

FACT SHEET ON TERMINATION OF RESIDENTIAL MENTAL HEALTH SERVICES

Prepared by Disability Rights Network of Pennsylvania

This Fact Sheet addresses the rights of adults with mental illness who receive notices of termination of services from their residential program providers.

Under What Circumstances Can Services Be Terminated?

There are no across-the-board standards that address the circumstances under which a residential mental health services provider may terminate an individual from the program. The regulations vary depending on the type of service.

CRR: Under 55 Pa. Code §5310.35, a CRR must establish written termination criteria and procedures and allow for termination under two circumstances. 1) A "planned termination" is when the client, CRR staff, and, if appropriate, others responsible for the client's welfare agree that the client should leave and have planned and prepared for the move. A planned termination may result from the client's failure to live up to the terms of her service agreement. (2) An "unplanned" termination occurs when the client drops out, requires hospital or nursing care, or demonstrates behavior that requires immediate removal. The CRR must give the client written notice, an exit date, and indicate any recourse available under grievance procedures. Given the nature of "unplanned" terminations, the regulations do not impose any specific notice requirements. When a CRR ceases operation, it must give 30 days notice to clients. 55 Pa. Code §5310.37.

LTSR: Under 55 Pa. Code §5320.33, an LTSR develops a written contract with each resident that includes the conditions under which the client may be terminated, including cessation of operation of the LTSR. At the same time, the LTSR must inform the client of any grievance procedures available. Accordingly, reasons for termination from services are governed by the individual's contract and are not limited by regulations. Though the regulations do not explicitly require prior notice of a termination, due process would require the provider to give adequate notice (absent an emergency situation) prior to discharge.

PCBH: Some mental health residential programs are licensed as personal care boarding homes. Under DPW regulations, 55 Pa. Code §2620.26, a PCBH must give 30 days written notice to the resident prior to discharge citing the reason for the discharge. The notice period may be waived if a physician or DPW certifies

that a delay in discharge would jeopardize the health or safety of the resident or others in the home, including circumstances in which the resident needs psychiatric or long-term care, has been abused in the home, or when DPW has initiated closure of the home. The regulations, 55 Pa. Code §2620.27, also establish standards and procedures governing discharge when a resident's physical condition requires a higher level of care and when the resident must be removed because he is a danger to himself or others. While physical and psychiatric health conditions are explicitly referenced as bases for discharge, this does not necessary mean that these are the only reasons for which a PCBH can decide to discharge a resident.

What Recourse Does An Individual Have When He Receives A Termination Notice?

An individual whose provider issues a discharge notice can appeal that decision through the county administrative process designed for appeals under Pennsylvania's Local Agency Law, 2 Pa. C.S. §§551-555. Each County should have written procedures that govern appeals of denials and terminations of services. The individual should receive information about the appeal process at the time he receives written notice of his termination from the program. In an administrative appeal, the individual has the right to present written evidence and testimony and to cross-examine witnesses. The agency must issue a written decision explaining the basis for its decision.

The Local Agency Law does not expressly allow the individual to remain in his program pending the outcome of his administrative appeal. However, an argument could be made that, given the nature of the deprivation involved when a person's residential program is terminated, the individual should not be discharged until an administrative decision on his appeal is rendered unless the reason for discharge (*e.g.*, medical or psychiatric emergency) warrants immediate removal.

If the individual is not satisfied with the outcome of the county administrative process, the Local Agency Law allows him to appeal the decision to the Court of Common Pleas. 2 Pa. C.S. §751-752; 42 Pa. C.S. §933(a)(2).

