

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. J-03/23-196
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Appeal of))
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INTRODUCTION

Petitioner’s appeal stems from numerous emails she has submitted to the Human Services Board (“Board”) alleging conduct or omissions by the Department for Children and Families (“Department”) concerning her children. The following is based on a status conference held May 1, 2023, and numerous email submissions from petitioner spanning the time period of March 2023 through September 2023. The primary issue is the Board’s jurisdiction.

FINDINGS OF FACT

1. Petitioner initially contacted the Board by email on March 23, 2023, to file a “discrimination” complaint against the Department’s Family Services Division related to her biological children, as well as a complaint against the adoptive parents of one (1) of her children. Petitioner’s email referenced a previous substantiation which had been reversed on appeal to the Vermont Supreme Court and suggested that her grievance arose from the Department’s failure to properly implement that decision.

2. After determining that the Family Services Division did not have an active substantiation or expungement decision concerning petitioner, the Board’s

Clerk emailed petitioner and informed her that her appeal had not been accepted because it did not involve a decision or issue falling under the Board's jurisdiction.

3. Petitioner then emailed the Board's Clerk several times, objecting to the rejection of her appeal request. As a result, the matter was docketed and scheduled for a telephone status conference on May 1, 2023.

4. During the telephone status conference, petitioner continued to express her frustration with the Family Services Division ("FSD") as well as the adoptive parents of one of her biological children. With respect to the FSD, petitioner's focus was on a particular case worker she felt was discriminating against her (for unspecified reasons) and unfairly blocking her from seeing her children.

5. Following the status conference, petitioner continued to email the Board, most recently as of September 18, 2023, and expressed similar concerns and frustrations concerning her case worker, access to her children, and the adoptive parents of one of her children.

6. Petitioner has not identified any specific action or omission by the Department concerning a service or benefit she is receiving and as to which she has been aggrieved.

7. Petitioner has been referred to a FSD District Office complaint procedure, Vermont Legal Aid, and the Defender General's Office, which handled her prior substantiation appeal, during this process.

ORDER

Petitioners' appeal is dismissed for lack of Board jurisdiction.

REASONS

Petitioner's fair hearing request presents the threshold question of the Board's jurisdiction. The Board's primary jurisdictional statute provides that:

An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, of Vermont Health Access, of Disabilities, Aging, and Independent Living, or of Mental Health, or an applicant for a license from one of those departments, 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.

3 V.S.A. § 3091(a) (emphasis added).

In addition, the Board has jurisdiction over areas that have been specifically delineated by rule or statute, such as DCF substantiation and expungement review decisions. See, e.g., 33 V.S.A. § 4916b. The Board has consistently held that the proper legal forum for placement or custody issues is the Family Division of Superior Court, not the Human Services Board—even to the extent the Family Division is, in turn, limited by the Department's discretion to make specific placement decisions. See Fair Hearing Nos. T-05/20-351¹; 7809, 9455, 15108, and 17726. Petitioner is not appealing any decision as “an applicant for or recipient” of “assistance, benefits

¹ This Board decision was affirmed on appeal by the Vermont Supreme Court. See *In re T.O. & L.O.*, 2021 Vt. 41, ¶16 (denial of participation in “suitability assessment” by FSD does not trigger Board jurisdiction as a “service” denial).

or social services” from the Department, nor is she appealing a substantiation or expungement decision. Rather, petitioner is challenging actions (as alleged) by a family services case worker regarding her children, as well as objecting to conduct (as alleged) of the adoptive parents of one of her children. These are not issues or areas falling within the Board’s jurisdiction.

For the above reasons, petitioner’s fair hearing request must be dismissed as beyond the Board’s jurisdiction. See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4(D).

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