

RESIDENT GRIEVANCE SYSTEM

ANNUAL REPORT FISCAL YEAR 2011

DEVELOPMENTAL DISABILITIES ADMINISTRATION FACILITIES

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**RESIDENT GRIEVANCE SYSTEM
FISCAL YEAR 2011
ANNUAL REPORT**

**BACKGROUND AND STRUCTURE OF THE
PATIENT RIGHTS PROGRAM FOR
DEVELOPMENTAL DISABILITIES ADMINISTRATION
STATE RESIDENTIAL CENTERS and SECURED EVALUATION,
THERAPEUTIC AND TREATMENT UNITS**

In 1985, the Department of Health and Mental Hygiene (DHMH) implemented the Resident Grievance System (RGS), the internal mechanism for advocating and ensuring the protection of rights of institutionalized persons, guaranteed by federal and state laws, that reside in the Mental Hygiene Administration's psychiatric facilities. The program is governed by the Code of Maryland Regulations (COMAR) 10.21.14 and is under the auspices of the Deputy Secretary for Behavioral Health and Disabilities, Renata Henry.

The RGS is a four stage administrative process that ensures that the rights of residents are protected through a fair, efficient, and complete mechanism for receiving, investigating, and resolving resident complaints in a timely manner. The RGS is responsible for providing legal representation for residents in specific areas, which is accomplished through state procurement contracts with independent legal providers, known as Legal Assistance Providers (LAP).

In July 1, 2000, the DHMH Secretary, Dr. Georges Benjamin, decreed that the Resident Grievance System be expanded to provide rights advocacy for residents of the four State Residential Centers, operated by the Developmental Disabilities Administration (DDA). The policy governing the operation of the RGS in DDA facilities was finalized and distributed to DDA facilities by the DDA Director, Diane K. Coughlin, on December 19, 2002. The policy provides the procedure governing the administrative process for receiving and investigating any reports of injuries, death, allegations of physical, sexual, or verbal abuse, and individual complaints, including rights issues, in a timely manner in accordance with Health General §7-1003 (g), Annotated Code of Maryland. A copy of the policy is available upon request from the office of the Director of the RGS.

The policy defines "Rights Issues" as any alleged violation of an individual's rights guaranteed by federal and state constitutions, statutes, regulations, common law, or policies of DHMH, DDA, and the facility, not covered by DDA's Policy on Reportable Incidents and Investigations.

A "Grievance" is defined as a written or oral statement initiated by the individual, an employee of the facility, a family member of the individual, or an interested party, which alleges that an individual's rights have been unfairly limited, violated, or are likely to be violated in the immediate future, or the facility has acted in an illegal or improper manner with respect to an individual or a group of individuals.

In January, 2009, the RGS began to provide services to the two Secured Evaluation and Therapeutic Treatment (SETT'S) Units operated by DDA. The units are located on the grounds of Springfield and Clifton T. Perkins Hospital Centers respectively. The mission of the SETT units is to provide evaluation and assessment services, as well as active treatment to intellectually disabled individuals with court involvement within a secure and safe environment. The RGS utilizes the same administrative process as with the State Residential Centers's (SRC) to assist the individuals residing in the SETT's.

The RGS collaboratively works with the Office of Health Care Quality, the Maryland Disability Law Center and other stakeholders to ensure patient safety and their legal rights. Rights Advisors are co-located at the facilities and participate on various committees and attend meetings addressing patient concerns.

The Rights Advisors with primary responsibility for the three State Residential Centers and two SETT units are:

Brandenburg*	Lisa Olinger
Holly	Sharon Wert
Potomac Center	Lisa Olinger
Clifton T. Perkins SETT	Linda Simms Michael Jackson
Springfield SETT	George Lyons Jacqueline Short

The above referenced Rights Advisors have primary responsibility for the facilities listed. All RGS Rights Advisors are trained to provide service in the absence of an assigned Rights Advisor. A complete listing of the Resident Grievance System staff is included in this report.

