

The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Department of Children and Families  
Central Administrative Office  
600 Washington Street, 6<sup>th</sup> Floor  
Boston, Massachusetts 02111

Linda S. Spears, Commissioner

Voice: (617) 748-2000  
FAX: (617) 261-7428

IN THE MATTER OF: AA  
  
Fair Hearing #20170297

**FAIR HEARING DECISION**

Appellant, AA, appeals the decision of the Department of Children and Families (“Department”) to terminate her voluntary placement agreement and close her case.

**Procedural History**

AA (“Appellant”) and the Department entered into a Voluntary Placement Agreement at or about Appellant’s turning eighteen years old. On or about January 23, 2017, the Department decided to close Appellant’s case and terminate her voluntary services as of April 24, 2017. The Department notified Appellant in writing of its decision and of Appellant’s right to appeal. Appellant made a timely request for a Fair Hearing pursuant to 110 C.M.R. §10.06. The Fair Hearing took place on May 10, 2017 at the Department’s Dimock Street Area Office in Roxbury, Massachusetts. In addition to the Hearing Officer, the following persons appeared at the Fair Hearing:

QB	Department Social Worker
SR	Department Supervisor
IP	Department Area Program Manager
AA	Appellant
LB	DARE Social Worker

In accordance with 110 C.M.R. §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 hearing was digitally recorded. All witnesses were sworn in to testify under oath. The following documentary evidence was entered into the record for this Fair Hearing:

For the Department:

None

For Appellant:

Exhibit 1 Fair Hearing request/Department closing letter

The record closed at the end of the oral testimony.

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

### **Statement of the Issues**

The issue for resolution is whether the Department's decision to terminate services and close Appellant's case is in conformity with Department regulations and/or policies and, if not, whether any regulatory violation resulted in substantial prejudice to Appellant. 110 CMR §10.05.

### **Findings of Fact**

On the basis of my assessment of all the evidence presented, I make the following findings:

1. In 2012, the Department obtained custody of Appellant, then age fourteen, and placed her in a contracted foster home. While in placement, Appellant did not follow the curfew of the foster home, did not attend school regularly, did not seek/maintain employment, and did not provide proof of savings. [Testimony of Department Social Worker]
2. In 2015, Appellant began attending an alternative high school which did not have standard class grades and at which her hours were flexible. [Testimony of Department Social Worker]
3. In early December 2016, the Department convened a "YARB" (Young Adult Review Board) to determine whether the Department would sustain a connection with Appellant once she turned eighteen<sup>1</sup> and offer her the opportunity to enter into a Voluntary Placement Agreement with the Department. The Panel determined that it would allow Appellant to enter into a Voluntary Placement Agreement provided that

---

<sup>1</sup> Appellant was to turn eighteen years of age on December 24, 2016.

Appellant agreed to meet the expectations of her placement, including going to school, obtaining employment, abiding by the rules of the foster home, and engaging in therapeutic services. Appellant entered into a Voluntary Placement Agreement with the Department upon turning eighteen years old. [Testimony of Department Social Worker]

