

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
DEPARTMENT OF SOCIAL SERVICES
CENTRAL ADMINISTRATIVE OFFICE
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Commissioner

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IN THE MATTER OF

CD #2018-0156

FAIR HEARING DECISION

CD appeals the Department of Children and Families' (hereinafter "DCF" or "the Department") decision to terminate case management services and close the case pursuant to 110 CMR 10.06(3)(a).

Procedural History

The Department opened a case for CD and his wife, HD, and their children in April 2017, due to mother's mental instability. The Department worked with the family for several months. In January 2018, the Department determined that the family had stabilized, there were no current protective concerns and no further services were required. The Department made the decision to close the case. On January 23, 2018, the Department informed CD of its decision and his right to appeal.

On February 5, 2018, CD made a timely request for a fair hearing to appeal the Department's decision to close the case.

A hearing was held on March 15, 2018, in the DCF Coastal Area Office. CD, the Department on-going social worker for the family and the Department supervisor testified at the hearing.

The following documents were marked as exhibits.
Exhibit A: The Department written notice of case closing.
Exhibit B: CD's request for a fair hearing.

The hearing was digitally recorded and transferred to compact disc.

The Hearing Officer attests to having no prior involvement, personal interest or bias in this matter.

Issue to be Decided

The issue presented in this Fair Hearing is whether 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. CD (hereinafter "father") and HD (hereinafter "mother") are the parents of H (age 4) and L (age 2). (Testimony of father).
2. Father has a child, R (age 18), from a prior relationship. (Testimony of father).
3. Mother has a child, I (age 7), from a prior relationship. (Testimony of father; Testimony of the Department supervisor).
4. Mother and father have been involved in a relationship for about 5 years. (Testimony of father).
5. Father adopted I in August 2016. (Testimony of father).
6. Mother has a long history of mental health issues. She has a history of suicidal ideation. She has been in therapy for years. Her prior therapist believed she had bipolar disorder. (Testimony of father).
7. In or around April 2017, mother was experiencing suicidal and homicidal ideations and threatening to kill herself and the children by carbon monoxide poisoning. Mother was involuntarily hospitalized at ██████████ Hospital. The Department became involved and opened a case for the family. (Testimony of the Department supervisor).
8. When mother was discharged she returned home. In early May 2017, there was an incident where mother physically attacked father. Father went to the police and obtained a restraining order. Shortly thereafter, mother filed for divorce and the couple separated. (Testimony of father).
9. The Department supported father in being given custody of the children while mother worked on her mental health issues. Father initially was awarded custody. Mother went to court the next day and the court awarded custody to her with the condition that she have constant supervision by her parents (maternal grandparents) or another agreed upon adult. (Testimony of the Department supervisor; Testimony of father).

10. Maternal grandparents moved in with mother and supervised her contact with the children 24 hours a day, 7 days a week. (Testimony of the Department supervisor; Testimony of father).
11. Through the fall 2017, mother's therapist reported that mother was consistently participating in therapy and she had no concerns regarding mother's ability to care for the children. I's school reported no concerns. Maternal grandparents had no concerns. There were no further concerning incidents. (Testimony of the Department on-going social worker; Testimony of the Department supervisor).
12. In January 2018, the Department determined that services were no longer required. On January 23, 2018, the Department sent father notice that the case would close on February 6, 2018. (Exhibit A; Testimony of the Department supervisor).
13. On February 5, 2018, father made a request for a fair hearing to appeal the Department's decision. (Exhibit B).
14. The Department closed mother's case on February 6, 2018. The case remained open for father and the children pending the outcome of his appeal. (Testimony of the Department supervisor).
15. Father testified at the hearing. He expressed his serious concerns regarding mother's mental health, the children's safety while in the care of mother and his fear about what might happen if the court removes the requirement that she always be supervised with the children. He contends that her mental instability is long standing. He feels that the Department only relied on recent information from current collaterals in making the decision to close the case as opposed to contacting her former therapists who have a great deal of concerns about mother's recurring instability. Father acknowledged that he is not looking for the Department to remain involved to provide any service to him, but rather to continue to monitor mother. (Testimony of father).
16. I find that the Department's decision to terminate case management services and close the case was made in conformity with Department regulations and with a reasonable basis.

