

**Bates vs. DHHS
Consent Decree Paragraph 27
Bi-Annual Report: Grievance Filings
January 1, 2009 – June 30, 2009**

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 health system semi-annually. This report summarizes the Level 2 and Level 3 Grievances filed from January 1, 2009 – June 30, 2009.

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 the Bureau of Mental Health (Office of Adult Mental Health Services) and the Commissioner. Said report shall summarize the issues raised and, findings made and remedial actions taken, and shall be submitted to the master, counsel for the plaintiffs and the Office of Advocacy.”

LEVEL 2 GRIEVANCES

COMMUNITY

Allegation: The Grievant alleged that he was treated disrespectfully by the director and an employee of a community mental health agency. The Grievant is a member of one of the agency’s advisory committee.

Finding: The alleged incident occurred during an advisory committee meeting and should have been pursued in accordance with the agency’s complaint or dispute resolution policies.

Resolution: The complaint was dismissed. The Rights of Recipients of Mental Health Services do not apply in this instance. The Grievant was so informed and advised that the matter should be pursued according to agency policy.

Allegation: The Grievant alleged that he had been treated disrespectfully by staff and members of a peer-run social club.

Finding: This grievance was brought against a peer who was a member/employee of the social club and against the social club itself. The grievance provided ample documentation that the Grievant had and continued to act in a manner that was intended to provoke a negative response. Related issues either had no basis in fact or were not rights violations under the RRMHS.

Resolution: The Grievance was dismissed for lack of apparent merit. The Grievant was so informed.

Allegation: The Grievant alleged that he had been treated disrespectfully by an agency employee, that documentation related to a crisis intervention contained false information and that agency staff had failed to meet with him in a timely manner and mislead him about the nature of the meetings that were held.

Finding: The agency investigated and substantiated the Grievant's allegations. A plan of correction was implemented and an apology was issued.

Resolution: The Grievant expressed dissatisfaction with the findings, contending that they were insufficient. He has appealed to Level 3. A hearing has been scheduled.

RIVERVIEW PSYCHIATRIC CENTER

The following three grievances were filed by the same individual.

Allegation (1): The Grievant alleged that he was improperly civilly committed.

Finding: The commitment was ordered pursuant to statute, and any appeal would necessarily be judicial.

Resolution: The Rights of Recipients of Mental Health Services is not the proper venue to redress improper civil commitments. The grievance was wrongly dismissed for lack of apparent merit. The Grievant should have been informed that his appeal rights were through the judicial system, not RRMHS.

Allegation (2): The Grievant alleged that he was not provided timely advocacy services.

Finding: The records document an advocate employed the federal protection and advocacy agency met with the Grievant on several occasions as well as providing him with the Hotline phone number in the event of an emergency.

Resolution: The grievance was wrongly dismissed for lack of apparent merit. The Disability Rights Center of Maine, the federal protection and advocacy agency, is contracted to provide advocacy services at the Riverview Psychiatric Center and is not a service provider as defined in RRMHS. The Grievant should have been immediately notified that his allegations should have been directed to seek redress through the federal protection and advocacy agency's complaint procedure.

Allegation (3): The Grievant alleged that Riverview's "no smoking policy" constitutes a rights violation.

Finding: Nothing in RRMHS confers a right to smoke. The Respondent correctly noted that this issue had previously been litigated and the policy was upheld.

Resolution: Dismissed for lack of apparent merit.

The following four grievances were filed by the same individual.

Allegation (1): The Grievant alleged that she was being denied the same rights as other patients.

Finding: The Grievant's treatment record supports the finding that the Grievant is afforded the same rights and protections as other patients.

Resolution: The grievance was not substantiated.

Allegation (2): The Grievant alleged that several CDs were missing from her stored collection.

Finding: The CD collection was held in safekeeping, with the Grievant having access upon request. It was not determinable whether the allegedly missing CDs had been taken or simply mislaid or lost by the Grievant.

Resolution: The Grievant's stored CD's would be inventoried against the original list. Any CD's missing would be replaced. The Grievant found this solution satisfactory.

Allegation (3): The grievant alleged that RPC staff does not interact sufficiently with patients, including the Grievant herself.

Finding: The Grievant's treatment record documents that interaction occurs with appropriate frequency.

Resolution: The grievance was not substantiated.

Allegation (4): The Grievant alleged that her right to practice her religion had been denied.

Finding: The Grievant had been reading the Bible to another patient near the nurse's station. When the Grievant began kneeling to pray at the nurse's station, she was asked to move to a less public area. She was not denied freedom of religious practice.

Resolution: The grievance was not substantiated.

DOROTHEA DIX PSYCHIATRIC CENTER

No grievances were reported as filed at the Dorothea Dix Psychiatric Center.

COMPLAINTS

Complaint: A complaint was brought by the Disability Rights Center on behalf of a Bates vs. DHHS class-member, alleging that the Respondent had failed to comply with the paragraph 69 of the Settlement Agreement.

Finding: The Respondent failed to comply with paragraph 69 in that it did not seek permission to terminate services while simultaneously seeking to evict the class-member from her apartment by serving a 7-day forcible entry and detainer order. The apartment/housing was an integral component of the class-member's treatment plan.

Resolution: The complaint was substantiated and the Respondent was instructed to comply with paragraph 69 and develop policies and procedures that would prevent future occurrences.

ASSISTED REFERRALS

Assisted referrals are issues and concerns brought to the attention of OAMHS either as collateral to a grievance or as a distinct issue which the individual does not want to formally grieve. Working closely with consumers, families and service providers, OAMHS have been able to identify and resolve problems. Services and supports have been obtained, restored and/or reconfigured to better meet consumer needs.

Prepared by: Tom Ward
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