

**THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF CHILDREN AND FAMILIES
CENTRAL ADMINISTRATIVE OFFICE
600 WASHINGTON STREET
BOSTON, MASSACHUSETTS 02111**

**Linda S. Spears
Commissioner**

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IN THE MATTER OF)
)
JH)
)
FH # 2017-0045)
)

FAIR HEARING DECISION

The Appellant in this Fair Hearing was JH. The Appellant appealed the Department of Children and Families' (hereinafter "DCF" or "the Department") decision to close his case.

Procedural History

JH ("Appellant) and the Department entered into a Voluntary Placement Agreement on or about January 2013, when the Appellant turned eighteen years old. On January 17, 2017, the Appellant turned twenty-two years old. On January 5, 2017, the Department notified the Appellant in writing of its decision to close his case and of his right to appeal. This letter was dated December 12, 2016. The Appellant made a timely request for a Fair Hearing pursuant to 110 CMR 10.06. The Fair Hearing took place on April 12, 2017 at the Lawrence Area Office in Lawrence, Massachusetts. The record closed at the conclusion of the hearing.

The following persons appeared at the Fair Hearing:

Ms. Lisa Henshall	Fair Hearing Officer
Mr. J.H.	Appellant
Mr. S.A.	Program Manager at Independent Living Program (Witness)
Ms. L.H.	DCF Ongoing Social Worker (SW)
Ms. F.C.	DCF Supervisor
Ms. A.S.	Area Resource Coordinator ¹

All parties were sworn in to testify at the Fair Hearing.

¹ Ms. A.S. signed in but did not remain in the room for the fair hearing.

In accordance with 110 CMR 10.03, the Hearing Officer attests to impartiality in this matter, having no direct or indirect interest, personal involvement, or bias in this case.

The Fair Hearing was digitally recorded, pursuant to 110 CMR 10.26

The following documentary evidence was entered into the record for this Fair Hearing:

For the Department:

Exhibit A Letter to the Appellant re: case closing

For the Appellant:

Exhibit 1 Letter from the Appellant requesting an appeal

The Hearing Officer need not strictly follow the rules of evidence....Only evidence which is relevant and material may be admitted and form the basis of the decision. 110 CMR 10.21

Issue to be Decided

The issue presented in this Fair Hearing is whether, based upon the evidence and the hearing record as a whole, and on the information available at the time of and subsequent to the Department's decision, the Department's decision or procedural action, violated applicable statutory or regulatory requirements, or the Department's policies or procedures, and resulted in substantial prejudice to the Appellant; if there is no applicable statute, policy, regulation or procedure, whether the Department failed to act with a reasonable basis or in a reasonable manner which resulted in substantial prejudice to the Appellant. 110 CMR 10.05

Findings of Fact

1. The Appellant has been involved with the Department, and with the current Social Worker, since he was fourteen years old. Upon his 18th birthday, the Appellant and the Department entered into a Voluntary Placement Agreement so that he could continue to receive services from the Department. (Testimony of the DCF Social Worker; Testimony of the Appellant)
2. Every year since his 18th birthday the Appellant has been able to abide by the minimum requirements of the Voluntary Placement Agreement for young adults; he was either engaged in an educational program or working part time. As a result, the Voluntary Placement Agreement was renewed every year. The child had been doing exceptionally well for the two years prior to the Department's decision. (Testimony of the DCF Social Worker; Testimony of the Supervisor)
3. The Appellant requested an extension of his Voluntary Placement Agreement in September 2016, which was denied by the Area Office. The request was made in advance of his 22nd birthday. (Exhibit 1; Testimony of the Appellant)
4. The Appellant was his own vendor and received monthly Youth Support Payments, while residing at the [REDACTED] (KDC) where he had his own apartment. The Appellant worked at D'Angelo's on the management team for the past year and was enrolled at Bristol

County Community College full-time and working towards a degree, a requirement for consideration of an extension beyond age 22 (*Policy # 2013-01, Article A: Planning Sustained Department Connection*). (Testimony of DCF Social Worker; Testimony of the Appellant; Exhibit 1; Testimony of the Witness)

