

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,149

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Appeal of)

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INTRODUCTION

The petitioner appeals several aspects of the Department of Social Welfare child support referral form. The preliminary issue is whether there is, in fact, an issue that the board has authority to consider at this time.

FINDINGS OF FACT

The petitioner recently applied for and was found eligible to receive ANFC benefits. When she first applied she was pregnant, and was eligible for benefits only for herself. At that time she was given Department of Social Welfare Form 137 to fill out. (A blank copy of this form is attached hereto.) On the form she provided all the information the Department asked except, because her child had not yet been born, that pertaining to the "children of this absent parent".

Shortly after the child was born (and was added to the petitioner's ANFC grant) the Department again provided the petitioner with its Form 137 and asked her to complete it. The petitioner refused, and requested this fair hearing.

At the fair hearing in this matter (held on August 18, 1993) the petitioner indicated she objected to the facts that the form itself did not adequately indicate to the absent father that she was not "voluntarily" (i.e., without the threat of the loss of her ANFC benefits) cooperating with the Department, and that information requested on the form regarding her and the father's parents (the child's grandparents) was unnecessary. The petitioner also objected to the fact that the legal department of the Department's child support division will not speak to her mother by telephone.

At the hearing, the Department responded that it had no objection to the petitioner leaving blank those

sections on the form regarding the child's grandparents, and that the petitioner could handwrite any notice she wished on the form regarding the circumstances of her "cooperation". Despite the current impasse over the petitioner filling out the form, the Department has taken no action regarding the petitioner's ANFC benefits.

ORDER

The petitioner's appeal is dismissed for lack of subject matter jurisdiction.

REASONS

3 V.S.A. § 3091(a) provides:

An applicant for or a recipient of assistance, benefits or social services from the department of social and rehabilitation services, the department of social welfare, the office of economic opportunity, the department of aging and disabilities, or an applicant for a license from one of those departments or offices, or a licensee, may file a request for a fair hearing with the human services board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his or her receipt of assistance, benefits or services, or license or license application; or because the individual is aggrieved by agency policy as it affects his or her situation.

In this case, the Department has taken no action whatsoever regarding the petitioner's ANFC grant. The petitioner requested a hearing based on her objections to Form 137 itself. At this point, however, it is up to her to decide whether or to what extent she will fill out the form; and it is up to the Department whether it will construe any action or inaction by the petitioner related to filling out the form to be a refusal by the petitioner to cooperate with the collection of child support.⁽¹⁾ The Department has agreed, however, that the petitioner can add any caveat she wishes to the form and that she need not fill out the information regarding the child's grandparents. Whether or not the Department's child support legal division chooses to speak by phone to the petitioner's mother does not appear to have any bearing whatsoever on the petitioner's benefits or personal circumstances.

Therefore, it must be concluded that there is no issue in this appeal at this time that falls under the purview of § 3091(d), supra. The petitioner's appeal is dismissed.

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1. See W.A.M. §§ 2331.3 Et. Seq.