Referrals to the Resident Grievance System can be made directly to the assigned Rights Advisor or the Central Office by using the toll free number, 1-800-747-7454.

* Brandenburg Center was closed in March of 2011.

RESIDENT GRIEVANCE SYSTEM

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RIGHTS ADVISOR ASSIGNMENTS

Jennie Bishop
Everly Smith

Spring Grove Hospital
Spring Grove Hospital

Harry Evans III
Harry Evans III

RICA-Baltimore
RICA-Rockville

George Lyons
Jacqueline Short

Springfield Hospital and
SETT Unit - Sykesville

Linda Simms
Michael Jackson

Clifton T. Perkins Hospital and
SETT Unit - Jessup

Sharon Wert

Eastern Shore Hospital and
Holly Center

Lisa Olinger

Potomac Center
Thomas B. Finan Center
Brandenburg Center

RGS DATA COLLECTION AND CLASSIFICATION

Resident Grievance System Regulations (RGS), COMAR 10.21.14, defines “Rights Issues” broadly: “an alleged violation of a resident’s rights guaranteed by federal and State constitutions, statutes, regulations, common law, or policies of the Department, Mental Hygiene Administration, and the facility”. When the RGS was created, the rationale for this broad definition was precisely because not all rights issues are stipulated in the law but this does not make them any less a rights issue. The RGS Director has the responsibility for developing the classification system and providing guidelines for its use.

The form, RGS-24 “Category of Rights Issues”, copy of which is attached, assigns all cases to one of 16 major categories.

The data in the Annual Report for Fiscal Year 2011 for Developmental Disabilities Administration facilities are reported in two major classifications: Information/Assistance and Grievances.

Information/Assistance

Cases classified as Information/Assistance do not allege a rights violation but are contacts in which the individual is seeking information, clarification, or assistance with a concern. Typically, it involves a single meeting with the individual and generally, does not require extensive contact with others. These cases are closed at Stage 1 following the contact.

The second group of Information/Assistance cases are those in which the Rights Advisor receives notification from the facility regarding all incidents meeting the criteria of a “Serious Reportable Incident” (SRI). The RGS is provided with the Appendix 4 within 24 hours or the next working day. This is followed by receipt of the “Agency Investigative Report” (AIR) within 21 days. The Rights Advisor may, on their own, or at the request of the individual, staff, family member, or other interested parties, conduct their own investigation of the incident.

If the Rights Advisor concludes, following the investigation of a Serious Reportable Incident, that all of the necessary action has been taken by the facility and no further action is warranted, the case is closed at Stage 1 as Information/Assistance. However, if the Rights Advisor, resident, employee, family member, Legal Assistance Provider, or other interested parties have concerns regarding the action taken by the facility on Serious Reportable Incidents, the Rights Advisor opens the case as a grievance.

In fiscal year 2011, Rights Advisors processed 397 Information/Assistance cases.

Grievances

Cases classified as Grievances are those issues that allege a violation of patients' rights and whose goal is to obtain a specific outcome. The Rights Advisors' role in a grievance is to be a neutral fact finder, conduct a thorough investigation, and render a decision based on the evidence.

Grievances are determined to be Valid, Invalid, or Inconclusive. When sufficient evidence does not exist to prove or disprove the allegation, the grievance is determined to be inconclusive. The Rights Advisors' role is to work toward the achievement of a mutually satisfactory resolution at the lowest possible stage.

Grievance investigation and resolution generally requires the Rights Advisor to have multiple contacts with the grievant and others, up to 65 working days, the total time permitted for resolution of the grievance by the RGS Regulations, COMAR 10.21.14.

Grievances consume the largest amount of Rights Advisors' time. The Rights Advisors' role is to be non-adversarial and to function as a mediator, facilitator or negotiator.

