

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

Linda S. Spears
Commissioner

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IN THE MATTER OF

KB #2018-0473

FAIR HEARING DECISION

KB appeals the Department of Children and Families' (hereinafter "DCF" or "the Department") decision to terminate services to him and close his case.

Procedural History

KB is a young adult who came into the Department's custody after his father filed a Child Requiring Assistance petition in 2017, due to KB's behavior problems. He remained in the Department's custody until he turned 18 on February 4, 2018. In December 2017, the Department gave KB notice that his case would close when he turned 18 due to his lack of compliance and behavioral issues. Nevertheless, the Department and KB did enter into a Voluntary Placement Agreement shortly before his 18th birthday so that he would continue to receive services from the Department.

On March 19, 2018, the Department gave KB written notice that his case would close on April 23, 2018, due to his continued non-compliance. KB made a written request for a fair hearing to appeal the Department's decision to close his case. The case remains open pending the outcome of his appeal.

A hearing was held on May 24, 2018, in the DCF Park St. Area Office. KB, the Department social worker, the current Department supervisor, the former Department supervisor, the Department area program manager and KB's clinician testified at the hearing.

The Department submitted the following exhibits at the hearing.

Exhibit A: Voluntary Placement Agreement with attachments (four letters in support of the Department continuing to provide services to KB after his 18th birthday).

- Exhibit B: Family Action Plan
- Exhibit C: Youth Readiness Assessment Tool
- Exhibit D: Case Dictation, February 5, 2018 to May 24, 2018.
- Exhibit E: [REDACTED] Police Department arrest report
- Exhibit F: Criminal complaint
- Exhibit G: Case Dictation note May 8, 2018.

KB submitted no exhibits.

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, based upon the evidence and the hearing record as a whole, and on the information available at the time of and subsequent to the investigation, 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. KB (d.o.b. [REDACTED]) became involved with the Department in 2017, after his father filed a Child Requiring Assistance (CRA) petition due to KB's behaviors including truancy, coming home late, not following rules and generally having a contentious relationship with his father. (Testimony of the Department social worker).
2. The Department assigned an in-home therapy team to work with the family. The family's engagement in services was inconsistent. The team had difficulty setting up times to meet with KB. They attempted to meet with him at school, but he was often truant. KB wet AWOL for much of the summer. In October 2017, KB was placed in the Department's custody. (Testimony of the Department social worker; Exhibit B).
3. The Department placed KB in a residential placement in November 2017. (Testimony of the Department social worker).
4. KB continued to exhibit behavior problems. He was not following the rules of the placement. He was truant and making no progress academically. He is still at 9th grade level. He was smoking marijuana. He was frequently AWOL from the placement. (Testimony of the Department social worker).

5. In December 2017, the Department informed KB that the Department would not continue to provide services to him after he turns 18 on February 4, 2018. (Testimony of the former Department supervisor).
6. KB provided professional references in support of the Department continuing to provide services to him and, ultimately, the Department entered into a Voluntary Placement Agreement with KB when he turned 18 and continued to provide services and his placement. The reason for the Department's decision was, at least in part, due to the fact that it had not been 90 days since its notice in December that his case would be closed and to provide transitional planning. (Testimony of the Department social worker; Testimony of the former Department supervisor; Exhibit A).
7. After February 4, 2018, KB continued to exhibit the same behaviors and non-compliance with rules and expectations of the placement and the Department. He made no progress academically and was frequently truant. He continued to smoke marijuana and bring it into the program and he frequently appeared under the influence and smelled of marijuana. He was frequently AWOL. He was disruptive while in the placement. He was not working. (Testimony of the Department social worker; Exhibit D).
8. On March 19, 2018, the Department gave KB written notice that his case would be closed and services terminated on April 23, 2018, due to his continued non-compliance. (See KB's hearing request and attached notice of case closing letter, dated March 19, 2018).
9. On April 10, 2018, KB made a written request for a fair hearing to appeal the Department's decision. In his request, he asserted that he will attend meetings, engage in services, stop smoking marijuana and attend school. (See KB's hearing request).
10. On April 20, 2018, KB was arrested and charged with two counts of assault and battery with a dangerous weapon and one count of malicious damage to a motor vehicle. (Exhibit E; Exhibit F).
11. As of the date of the hearing (May 24, 2018), KB had demonstrated no significant improvement. (Testimony of the Department social worker; Testimony of KB's clinician; Exhibit D, pp. 15-56; Exhibit G).
12. KB testified at the hearing. He essentially acknowledged that he has been non-compliant with the placement and the Department. (Testimony of KB).
13. I find that the Department's decision to close KB's case and terminated services to him was made in conformity with Department regulations and with a reasonable basis.

