

**Maine Department of Health and Human Services
Office of Adult Mental Health Services**

**Bates vs. DHHS
Consent Decree Paragraph 27
Bi-Annual Report: Grievance Filings
January 1, 2008 – June 30, 2008**

As a component of the Bates vs. DHHS Consent Decree Settlement Agreement, DHHS Office of Adult Mental Health Services (OAMHS) is required to report on the numbers of grievances filed within the adult mental system on a semi-annual basis. This report summarizes Level II and Level III Grievances filed from January 1, 2008 to June 30, 2008.

Paragraph 27 of the Settlement Agreement states: “Defendants shall prepare semi-annual reports of all complaints and of all grievances appealed to the Superintendent of AMHI (Riverview), the Director of Bureau of Mental Health (now Office of Adult Mental Health Services) and the Commissioner. Said reports shall summarize the issues raised, findings made, and remedial actions taken, and shall be submitted to the master, counsel for the plaintiff’s and the Office of Advocacy.”

Community Grievances

Level 2

1. Issue: The Grievant alleged that her individual therapy services were wrongfully terminated.

Finding: The provider agency refused to accept reimbursement for this client, claiming that because she is a MaineCare/Medicare “dual-eligible” the provider agency could not legally bill for those services. Transition services were not offered.

Resolution: The individual who had been providing therapy to the Grievant opened a private practice and is providing services to this client again.

2. Issue: The Grievant alleged that he was wrongfully terminated from Community Integration Services.

Finding: The provider agency failed to give proper notice of the Grievant’s appeal rights.

Resolution: The Grievant’s Community Integration Services were reinstated.

3. Issue: The Grievant alleged that she is denied equal access to the Rights of Recipients of Mental Health Services because she is blind, unable to use computer translation software and no audio version of the RRMHS is available.

Finding: No audio version of the RRMHS is available.

Resolution: We are in the process of having the Rights of Recipients of Mental Health Services recorded.

4. Issue: The Grievant alleged that he was wrongfully denied WRAP funding.

Finding: The grievance was dismissed. WRAP funding is not an entitlement per se. The Grievant had refused to request the available, discrete WRAP appeal procedure.

Resolution: The grievance was dismissed for lack of apparent merit.

5. Issue: The Grievant filed a Level 2 appeal because of an inadequate Level 1 response. The Grievant alleged that her psychiatrist failed to adequately monitor her medications, failed to respond to her requests for medical follow-up and failed to respond substantively to her Level 1 grievance.

Finding: Upon reviewing the grievance and discussing the specific allegations with both the Grievant and her attorney, it was determined that the adequacy of the medical oversight provided should be brought to the Maine Board of Medicine for review. The allegation that the provider agency failed to respond substantively to her Level 1 grievance was substantiated.

Resolution: The Grievant requested letters of substantive apology from the physicians and the agency itself. The parties are in the process of negotiating language. A complaint has been filed with the Maine Board of Medicine. That complaint does not fall within the purview of the grievance process.

6. Issue: The Grievant alleged that he had been wrongfully evicted from his provider operated residence.

Finding: This matter was brought as an urgent grievance. It was indisputable that the Grievant, who requires intensive supports and services, would be homeless and at risk without intervention.

Resolution: The Grievant has been placed with a new agency appropriate to his needs. The Grievant and his attorney are currently determining whether to pursue allegations of wrongful eviction against the original agency.

7. Issue: The Grievant alleged that a community-based hospital violated her rights while she was an in-patient on the hospital's psychiatric unit.

Finding: This grievance was filed against a community-based hospital and, as such does not truly constitute a "community grievance" as that term is defined in the Rights of Recipients of Mental Health Services (RRMHS). The hospital's CEO reviewed this at Level 2 and determined that it was "without apparent merit."

Resolution: That a community hospital's CEO has the discretion to determine whether a grievance has merit is established in RRMHS, Part A, VII, J, 3(a). It should be noted, however, that community hospital CEOs are subject to less scrutiny in determining merit than the Superintendent of a state-operated psychiatric facility. The latter is required to obtain concurrence from an Advocate.

Level 3

There were no Level 3 Community Grievances reported for the period of January 1, 2008 – June 30, 2008. Two requests for a Level 3 were dismissed for lack of apparent merit at Level 2.

Riverview Psychiatric Center Grievances

Level 2

1. Issue: The Grievant alleged that staff ate food that was designated for patients.
Finding: Staff did not eat the food but stored it in the refrigerator, where it was available upon request.
Resolution: No rights violation occurred.