If unresolved at Stage 1, grievances proceed to Stage 2, which is the appropriate administrative director; Stage 3, the Chief Executive Officer, with an optional review by the Quality Assurance Standing Committee. Grievances unresolved at the conclusion of Stage 3 are reviewed at Stage 4 by the Central Review Committee, which is comprised of the DDA Director, the DDA Regional Director, and the RGS Director.

In fiscal year 2011, Rights Advisors processed a total of 18 grievances. Three grievances were heard at Stage 4 by the Central Review Committee.

**GRIEVANCE OUTCOMES FOR STAGES 1, 2, 3 AND REFERRALS TO THE
CENTRAL REVIEW COMMITTEE AT STAGE 4
FISCAL YEAR 2011**

- **STAGE 1** Eighteen Grievances were processed by the Rights Advisors

- **STAGE 2** Six Grievances were processed by the Rights Advisors

- **STAGE 3** Four Grievances were processed by the Rights Advisors

- **STAGE 4** Three Grievances were processed by the Rights Advisors

RESIDENT GRIEVANCE SYSTEM
STAGE 4 REVIEWS BY
CENTRAL REVIEW COMMITTEE

A Stage 4 Central Review Committee appeal is the last and final appeal level of the Resident Grievance System. A Rights Advisor is required to make every effort to negotiate, mediate, and resolve the grievance; however, the ultimate decision to resolve or appeal the grievance belongs to the patient. If the patient elects to appeal, even though the Rights Advisor may not believe that the request has merit, the Rights Advisor is required to assist the patient in filing the appeal.

The Central Review Committee is comprised of three members; Director of the Resident Grievance System, Director of the Mental Hygiene Administration, and Clinical Director of the Mental Hygiene Administration, or their designees.

The Committee reviews all prior information concerning the grievance and may conduct further investigation, if deemed by the Committee to be warranted. At the conclusion of the review, the Committee issues a written decision based on their findings and makes recommendations for corrective action, if warranted.

Within 20 working days, after receiving the recommendations from the Central Review Committee, the facility's Chief Executive Officer is required to forward to the Committee a written report of the status of the implementation of the Committee's recommendations. The Chief Executive Officer is required to make periodic reports to the Committee every 30 days until the recommendations are fully implemented.

There were a total of 3 grievances appealed to Stage 4 in Fiscal Year 2011 which represents 16% of the 18 grievances filed.

100% (3) of the Stage 4 appeals were filed by 3 residents of the SETT Unit.

The Stage 4 grievances reviewed by the Central Review Committee for Fiscal Year 2011 are detailed on the following pages.

CATEGORY 1A
ABUSE – Physical

A grievance was filed by the resident alleging that he was physically abused by a staff member at the Jessup SETT facility. The resident alleges that he was assaulted when the staff member thought that he (resident) was rummaging through the trash in the bathroom looking for food.

The grievance was determined to be valid at Stage 1 by the Rights Advisor, invalid at Stages 2 and 3B respectively by the Unit Director and CEO.

Decision of the Central Review Committee – Invalid

The Central Review Committee reviewed the submitted documentation and found the grievance to be invalid. The committee recommended that facility staff receive training in deescalating client behaviors and senior administrative staff in coordination with environmental services review the feasibility of purchasing covers for trash containers within the facility.

CATEGORY 4C
COMMUNICATION AND VISITS - Visitors
2 Grievances

Grievances #1 and # 2

Two class grievances were filed on behalf of the residents at the Secured Evaluation Therapeutic and Treatment (SETT) units by the Legal Assistance Provider (LAP). The LAP contended that the residents of the SETT units were entitled to visits from family members and friends. The LAP stated that the SETT unit staff has denied residents their constitutional rights to have visits.

The grievances were determined to be valid at Stage 1 by the Rights Advisor, no response from the Unit Director at Stage 2 and, valid at Stage 3B by the CEO.

Decision of the Central Review Committee –Valid

The Central Review Committee reviewed the submitted documentation as well as the oral Argument made by the Legal Assistance Provider. The committee concurs with the decision of the Rights Advisor that the grievances were valid. The committee recommended that the CEO review the current visitor's policy, revise said policy and within 20 business days provide the Director of the Resident Grievance system a status update regarding the grievance.

