referral on the discharge letter was to follow up with Human Service Center or the ERS for a reassessment. The Rule 132 states that when a client is discharged that referrals to "other human service providers" need documented (59 Il Admin Code 132.145). The HRA understands that even though the client was discharged, Human Service Center would allow that individual to return for services at the facility but the facility discharge policy and practice is still not in compliance with regulations and because of this, the HRA finds this complaint **substantiated** and **recommends** that the practice of referral back to the agency be updated to comply with 59 Il Admin Code 132.145. The HRA would like to see evidence of this update. The HRA also offers the following **suggestions:**

- The HRA questions why there is a different discharge process for clients who receive medications only and strongly suggests treating clients uniformly and follow the same procedures for all.
- The discharge instructions letter that is received by the client lacks a complete explanation as to why the client was discharged. The last date that the client saw the physician was listed as the reason. The HRA **suggests** that more elaborate reasoning for discharge is documented in letters to clients to avoid confusion.

RESPONSE

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

HSC
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March 13, 2017

Meri Tucker, Chairperson
Human Rights Authority
Peoria Regional Office
401 Main Street, Suite 620
Peoria, Illinois 61602

RE: HRA No. 17-090-9003

Dear Ms Tucker,

In response to the above referenced report, the following response is being provided for IGAC review.

Complaint #1 & #2 Suggestions: Human Service Center will train and review with clinical staff the need to document any and all confidentiality issues and to explain specifically the complaint in the electronic medical record. Staff will also report and review with supervisor the concern, and this will be documented in supervision notes (scheduled 03/13/17).

Complaint #1 & #2 Suggestions: HSC will train and review with clinical staff the need to document any and all grievances and to explain specifically the grievance in the electronic medical record. Staff will also report and review with supervisor the concern and this will be documented in the supervision notes (scheduled 03/13/17).

Complaint #1 Suggestion: HSC will train and review with clinical staff that all consumers of services have the right to have an advocate participate in the treatment planning (Code 405 ILCS 5/2-102). This will all be documented in the electronic medical record and include reason for participation (scheduled 03/13/17). When this occurs, it will be reviewed with supervisor.

Complaint #5 suggestions: With regard to suggestions related to treating clients uniformly; we believe that HSC's practices meet the intent of Rule 132.145:

At time of entry to services, the patient is provided with an information booklet (attached). Specific elements are explained and pointed out to the individual including recommendations on what to do if someone chooses to end services before completing treatment. Contact information for behavioral health and advocacy groups are included. Contact information includes the Illinois Mental Health Collaborative, who has capabilities of making referrals for services. Information about community resources is contained in the booklet. See pages 6, 19, 26-27, 40-41 in particular.

The patient acknowledges receiving the information booklet by his/her signature on a consent for treatment form (attached). Patient signature also acknowledges receiving information about reasonable alternatives to treatment and consequences of refusing treatment.

The discharge instructions form includes recommendations to maintain contact with local recovery support community (resources listed pages 40-41 in the booklet) to maintain contact with their physician, provides contact for emergency services in the community (24-hour medical detox and psychiatric crisis beds, as well as 24- hour emergency response to a crisis (attached). Instructions also provide contact information for HSC's assessment and admission office. When applicable, as noted on the ITP, specific referrals for that patient are shown on the form. Follow up appointment times are also noted when applicable.

Patient co-signs and receive a copy of their treatment plan. The ITP includes service recommendations.

Additionally, HSC will add an element to the discharge instructions at next printing (within the next 6 months) that will direct the patient back to the Client Information Booklet for other community behavioral health resources. Too, HSC will add information to the Booklet at next printing about accessing all community resources through Heart of Illinois 211.

We appreciate the objective and thorough review of these complaints and concur in principle with the most conclusions. The investigator was flexible in their approach to minimizing the disruption to staff schedules and the positive style with which there was interaction with our involved staff. Thanks.

Cc: attachments

Sincerely,

Michael G. Kennedy

Michael G. Kennedy
President & CEO