Analysis

Department regulations regarding case closure are set forth at 110 CMR 9.00. The regulations provide some guidance, however, the Department is allowed considerable discretion. The decision when and if to close a case is a clinical decision made by the social worker assigned to the family and his or her supervisor. The decision "takes into consideration the stated goals of the case, the individual's or family's participation in services, the reduction of risk to the child, legal issues, and the department's responsibility to provide services." 110 CMR 9.03(1).

When a decision is made to close a case, the social worker and supervisor determine what activities are necessary to prepare for the case closing and complete those activities. 110 CMR 9.03(2).

The area director (or designee) must review and approve the case closing decision. 110 CMR 9.03(3).

The social worker must notify the family in writing that the case is to be closed and that they have a right to appeal the decision. 110 CMR 9.03(4).

Whenever the Department makes a decision to suspend, reduce or terminate a service (including case management), the recipient of services has the right to appeal via the Fair Hearing process. 110 CMR 10.06(3) and 10.06(3)(a).

The Department does not dispute that mother's mental health may become unstable at some point in the future and that the Department may become involved again. The Department determined that it was appropriate to close the family's case because there have been no new protective concerns since the May 2017, incident. The Department contends that the goal was to engage mother in treatment to stabilize her mental health. The Department argues that mother's therapist reported that mother is engaged in treatment. The therapist and I's school reported no current concerns. The court has ordered that mother's contact with the children be supervised and the maternal grandparents have been living with mother and one of them is always with mother when she has the children. The Department determined that there are no current protective concerns regarding mother or father and father acknowledged that he is not in need of any service from the Department.

Father does not dispute that the Department's actions were in conformity with its regulations. Father contends that the Department did not properly take into consideration the potential risk to the children and/or the Department underestimated the likelihood that mother's mental instability will reoccur. Father argues that the Department also failed to consider the ages of the children and their inability to protect themselves and the possibility that the court will remove the requirement that mother's contact with the children be supervised. Father is not seeking any service for himself or the children when they are with him. Father is only seeking to have the Department keep mother's case open and continue to monitor her (i.e., visit her home monthly).

I find that the Department did, in fact, consider that there is always the potential that mother's mental health may become unstable at some point and the Department may need to become re-involved. The fact that mother's mental status may deteriorate in the future does not necessitate that the Department remain involved with mother indefinitely in anticipation of what might happen at some point.

The evidence shows that mother's mental health is currently stable, she is engaged in treatment and none of the professionals involved have current concerns.

Department regulations regarding the allowable grounds for appeal do not allow a recipient to dispute through a fair hearing the Department's decision to terminate services to another recipient. Moreover, the fair hearing officer has no authority to issue an order for the Department to re-open mother's case. The fair hearing officer may only affirm or reverse the decision to terminate services to father. Since father is seeking no particular service for himself, I find that the Department's decision to terminate his services and close his case was made in conformity with Department regulations and with a reasonable basis.

Conclusion and Order

The Department's decision to terminate father's services and close his case was made in conformity with Department regulations and with a reasonable basis and, therefore, the Department's decision is AFFIRMED.

This is the final administrative decision of the Department. If the Appellant wishes to appeal this decision, he may do so by filing a complaint in the Superior Court in Suffolk County, or in the county in which he resides, within thirty (30) days of the receipt of this decision. (See, M.G.L. c. 30A, §14.) In the event of an appeal, the Hearing Officer reserves the right to supplement the findings.



Anne L. Dale Nialetz
Administrative Hearing Officer

4/30/2018
Date



Sophia Cho, LICSW
Supervisor, Fair Hearing Unit