



SAMHS Quality Management Webinar Series

Tuesday, September 24

Topic: Rights of Recipients in Community
Based Mental Health Services

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Rights of Recipients of Mental Health Services

Basic Rights

- Consumers have the same human, civil and legal rights accorded all citizens
- No limitations on freedom of religious belief
- Discrimination due to race, creed, sex, age, national origin, political belief or handicap is prohibited

Delivery of Service

- Delivered based on their identified individual needs
- Consumers will not be required to move from one setting to another in order to receive the services if their needs change
- Right to refuse all or some of the services offered
- Right to exercise their rights without denial or termination of services

Least Restrictive Setting

- Services to be provided in the least restrictive setting
- Treatment will not be forced upon the Consumer except by order of the court or involuntary commitment
- Less restrictive settings must be considered before commitment

Notification of Rights

- Rights information must be given to each Consumer by an employee of the facility or program in a comprehensible manner
- Consumers are entitled to an interpreter if they do not understand English or are deaf
- There must be documentation in the permanent record that Rights were provided
- A Consumer must be advised that they may have a representative assist them with their rights

Notification of Rights (continued)

- Consumers will be given a summary of their Rights in plain language
- Copies of Summary of Rights will be posted in all agencies and facilities
- Summaries shall contain instructions for viewing the rules
- Summaries are to be made available in foreign languages and American Sign Language

Protection of Rights

- Right to name a representative in protection of their rights, including a peer
- Must be informed of advocacy programs
- May have a private advocate but Consumer must bear the cost

Grievances & Complaints

- Right to due process in regard to grievances/complaints
- Facility, agency and/or the Department must give reasonable opportunity for informal or formal resolution
- Violations of basic rights, rules, the Settlement Agreement, applicable law or regulation, questionable or inappropriate treatment or any policy, procedure or action or lack thereof of a mental health agency or facility

Grievances & Complaints Appeals

- A Consumer or Guardian may file a formal grievance
- There are 3 Levels of Grievance procedure
- Level One is within the program/agency
- Level Two is the Agency Executive Director or The Director of SAMHS or designee (Carlton Lewis)
- Level Three is the Commissioner or designee
- If all levels of grievance procedure have been exhausted the Consumer continues to disagree with the findings they may appeal the decision to Superior Court

Confidentiality

- All information regarding mental health care and treatment shall be confidential
- Consumers will have the right to written and informed consent prior to release of information
- All personnel will be trained in Confidentiality
- Separate personalized records will be maintained when Consumer attends a group

Access to Records

- Consumer or Consumer's guardian has the right to review the record within 3 working days of the request
- Review of the record at an agency must be done under supervision
- Agency may refuse review of a portion of the record if the agency feels it would be detrimental to the Consumer

Access to Record (continued)

- After review of a record a Consumer may request copies of the record or parts of the record which may be provided at the actual cost of reproduction
- A Consumer may add written material to their record to clarify information if they feel it is false, inaccurate or incomplete
- Third party records are not available to the Consumer

Employment Rights

- Right to be paid a fair wage for work done
- All employers must follow Federal law-Fair Labor Standards
- Paid at least minimum wage set by either US Congress or State of Maine
- Agencies can not compel a Consumer to perform any work or punish them for declining to perform work
- Agencies shall not discriminate in hiring agency staff

Individualized Support Planning

- All Consumers with a severe and prolonged mental illness have the right to an ISP
- To be developed by the Consumer based on their vision of the future
- The Consumer will select the areas they wish to target
- Action plans will be developed consistent with the Consumer's priority needs and targets
- The ISP is a legal document

Unmet Needs

- An unmet need is a resource that is unavailable in the community or where a consumer is placed on a waitlist that exceeds the Unmet Needs Standards in the Consent Decree
- The identification of unmet needs is to help build resources in the community for Consumers
- All unmet needs should be identified in the ISP process
- They are required to be reported to the Commissioner

Informed Consent

- Consumers have the right to informed consent for all treatment and/or services
- Informed consent has to be obtained before any treatment begins
- If the consumer has been determined by the court to lack capacity the informed consent must be acquired from a guardian
- The consumer or guardian must be given adequate information before giving consent

Informed Consent (continued)

- The Consumer has a right to have another person present during the presentation of this information
- Informed consent must be documented in the Consumers record
- Informed consent cannot be obtained through coercion or deception
- Consent can be withdrawn any time during treatment or service

ECT and Restraints

- Electroconvulsive Therapy (ECT) shall not be administered to a Consumer until written informed consent is obtained or by court order
- Seclusion and restraints are under no circumstances to be utilized in outpatient settings

Copies

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