

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 15,492
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Appeal of)
)

INTRODUCTION

The petitioner appeals the decision by the Department of Social and Rehabilitation Services (SRS) limiting her foster care license to the care of one child, who has resided in her home for several years.

FINDINGS OF FACT

1. The petitioner lives with her husband and their three children. For several years she has been licensed to provide foster care in her home.

2. In August, 1997, the petitioner was providing foster care for a teenage boy who had lived in her home for several years.

3. On August 29, 1997, an SRS licensing social worker visited the petitioner's home at the request of the SRS district office, which had reported concerns with the petitioner's ability to provide foster care.

4. When the social worker visited, the petitioner's three children, who then ranged in age from two to fifteen, were at home. The social worker was in the home for about two hours.

5. During that time the social worker observed that the petitioner seemed to have no control over her children's

behavior. The younger two children were fighting with one another, and the youngest one swore at and defied the petitioner directly.

6. The petitioner admitted to the social worker that for the previous several months she had had significant health issues. She had been hospitalized with respiratory problems, had suffered memory lapses, and was taking anti-depressants.

7. Because the petitioner had been caring for a teenage foster child for several years, the social worker concluded that the petitioner's health problems and inability to control her own children did not warrant removing this foster child from her home. However, the social worker concluded that the petitioner's foster license should be limited to that child, and that no new foster children should be placed in the home.

8. On September 24, 1997, SRS sent the petitioner a letter setting forth the above limitation on her foster care license.

9. The petitioner does not dispute most of the findings of the social worker who visited her home that day. She maintains, however, that this home visit spurred her to seek counseling and classes in parenting skills.

10. Letters from the petitioner's doctor and early childhood educators who have worked with the petitioner over the past year and a half attest to the petitioner's improved

health and progress in learning effective parenting skills.

11. At the hearing in this matter (held on February 8, 1999) SRS agreed to consider these reports if the petitioner reapplies for a foster license.¹ The foster child who was allowed to remain in the petitioner's home still lives there, even though he is no longer a minor under SRS supervision.

12. Based on the above, it must be found that SRS was justified when, in September, 1997, it limited the petitioner's foster license to one specific foster child. At that time the petitioner was clearly limited by physical and emotional health problems that would have affected her ability to properly care for any new foster children placed in her home.

ORDER

The Department's decision is affirmed.

REASONS

The Commissioner of SRS is charged by law with the administration of the foster care program. See 33 V.S.A. §§ 304(b)(2) and 3501. The statutes specifically authorize the Commissioner issue licenses and prescribe the standards and

¹ The Commissioner's Review, and then the fair hearing, were delayed several months in part due to the petitioner's continuing health problems.

conditions to be met for licensure. 33 V.S.A. § 306(1).

Although the Department in this case has not cited any specific regulations, it is axiomatic that providers of foster care must have the physical and emotional health necessary to adequately care for children. As noted above, the petitioner does not dispute that in August and September, 1997, and continuing until sometime last year, she suffered from various health problems that impaired her ability to care for children. Therefore, it must be concluded that the Department was within its discretion in limiting the petitioner's foster care license to the one child who was already in her care.

However, the Board's consideration in this matter is limited to the Department's September, 1997, decision, and is based on the facts that existed at that time. As noted above, it now appears that the petitioner has made significant strides in recovering her health and improving her parenting skills. It is hoped that the Department will keep an open mind if the petitioner decides to reapply for a license to provide foster care to other children.

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