Analysis

Department regulations provide that the Department is committed to assisting older adolescents and young adults in their transition to independence and self sufficiency. Towards that end, the Department may elect, on a case by case basis, to continue to serve children as they turn 18 years of age until their 22nd birthday. The decision to continue to serve individuals beyond age 18 is based upon their educational and/or rehabilitative needs, their willingness to enter into an agreement with the Department, and the availability of resources. Such decisions require the approval of the Area Director. 110 CMR 8.02.

The Department's Permanency Planning Policy sets forth guidelines for continuing to provide services to youth in the Department's care and custody beyond their 18th birthday until they turn 22 or the age of 23 under certain circumstances. The purpose of the "sustained connection" policy is to support the young adult in preparing to achieve success in living independently in the community.

In general, the guidelines assume a collaborative relationship between the Department and a young adult who is motivated to be successful and engaged in activities geared toward that end. The Department is allowed some flexibility in creating specific plans to meet an individual's needs and abilities, however, the priority is that the young adult will engage in a full time schedule of education/vocational programming or employment or a combination of the two that equals a full time schedule. The Department expects young adults to refrain from all criminal activity and to comply with the expectations set forth in service plan as well as those of any placement. Youth seeking a sustained connection with the Department must agree to a plan that meets those criteria.

If, at any time, the young adult fails to comply with the requirements set forth by the Department for sustained connection, the Department may elect to terminate the voluntary placement agreement (if applicable) and service provision. The Department must complete a 90 day transitional plan before terminating services and provide at least 30 calendar days of notice of the date services will be terminated and the case closed.

In this case, the Department began working with KB in early 2017, after his father filed a CRA due to his behavior problems and his father's difficulties dealing with him. The Department put in-home treatment services in place to try to assist the family. KB was resistant and did not engage in services in any meaningful way. He continued to exhibit the same problems. He was on the run for a most of the summer.

KB was placed in the Department's custody in October 2017. The Department placed him in a residential program in November 2017. KB was non-compliant with the program's rules and the Department's expectations. He continued to be truant. He was often AWOL. He was smoking marijuana and often appeared under the influence. He was disruptive in the program.

In December 2017, the Department gave KB notice that it did not intend to continue to provide services to him after he turned 18 on February 4, 2018.

Prior to his birthday, KB provided supportive letters from professionals who advocated for the Department to continue to work with him and the Department ultimately entered into a voluntary placement agreement with KB, in part, because it had not been 90 days since it gave KB the initial notice of his case closing.

Despite KB's agreement to the terms of the Voluntary Placement Agreement, there was no improvement in his behavior or compliance with the program's rules or the Department's expectations.

On March 19, 2018, the Department gave KB written notice that his case would close and his services (including placement) would be terminated on April 23, 2018.

KB requested a fair hearing to appeal the decision on April 10, 2018, however, as of the date of the fair hearing, he had made no significant improvement and he fully acknowledged that fact at the hearing. The Hearing Officer has no reason to doubt the clinical experience and judgment of the Department in the instant matter.

Conclusion and Order

The Department's decision to close KB's case and terminate services was made in conformity with the Department's 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, she may do so by filing a complaint in the Superior Court in Suffolk County, or in the county in which she resides, within thirty (30) days of the receipt of his 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



Sophia Cho, LICSW
Fair Hearing Supervisor

6/22/2018
Date