



OCS maintains that in its professional judgement an appeal of that order is without merit, and it has declined to file one. Following an Administrative Review Hearing the OCS review officer upheld that position in a decision dated February 22, 2005.

In her appeal to the Board the petitioner maintains that OCS should be ordered to appeal the Family Court's order and seek additional child support and arrearages in her behalf. OCS maintains that the Board is without jurisdiction to consider the petitioner's appeal.

ORDER

The petitioner's appeal is dismissed because the Board lacks subject matter jurisdiction to hear it.

REASONS

Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. 19,426 and 19,315.

The Board has also held that it has jurisdiction over OCS administrative decisions only in very limited cases. See, e.g., Fair Hearing Nos. 19,393 and 16,055. These cases are mainly limited to the jurisdictional mandate found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a 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 . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A. Those policies also provide that "decisions involving the professional judgement of legal staff" are not subject to administrative review. *Id.* 2800A.

Under Vermont statutes OCS is "responsible for the operation of the federal IV-D program", which includes collection and enforcement of child support. 33 V.S.A. § 4102(a). In its duties OCS is to be "guided by the best interests of the child". However, OCS does not directly represent individual parents or children. See 42 U.S.C. § 651 et seq. Under Vermont Rules of Civil Procedure and Professional Responsibility attorneys for OCS are required to exercise their judgement determining the merit of claims they initiate or continue. Rule 11 V.R.C.P., EC 7-14 V.C.P.R.

In this case OCS represents to the petitioner and the Board that in its professional judgement an appeal of the order of the Lamoille County Family Court would be "without merit". If the petitioner disagrees with the professional judgement of OCS regarding such an appeal she is free to pursue it on her own or to seek her own legal counsel. If she feels that OCS has not discharged its statutory responsibilities to her children in this case, she is also free to institute a complaint before the Professional Conduct Board. However, in light of the above statutes and regulations it cannot be concluded that 3 V.S.A. § 3091(d) confers jurisdiction on the Board to review the professional judgement of OCS in individual cases before the Vermont

Family Court. Therefore, the petitioner's appeal is dismissed.

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