4. After entering into a Voluntary Placement Agreement with the Department, Appellant continued to miss her curfew at the foster home, struggle with going to school, and be unsuccessful at obtaining/maintaining employment and saving money. [Testimony of Department Social Worker]
5. On January 23, 2017, the Department provided Appellant with written notice that it was closing her case and terminating Department services effective April 24, 2017. The notice stated that this decision was based on Appellant's failure and/or refusal to comply with the tasks requested of her, i.e. meeting with a counselor and following through with recommendations; attending school on time daily; maintaining employment for at least 20 hours a week and providing pay stubs to verify hours worked; and maintaining an active savings account and saving at least 50% of her earnings. [Exhibit 1; Testimony of Department Social Worker; Testimony of Appellant]
6. On or about March 9, 2017, Appellant filed a request for a Fair Hearing relative to the Department's decision to close her case and terminate services. At that time, Appellant was not going to school, not working, not maintaining a savings account, and continuing to have instances of not abiding by her curfew, including staying out overnight. [Exhibit 1; Testimony of Department Social Worker; Testimony of Appellant]
7. On March 31, 2017, Appellant's school held a re-engagement meeting to establish a plan to support Appellant's remaining in school. After the re-engagement meeting and up until the date of the Fair Hearing, Appellant attended school fairly consistently with two absences. [Testimony of Department Social Worker; Testimony of Appellant]
8. As of the date of the Fair Hearing, Appellant was still considered a freshman and had accumulated no credits towards high school graduation. [Testimony of Department Social Worker]
9. As of the date of the Fair Hearing, Appellant had not engaged in therapeutic services. [Testimony of Department Social Worker]
10. Since April 2017 and up until the date of the Fair Hearing, Appellant has been filling out job applications and going on job interviews. [Testimony of DARE Worker]
11. Appellant's DARE worker discussed transition planning with Appellant, e.g. alternative housing arrangements, benefits programs such as food stamps, and assistance from other governmental agencies such as the Social Security Administration and the Department of Mental Health. [Testimony of DARE Worker]

12. Appellant's uncle has expressed an interest in having Appellant come live with him should the Department terminate Appellant's placement in her foster home. This would mean that Appellant would have to either enroll in a different high school or instead seek her high school equivalency. [Testimony of Department Social Worker; Testimony of DARE Social Worker]
13. Appellant could not articulate why she wanted her case with the Department to remain open or what the Department and/or her foster mother could do to support her. [Testimony of Appellant]

### Applicable Standards

The department shall offer to continue its responsibility to any young adult<sup>2</sup> who is under the custody, care, or responsibility of the department ... (i) for the purposes of specific educational or rehabilitative programs, or (ii) to promote and support that person in fully developing and fulfilling that person's potential to be a participating citizen of the commonwealth under conditions agreed upon by both the department and that person.... If after termination the person requests that the department renew its responsibility therefor, the department shall make every reasonable attempt to provide a program of support which is acceptable to the person and which permits the department to renew its responsibility; provided, however, that the department may require the person to meet 1 of the criteria set forth in 42 USC § 675 (8) (B) (iv). M.G.L. ch.119, §21 [effective on January 3, 2011 as amended]

At the option of a State, the term shall include an individual - ... who is -

- (I) completing secondary education or a program leading to an equivalent credential;
- (II) enrolled in an institution which provides post-secondary or vocational education;
- (III) participating in a program or activity designed to promote, or remove barriers to, employment;
- (IV) employed at least 80 hours per month; or
- (V) incapable of doing any of the activities described in subclauses (I) through (IV) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child. 42 USC § 675 (8) (B) (iv).

A Fair Hearing shall address (1) whether the Department's or provider's decision was not in conformity with its policies and/or regulations and resulted in substantial prejudice to the aggrieved party;.... In making a determination on these questions, the Fair Hearing Officer shall not recommend reversal of the clinical decision made by a trained social worker if there is reasonable basis for the questioned decision. 110 C.M.R. §10.05.

To prevail, the aggrieved party must show by a preponderance of the evidence that (1) the Department's or provider's decision was not in conformity with the Department's policies and/or regulations and resulted in substantial prejudice to the aggrieved party; (2)

---

<sup>2</sup> Young adult is defined as a person between the ages of eighteen and twenty two.

that the Department's or provider's procedural actions were not in conformity with the department's policies, regulations, or procedures and resulted in substantial prejudice to the aggrieved party; .... 110 C.M.R. §10.23.

### Analysis and Order

To prevail in this appeal, the Appellant must demonstrate, by a preponderance of the evidence, that the Department's decision to close its case and terminate services to Appellant was not in conformity with the Department's policies or regulations. Upon review of the record in light of applicable Department regulations and policy, I uphold the Department's decision.