**TOTAL NUMBER AND PERCENTAGE OF GRIEVANCES
FOR ALL**

FACILITIES BY RIGHTS CLASSIFICATION AND PERCENTAGE

<u>RIGHTS CLASSIFICATION</u>	<u>NUMBER</u>	<u>PERCENTAGE</u>
Abuse	5	27%
Admissions/Discharge/Transfer	1	6%
Civil Rights	4	22%
Communication and Visits	2	11%
Confidentiality	0	0%
Environment	1	6%
Freedom of Movement	0	0%
Money	0	0%
Neglect	0	0%
Personal Property	1	6%
Rights Protection System	0	0%
Treatment	3	16%
Other	0	0%
No Right Involved	1	6%
Resident/Resident Assault	0	0%
Death	0	0%
Total Number of Cases	18	100%

**RESIDENT GRIEVANCE SYSTEM
ACTIVITY PER FACILITY
Fiscal Year 2011**

Facility	Grievances	Information Assistance Requests	Total Cases
BRANDENBURG	0	8	8
HOLLY	4	92	96
POTOMAC	0	231	231
SETT PERKINS	5	1	6
SETT SPRINGFIELD	9	65	74
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TOTAL	18	397	415

DDA Trending Data
2003 – 2011

Year	<u>2003*</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Grievances	52	56	52	45	46	19	10	8	18
Abuse	29	48	24	28	18	9	2	2	5
Neglect	0	0	1	1	1	1	0	0	0
Treatment	5	0	12	4	10	5	4	1	3
I & A	628	729	726	572	603	558	358	268	397
Abuse	1	1	0	1	3	2	2	3	10
Neglect	1	1	0	0	4	0	2	10	7
Treatment	385	435	538	424	426	449	280	268	195
Deaths	7*(1)	8	13	14	11	13	12	8	7
LAP Reports	N	Y	Y	Y	Y	Y	Y	Y	Y
Narrative	N	Y	Y	Y	Y	Y	Y	Y	Y
Stage 4's	0	1	0	0	1	0	0	0	3

Note:

I & A = Information and Assistance requests

Y = Yes; N = No

All numbers represent totals

Total grievances reported since 2003 is 306. This represents an average of 34 grievances per year.

Total I & A's reported since 2003 is 4839. This represents an average of 538 I & A's requests per year.

*= 2002/2003 was the first year RGS began providing services to DDA facilities. Information compiled is only for six months.

Training and Continuing Education

During the 2011 fiscal year, the Resident Grievance System Rights Advisors and the Director participated in various training and continuing education to assist in providing patients and individuals within the state psychiatric and residential centers with effective patient advocacy. The training also provided Rights Advisors with professional growth and development within their specific clinical disciplines.

A sample of the training and continuing education courses attended included supporting individuals with a history of brain injury, substance abuse and traumatic brain injury, youth suicide, symptoms and strategies for prevention, integration of behavioral health and primary care under the Health Care Reform Act, understanding schizophrenia, learning about blood borne pathogens, living well with chronic conditions, empowering ourselves to empower others and elder law: protecting patient assets.

All Rights Advisors recently hired receive weekly supervision from the Director of the Resident Grievance System and mandatory hospital training at their respective facilities and the Rights Advisors' were cross trained on specific issues for patients at the Clifton T. Perkins Hospital Center.

Accomplishments

During the 2011 fiscal year, the first annual Legal Assistance (LAP) meeting was held. The majority of the LAP's to the Resident Grievance System attended. The Deputy Secretary for Behavioral Health provided comment on the need for the Legal Assistance Program and its value to patients. A Rights Advisor was nominated as the Social Worker of the Year (2011). A Rights Advisor was instrumental in effecting policy changes at two psychiatric facilities. The changes included revising how patient funds are distributed and ensuring that active treatment is provided when a patient is assigned to a "mini ward".