2. Issue: The Grievant alleged that staff vandalized her clothes.
Finding: There is no evidence to substantiate the complaint.
Resolution: No rights violation occurred.

3. Issue: The Grievant alleged that he was denied the right to use ball-point pens.
Finding: Ball-point pens were withheld from client for documented safety reasons. The client has access to other kinds of pens.
Resolution: No rights violation occurred.

4. Issue: The Grievant alleged that a physician ordered treatment inconsistent with her treatment plan.
Finding: The Grievant's medical and treatment record does not support the allegation.
Resolution: No rights violation occurred.

5. Issue: The Grievant alleged that overhearing one staff member discussing the "firing" of another staff member caused him distressed. He requested that the former be disciplined.
Finding: There is nothing to warrant remedial action and discipline in this instance is not within the jurisdiction conferred by the RRMHS.
Resolution: The grievance was found to be without apparent merit.

6. Issue: The Grievant alleged that a particular staff member was disrespectful to him and requested that person not be assigned to his unit.
Finding: The allegation was not substantiated.
Resolution: No rights violation occurred.

7. Issue: The Grievant alleged that staff caused irreparable damage to his sweatshirt by failing to follow laundering instructions while washing it for him.
Finding: Staff did follow instructions. The damage was most likely due to a manufacturer's defect.
Resolution: No rights violation occurred.

8. Issue: The Grievant alleged that he had been wrongly placed in "Administrative Segregation."
Finding: The medical record supported the need for a more restrictive environment at that point in time.
Resolution: No rights violation occurred. The Grievant appealed to Level 3.

9. Issue: The Grievant alleged that she was denied permission to attend “Bible Study” on another treatment unit.

Finding: The denial was based on treatment considerations.

Resolution: No rights violation occurred. The Grievant appealed to Level 3. An acceptable resolution was negotiated prior to the hearing. The hearing was dismissed.

10. Issue: The Grievant alleged that he was discharged without an adequate discharge plan.

Finding: The discharge plan was developed and implemented in a manner designed to meet the Grievant’s needs.

Resolution: No rights violation occurred. The Grievant appealed to Level 3.

11. Issue(s): The Grievant alleged eight (8) rights violations, including staff reassignment; damaged property, failure of staff to meet with him daily, more time with staff, negative staff interaction, problems with other patients, privilege levels and inability to use his IPOD.

Finding: Decisions were based on the Grievant’s treatment record, clinical needs and safety considerations.

Resolution: No rights violation occurred.

12. Issue: The Grievant alleged that a peer was rude to her.

Finding: The matter was interpersonal and has been resolved.

Resolution: No rights violation occurred.

13. Issue: The Grievant alleged that he was prohibited from disseminating information.

Finding: The allegation was without material basis.

Resolution: No rights violation occurred.

14. Issue: The Grievant alleged that his confidentiality was violated when a staff member shared post-operative medical information with his treatment team.

Finding: The information shared was necessary to ensure proper medical care.

Resolution: No rights violation occurred.

Level 3

1. Issue: The Grievant alleged that he had been wrongly placed in “Administrative Segregation.”

Finding: The medical record supported the need for a more restrictive environment at that point in time.

Resolution: The Hearing Officer ruled in favor of Riverview.

2. Issue: The Grievant alleged that she was denied permission to attend “Bible Study” on another treatment unit.

Finding: The denial was based on treatment considerations.

Resolution: An agreement was negotiated between the parties. There was no decision.

3. Issue: The Grievant alleged that he was discharged without an adequate discharge plan.
Finding: Riverview documentation and testimony supported a finding that discharge planning was adequate.
Resolution: The Hearing Officer ruled in favor of Riverview.

Dorothea Dix Psychiatric Center Grievances

No Level 2 or Level 3 grievances were filed at the Dorothea Dix Psychiatric Center for the period of January 1, 2008 – June 30, 2008.

Assisted Referrals

Assisted referrals are comprised of issues that are brought to the attention of OAMHS, either as collateral to a grievance or as distinct issues which the person does not wish to formally grieve. Working with consumers, families and service providers, OAMHS staff has been able to identify and resolve problems. Services and supports have been obtained, restored and/or reconfigured to better meet consumer needs. 27 individuals were provided assistance during the period of January 1, 2008 – June 30, 2008.

Totals

Level 2 Grievances

Community: 7
RPC: 14
DDPC: 0
Total: 21

Level 3 Grievances

Community: 0
RPC: 3
DDPC: 0
Total: 3

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