Appellant needs support in order to reach her potential as a participating citizen of the Commonwealth. However, she has not shown the motivation to work successfully with the Department and/or her foster parent. Appellant has not shown that she is willing to comply with Department and/or foster home expectations such as abiding by foster home rules, e.g., curfew. In December 2016, the Department's YARB decided to give Appellant the opportunity to stay involved with the Department after she turned eighteen, provided that Appellant meet the Department's expectations. Appellant did not do so. Prior to the Fair Hearing, Appellant did make some positive changes in that she started attending school consistently and conducted some job search activities. However, it was not until over two months after receiving the Department's termination letter that Appellant did so.

In making determinations, a Fair Hearing Officer must defer to the clinical judgment of a trained social worker if there is a reasonable basis for the questioned decision. *See* 110 C.M.R. §10.05. Given the information provided, I do not find that the Department acted unreasonably and/or abused its discretion in making its decision to close Appellant's case and terminate services. Based upon a review of the evidence, I find the Department's decision to close Appellant's case and terminate services was made with a reasonable basis.<sup>3</sup> Therefore, the Department's decision is **AFFIRMED**.

This is the final administrative decision of the Department. If Appellant wishes to appeal this decision, she may do so by filing a complaint in the Superior Court for the county of Suffolk or for the county in which Appellant lives within thirty (30) days of the receipt of this decision. (See, M.G.L. c.30A, §14).

---

<sup>3</sup> Even upon case closing, there may be Department support services available to Appellant through age twenty one through the Adolescent and Support Services Unit at the Department's Central Office. (This Hearing Officer notes that these services are limited and their availability is not guaranteed). The Area Office is strongly encouraged to refer Appellant to any such services in which she may be entitled and interested.

Antonia Chronis (S)

Antonia Chronis, Esq.  
Administrative Hearing Officer

9-29-17

Date

Cristina Tedstone

Cristina Tedstone, Esq.  
Deputy General Counsel

**THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES  
DEPARTMENT OF CHILDREN AND FAMILIES  
CENTRAL ADMINISTRATIVE OFFICE  
600 WASHINGTON STREET, 6<sup>TH</sup> FLOOR  
BOSTON, MASSACHUSETTS 02111**

Linda S. Spears  
Commissioner

Voice: (617) 748-2000  
FAX: (617) 261-7428

**IN THE MATTER OF**

**SA #2017-0299**

**FAIR HEARING DECISION**

SA appeals the Department of Children and Families' (hereinafter "DCF" or "the Department") decision to support allegations of neglect pursuant to G.L. c. 119, §§51A and B.

**Procedural History**

On January 11, 2017, the Department received a 51A report alleging neglect of Me and Ma by their father, AR, and his live-in partner, SA. The Department screened-in the report for a response. On February 14, 2017, the Department made the decision that the allegation of neglect of Me and Ma by AR and SA was supported. The Department notified AR and SA of its decision and their right to appeal.

SA made a timely request for a Fair Hearing to appeal the Department's decision. Her request did not indicate that AR also wished to appeal. A hearing was scheduled for May 9, 2017, and SA was sent notice of the hearing date. On April 3, 2017, SA contacted the hearing office to clarify that AR also wished to appeal and to request his name be added to the appeal. Her request was granted. On May 5, 2017, the attorney for both SA and AR requested a continuance due to the unavailability of a witness. His request was granted and a hearing was scheduled for July 18, 2017, in the DCF Area Office in Cambridge.

On the date of the schedule hearing, both AR and SA appeared along with their attorney who informed the hearing officer that SA has an active restraining order against AR. AR and SA were advised that their appeals would not be heard together. AR was advised that his appeal would be heard separately and he would receive notice of a new date.

SA's hearing was held on July 18, 2017, in the DCF Cambridge Area Office. SA, the Department response worker and the Department supervisor testified at the hearing. SA was represented by an attorney.