5. The Appellant has been residing at the KDC since he was about 20 years old. The Appellant was able to commute to Boston every day from the program location in [REDACTED] MA in order to graduate high school. The Appellant was doing what he needed to do and was described as a good kid who was a "late bloomer." The Appellant had been paying bills, saving money and following the rules of the program and was described as a leader in the program. If permitted by the Department, the Appellant could remain at this program until he turns 23 years old. (Testimony of the Witness)

6. The Appellant attended a drug treatment program while in the custody of the Department and had been sober for four years. (Testimony of the Appellant; Testimony of the SW)

7. The Appellant was on the wait list for low income housing and Section 8. The Appellant had been actively searching for housing but ran into difficulty because he had no credit. At the time of the Hearing, the Department intended to assist him with opening an account to help him build up his credit. (Testimony of the SW; Testimony of the Witness; Testimony of the Appellant)

8. The Department began the transition planning process with the Appellant after deciding it was going to terminate his Voluntary Placement Agreement. Transition planning is an ongoing process until case closure, which includes maintaining life long-connections, assisting the Appellant with educational/vocational goals, employment and life skills development, budgeting and saving as well as maintaining appropriate stable housing. (Testimony of DCF Social Worker; Testimony of the Supervisor; Testimony of the Witness; Testimony of the Appellant)

9. On January 5, 2017, the Department sent a letter to the Appellant notifying him that his case was scheduled to close because he was turning 22 years old. (Fair Hearing Record; Exhibit A; Testimony of the SW) (*Policy # 2013-01, Planning for Discharge and Transition from Placement and Case Closing for Older Youth/Young Adults*)

10. The Appellant requested that his case remain open until he is 23 years old. The Appellant would like to get as far as he can with school and remain at the [REDACTED] where he has thrived. In addition, he wants to continue to work to save as much money as he can to secure an apartment, which has been a challenge. The Department social worker was supportive of the Appellant's plan. At the time of the Hearing, the Appellant had no alternative housing in place. (Testimony of the Appellant; Testimony of the DCF Social Worker; Testimony of the Witness; Fair hearing record)

11. I find that there was sufficient evidence to demonstrate that the Department did not complete its transitional planning with the Appellant, in compliance with the Department's regulations. At the time of the hearing the Appellant was in a DCF independent living program where he was thriving; he was employed, maintaining sobriety and enrolled in school full time. The Department's policy requires that the young adult not be discharged from Department placement

until appropriate and stable housing is found. At the time of the decision to close the Appellant's case and at the time of the Hearing, the Appellant did not have an alternate housing arrangement. (Fair Hearing Record) (*Policy # 2013-01, Planning for Discharge and Transition from Placement and Case Closing for Older Youth/Young Adults*)

12. The Department failed to follow its policies and/or regulations, which resulted in substantial prejudice to the Appellant.

Applicable Standards

It is the policy of the Department that placement, case management and permanency planning services are not provided beyond the individual's 22nd birthday. In unusual circumstances, the Director of Areas may approve for services to continue until the 23rd birthday, when it is demonstrated that without this support the individual will not complete an Associate's degree or higher program. (*Policy # 2013-01, Planning for Discharge and Transition from Placement and Case Closing for Older Youth/Young Adults*)

The Department's *Permanency Planning Policy*(#2013-01) provides specific instructions for transitioning young adults and discharging them from the Department's care; the planning should take place at least ninety days prior to the Appellant's discharge. Among other things, the Department must collaborate with the young adult so upon discharge from the Department, the young adult has appropriate and stable housing. In this case, the Department's decision to close the Appellant's case came planning for appropriate and stable housing for the Appellant; without such housing, the Appellant will be substantially prejudiced. The Appellant has maintained a job, sobriety, and enrolled in a full time community college all while excelling at his current independent living program; continued housing is necessary.

Conclusion and Order

Based upon a review of the evidence, I find the Department's decision to close Appellant's case and terminate services was not made in compliance with the Department's policies and regulations. As such, the Department is ordered to complete the ninety day transitional planning as required by its policies.

Lisa Anne Henshall, Esq.
Lisa Anne Henshall
Fair Hearing Officer

Nancy Brody
Nancy Brody, Esq.
Supervisor, Fair Hearing Office

Date: 8-29-17

Date: _____

Linda S. Spears
Commissioner