BATES V. DHHS
CONSENT DECREE PARAGRAPH 27
BI-ANNUAL REPORT: GRIEVANCE FILINGS
JULY 1, 2009 – DECEMBER 31, 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 July 1, 2009 – December 31, 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, through the Disability Rights Center, alleged that he was not provided with ICM services as prior to his release from jail, resulting in and inability to obtain requisite services in the community.
Finding: The Grievant should have received timely ICM services prior to his release.
Response: The grievance was substantiated. Corrective action was implemented.

RIVERVIEW PSYCHIATRIC CENTER

Allegation: Disability Rights Center advocates filed a grievance on behalf of a client, alleging that the client had been placed in restraints when lesser restrictive alternatives were more appropriate.
Finding: After an investigation that included a record reviews and multiple staff interviews, it was determined that placing the Grievant in restraints was necessary to prevent self-harm.
Resolution: The grievance was not substantiated.

Allegation: The Grievant alleged that meal portions were insufficient.
Finding: A review determined that serving portions were adequate. The grievant was offered menu substitutions of his choice.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that food was being served with no consideration for specific client food allergies in that menu alternatives were not available.
Finding: The Grievant's specific food allergies are on record with food services. Acceptable alternatives will be made available and the situation will be monitored for future compliance.
Resolution: The grievance was substantiated and the client was informed.

Allegation: The Grievant alleged that he was denied the use of earned "wellness points" to purchase hygiene items after having been told that the purchases would be allowed.
Finding: The Grievant, while having earned "wellness points" was not allowed to use them because the treatment team has the authority to "withhold this privilege" when a client is "not behaving" in a manner appropriate to his or her privilege level.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that he was unable to eat lunch because a member of the kitchen staff touched his plate while not wearing gloves.
Finding: The staff member referenced was not wearing gloves when she touched the Grievant's plate. The policy requiring staff to wear gloves when preparing and delivering meals will be reinforced.
Response: The grievance was substantiated and the client was informed.

Allegation: The Grievant alleged that on three occasions he went without eating because "the kitchen did not make enough food."
Finding: The kitchen did not deliver sufficient "first choice" menu items to the unit. Other menu selections were available. Kitchen staff is working to ensure that first choice menu items are available for all patients.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that his medication allergies were not listed in his medical records.
Finding: There is nothing in the current or historical medical record to indicate that the Grievant has specific medication allergies. Specific medication cited has been tried in the past without allergic reactions.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that he had been denied Nicorette Gum as an augment to his nicotine inhaler.
Finding: The decision to prescribe the inhaler only was made according to standard medical protocol.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that he was wrongfully denied a Privilege Level increase due him because of the amount of time he had already been at his then-current Privilege Level.
Finding: The Grievant's Privilege Level was not increased for documented clinical reasons.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that his psychiatrist was inhibiting his discharge by refusing to increase his Privilege Level.
Finding: The Grievant's Privilege Level was not increased for documented clinical reasons.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that an R.N. fabricated progress notes.
Finding: The progress notes were accurately entered.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that a psychiatrist improperly told another patient that he (the other patient) would have blood drawn to check hi Lithium levels.
Finding: There is no basis for this grievance. The other patient raised no issue.
Response: The grievance was dismissed for lack of basis/merit.

Allegation: The Grievant alleged that he was in appropriately restricted from walking onto a wing on his unit.
Finding: The Grievant was restricted for documented inappropriate behavior and interactions with other clients.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that a psychiatrist refused to meet with him at a time demanded by the Grievant.
Finding: The psychiatrist was not obligated to meet with the Grievant at a time of the Grievant's choosing. Other staff, including an R.N., was available to meet withy the Grievant.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that she was disrespected/abused when, after she had spit on a staff person, the staff person wiped the spit from his shirt and then rubbed it on her face.
Finding: The allegation was investigated both as abuse and as a rights violation. The investigation determined that the event did not occur as alleged, that the staff person did not rub the spit on the Grievant's face.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that his rights had been violated because a particular psychiatrist was not able to attend his treatment team meetings.
Finding: The treatment team meetings are scheduled to accommodate the schedule of the Grievant's mother. Such scheduling creates an ongoing conflict with the schedule of doctor in question. The doctor consults with the team and is available to the Grievant.
Response: The grievance was not substantiated.

The following three (3) grievances were filed by the same client making allegations against the same staff member. They were investigated as patient mistreatment as well as specific rights violations.

1. Allegation: The Grievant alleged his confidentiality was violated when a staff member discussed his medical issues in the presence of staff and other patients. This occurred after the Grievant had requested to meet with the staff member privately.
Finding: The Grievant's confidentiality was violated.
Response: The grievance was substantiated.

2. Allegation: The Grievant alleged that a staff member had changed his medication without informing or consulting him.
Finding: Findings supported the Grievant's allegation.
Response: The grievance was substantiated.

3. Allegation: The Grievant alleged that a staff member refused to take seriously his complaints of physical pain and in the process was rude.
Finding: A new physician is ordering and monitoring the Grievant's pain management medication.
Response: The grievance was substantiated.

Allegation: The Grievant alleged that a staff member misfiled his BRAP application with a resulting cost to the Grievant of $600.00 - $800.00.
Finding: The misfiling was the result of changes in the BRAP application process and the Grievant was notified of the error in a timely manner.
Response: The grievance was not substantiated. The Grievant appealed to Level 3.

Allegation: The Grievant alleged that a $500.00 savings "safety net" was inappropriately used to pay his bills.
Finding: The money was appropriately used to pay bills by the Grievant's representative payee.
Response: The grievance was not substantiated.

Allegation: The Grievant alleged that he was wrongfully denied the Privilege Levels increase previously approved by the Superior Court. The Grievant is a court committed forensic patient.
Finding: The decision to determine Privilege Levels within the parameters set by the Superior Court rests with the treatment team and is based on clinical assessment of dangerousness to self or others.
Response: The grievance was not substantiated. The Grievant appealed to Level 3 and is awaiting the final determination of the DHHS Commissioner.

DOROTHEA DIX PSYCHIATRIC CENTER

Allegation: The Grievant alleged that the breakfast cart did not come to her unit on September 27, 2009. As a result, she missed breakfast.
Finding: Records and staff interviews support the finding that the breakfast cart was present on the unit but that the Grievant did not respond to staff attempts to wake her.
Response: The grievance was not substantiated.

LEVEL 3 GRIEVANCES

Two Level 3 grievances were filed during this period. Both are noted above. One is pending the Commissioner's final determination. The hearing on the second has been continued, per agreement of the parties, while they attempt to resolve the issues.

COMPLAINTS

Complaint: The Complainant alleged that a patient at Dorothea Dix Psychiatric Center had been inappropriately placed there for over three years. The patient is a member of the Pineland Class and has Traumatic Brain Injury. He was initially admitted to DDPC for a medication adjustment and was never discharged because funding for an appropriate placement was never obtained. This complaint was filled collaterally with a complaint filed under the Community Consent Decree.
Finding: A finding was deferred to allow the parties to negotiate a resolution.
Response: Funding was secured. The patient has been discharged to a setting appropriate to his needs.

ASSISTED REFERRALS

Assisted referrals are issues and concerns brought to the attention of OAMHS either as collateral to a grievance of as a distinct issues 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. 23 Assisted Referrals were processed during this reporting period.

Prepared by: Tom Ward
OAMHS
Grievance Coordinator
January 12, 2010