

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. A-05/08-210
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Family Services Department, to substantiate risk of harm to a child. The issue is whether the Department can show by a preponderance of evidence that the petitioner placed his child at risk of harm.

DISCUSSION

The Department is required by statute to investigate allegations of abuse including risk of harm. If the Department ascertains that an individual has placed his/her child at risk of harm, the Department will substantiate the allegation 33 V.S.A. §§ 4914, 4915 and 4916.

The fair hearing process allows an individual to challenge the Department's decision to substantiate risk of harm. The Fair Hearing Rules place the burden of proof upon the Department to show by admissible and relevant evidence that the individual should be substantiated for risk of harm. Fair Hearing Rule No. 1000.30.5.

Petitioner's fair hearing commenced on June 18, 2009. At hearing, the Department indicated that they were unable to proceed with evidence in this case and indicated the case should be dismissed. To effectuate taking petitioner's name off the registry, a decision rather than a dismissal is necessary. Both parties have stated they have no objection to a decision that the Department's decision to substantiate is reversed.

ORDER

The Department is unable to proceed with evidence in this matter. Accordingly, the Department's decision to substantiate petitioner for risk of harm is reversed.

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