

**Consent Decree Paragraph 27 Report
Grievances filed from July 1, 2007 – December 31, 2007**

January 29, 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 July 1, 2007 to December 31, 2007.

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 Based Grievances: Level 2

Six (6) Level 2 grievances were filed by consumers in the community:

1. Issue: The consumer alleged the failure of the federal protection and advocacy agency to represent a class member/inmate to pursue an ADA complaint against the Maine State Prison.

Finding: The Rights of Recipients of Mental Health Services does not confer jurisdiction over the federal protection and advocacy agency, which is, furthermore, entitled to determine its case priorities and accept or refuse cases based on merit.

Remedy: Not applicable.

2. Issue: The consumer alleged that the OAMHS, Region 2 Intensive Case Manager failed to facilitate the transfer of the consumer’s case to a community-based service provider.

Finding: The ICM did not facilitate transition because the consumer refused to sign authorizations to release information.

Remedy: Not applicable. The consumer agreed to sign releases and the transition is in progress.

3. Issue: Consumer filed a Level 2 grievance concerning a community service provider's decision to discontinue her therapy services because of an alleged conflict between MaineCare and Medicare regulations. The consumer has full MaineCare as well as Medicare benefits. The provider claims that it cannot accept MaineCare because Medicare does not recognize the therapist's credentials – LCPC – as reimbursable.

Finding: The grievance is continued while the consumer, with assistance of counsel, considers the viability of a MaineCare appeal. OAMHS continues to assist the consumer with obtaining transitional and other support services during the pendency of the appeal.

Remedy: Not currently applicable.

4. Issue: Consumer sought to bring a grievance against the federal protection and advocacy agency for failure to provide representation.

Finding: The Rights of Recipients of Mental Health Services grievance process does not confer jurisdiction over the federal protection and advocacy agency.

Remedy: Not applicable. OAMHS assisted the consumer with finding case management services.

5. Issue: The consumer filed a Level 2 grievance against a community service provider for the failure to assist him in regaining Section 8 housing and alleged that the agency and/or its personnel retaliated against him.

Finding: The Level 1 agency response was upheld at Level 2. The consumer withdrew his grievance.

Remedy: Not applicable

6. Issue: The consumer filed a grievance against a community agency for refusing the consumer's request to have his community support worker meet with him in his (the consumer's) home or to provide transportation to meetings.

Finding: The agency in question discontinued in-home meetings and transportation after the consumer showed the community support worker several loaded guns in his apartment and displayed a knife while she was transporting the consumer in her vehicle. The agency offered to meet with the consumer in a mutually agreed upon location convenient to him. The consumer refused. The agency also noted that the consumer drives and owns a vehicle, therefore should be able to meet at the agency office or other location. The agency acted reasonably and prudently in consideration of the safety of the community support worker. Continued services were offered. The consumer refused the offer and services were subsequently discontinued with proper notice to the consumer.

Remedy: Not applicable.

Community Based Grievances: Level 3

Two (2) Level 3 grievances were filed by consumers in the community.

1. Issue: The consumer appealed a Level 2 finding that an agency *had not* violated his confidentiality by contacting his physician with his verbal, but not his written consent.

Finding: The agency failed to appear at the hearing, although notice of the proceeding was properly and timely issued. The hearing officer found in favor of the consumer. The hearing officer's findings were upheld by the Commissioner upon final review.

Remedy: The agency has revised its policies and procedures to ensure that written consent to release information is consistently obtained.

2. Issue: The consumer appealed a Level 2 finding that an agency had not violated his rights by terminating his services.

Finding: The hearing officer found for the agency. The Commissioner adopted the hearing officer's findings and conclusions.

Remedy: Not applicable.

Riverview Psychiatric Center Grievances: Level 2

Twelve (12) Level 2 Grievances were filed at the Riverview Psychiatric Center.

1. Issue: The consumer grieved a reduction in privilege levels.

Finding: The consumer's level is addressed daily. The reduction of levels was based on clinical assessment and supported by the consumer's treatment team.

Remedy: Not applicable

2. Issue: The consumer requested immediate transportation to DHHS to apply for potential benefits.

Finding: The consumer's legal status prohibits transportation from RPC for all but medical appointments.

Remedy: Not applicable

3. Issue: Consumer alleged (1) that his level request was denied without cause and (2) that he was not informed of and thus could not participate in the meeting at which the decision was made.

Finding: The treatment team erred in not inviting the consumer to the meeting. The issue of levels is addressed in the consumer's treatment plan and accurately reflects his needs, with particular attention given to achieving increased levels of privilege.

Remedy: A formal apology was made to the consumer for the failure to notify him of the meeting. In the matter of levels, a remedy is not applicable.

4&5. Issue: The consumer alleged that his physician was not providing him with pain medication.

Finding: A review of the consumer's medical records indicated that beginning in August 2007 appropriate medications were administered according to MAR.

Remedy: Not applicable

6. Issue: The consumer alleged that his treating psychiatrist forcibly and unnecessarily medicated him on two occasions.

Findings: A review of the consumer's medical record determined that that the consumer had been engaging in self-injurious behavior in both instances and that the medication was an appropriate response.

Remedy: Not applicable

7. Issue: The consumer alleged that RPC is inadequately staffed.

Finding: RPC maintains staffing levels on all units that meet or exceed the standards set forth in the Bates v. DHHS settlement agreement.

Remedy: Not applicable.

8. Issue: The consumer alleged that he had been denied a Level 3 grievance hearing.

Finding: The grievance in question had been determined to be without apparent merit pursuant to the RRMHS, part A, section VII, J, 3.

Remedy: Not applicable

9, 10, 11&12: Issue: The consumer alleged that his treating psychiatrist was too restrictive and requested a new psychiatrist.

Finding: The consumer's privilege levels are determined by the treatment team as a whole, not just the psychiatrist. The treatment team is in agreement regarding the privilege levels in question.

Remedy: Not applicable. The RPC Medical Director will, however, be consulted about the appropriateness of changing psychiatrists.

Riverview Psychiatric Center Grievances: Level 3

One (1) Level 3 Grievance was filed at the Riverview Psychiatric Center.

1. Issue: Consumer alleged (1) that his level request was denied without cause and (2) that he was not informed of and thus could not participate in the meeting at which the decision was made.

Findings: An administrative hearing has been held. The findings are not yet known.

Remedy: Not applicable at this time.

Dorothea Dix Psychiatric Center:

At Dorothea Dix Psychiatric Center no Level II Grievances or Level III Grievances were filed in this time period of July 1, 2007 – December 31, 2007.

Total Level 2 Grievances Filed:

Community: 6

Riverview Psychiatric Center: 12

Dorothea Dix Psychiatric Center: 0

Total: 18

Total Level 3 Grievances Filed:

Community: 2

Riverview Psychiatric Center: 1

Dorothea Dix Psychiatric Center: 0

Total: 3

Assisted Referrals:

Assisted referrals are comprised of issues that are brought to the attention of OAMHS, either as collateral to a grievance or as a distinct issue which the consumer does not want to formally grieve. Working with the consumer and the various service providers involved, OAMHS staff has been able to identify and resolve system conflicts. Services and supports have been obtained, restored and/or reconfigured to better meet consumer needs. Over the course of the last 3 months, OAMHS assisted nine (9) consumers in this manner, as well as providing “one time” information and referral information to other consumers who contact us.