

## **If Your Residential Mental Health Services are Terminated**

Prepared by Disability Rights Network of Pennsylvania

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

### **When can your residential services be terminated?**

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

### **If you live in a Personal Care Boarding Home (PCBH).**

Some mental health residential programs are licensed as personal care boarding homes. Under the Department of Public Welfare (DPW) regulations, a personal care home must give you 30 days written notice prior to discharge, telling you the reason for discharge. They should also contact your family, service staff or guardian if you have one. The 30 day notice requirement may not be necessary if a doctor or DPW puts into writing that a delay in your discharge puts you or others at risk. This includes cases in which a person needs psychiatric or long term care, has been abused in the home, or when DPW is closing the home. Regulations set up a procedure to protect you during discharge if you need a higher level of care than the home can give. While the regulations mention physical and mental health as reasons the home can discharge, the home may decide to discharge you based on other reasons. (55 Pa. Code § 2620.27)

### **If you live in a Community Rehabilitation Residence (CRR) or Group Home.**

A CRR must have a written policy that tells how services will be terminated in two circumstances: 1) A 'planned termination' is when you, CRR staff and if appropriate, others such as your service staff, family or guardian if you have one, agree that you should leave. Planning and preparation will take place before you move. This kind of termination might happen if you fail to live up to the terms of the service agreement; 2) An 'unplanned termination' happens if you leave without preparation, have to go into a hospital or nursing home or do things that

put you or others at risk. The CRR must give you written notice, a termination date and tell you what rights you have under grievance procedures. Since an ‘unplanned termination’ happens without advance warning, the regulations do not require the CRR to give you any specific timetable of advance notice. When a CRR goes out of business, it must give you 30 days advance notice. (55 PA Code § 5310.37)

### **If you live in a Long Term Structured Residence (LTSR).**

The LTSR must make a written contract with you that tells the reasons why you may be terminated, including if the LTSR closes operation. At the same time, the LTSR must tell you about their grievance procedures. So it is the contract rather than regulations that states the reasons why you may be terminated. Unless it is an emergency situation, the provider is required by due process (your legal right to a fair hearing) to give you adequate notice of termination before you are discharged. (55 Pa. Code § 5320.33)

### **What are your rights if you receive a termination notice?**

If you have been given a discharge notice, you can appeal it through the county administrative appeal process (Pennsylvania’s Local Agency Law, 2 Pa. C.S. §§ 551-555). Each County should have written procedures for appeals of denials and terminations of services. You should receive information about your right to appeal at the same time you receive your termination notice. If you file an administrative appeal, you have the right to present written evidence, testimony and to cross examine witnesses. The agency must issue a written decision explaining its decision.

The Local Agency Law does not say that you are allowed to stay in your program until the Administrative Appeal is decided. However, since being discharged from your residential program is disruptive to your life, you may ask to stay until the appeal is over, unless this is an emergency (medical or psychiatric) situation.

If you are not satisfied with the result of the administrative appeal, The Local Agency Law allows you to appeal to the Court of Common Pleas. 2 Pa. C.S. § 751-752; 42 Pa. C.S. § 933(a)(2).