

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-05/09-292  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Family Services Division, to deny her request to expunge a child support substantiation.

The petitioner filed her appeal with the Human Services Board on May 26, 2009. A telephone status conference was scheduled for June 30, 2009.

In the interim, the Department filed a Motion to Dismiss Petitioner's Untimely Appeal on June 20, 2009. The Department stated that the petitioner was notified of the Department's decision that her expungement request was denied in a letter dated January 21, 2009. The Department argued that the petitioner's request for a fair hearing was untimely because she did not make her request within the thirty day appeal period.

The Board was not able to reach petitioner at the time allotted for a telephone status conference on June 30, 2009. Petitioner telephoned that same day to apologize and explain

that she was under the impression that the case was not happening because of the Motion she received.

The hearing officer sent the parties a Memorandum on July 1, 2009 giving petitioner the opportunity to respond to the Department's Motion by July 17, 2009.

The petitioner submitted a letter in response to the Motion. Petitioner explained why her record should be expunged based on the changes she has made and the help she has accessed for her children. But, she did not address the timeliness of her fair hearing request.

ORDER

The Department's Motion to Dismiss the petitioner's appeal as untimely is granted.

REASONS

Appeals from denials of expungement requests are covered by Fair Hearing Rule No. 1000.2F which provides that appeals "must be made **within 30 days** from the date the grievance with the affected office or department arose, unless otherwise provided by statute or regulations." The statute governing expungement requests from the registry does not otherwise provide; the statute gives an aggrieved party a thirty day

period for appeal from the date the commissioner mailed the expungement decision. 33 V.S.A. § 4916c(e).

Because petitioner's request for fair hearing arose more than thirty days from the date of the commissioner's review letter, the petitioner's request for fair hearing is dismissed as untimely. 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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