

**The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Children and Families
Central Administrative Office
Office of the General Counsel
600 Washington Street, 6th Floor
Boston, Massachusetts 02111**

**Linda Spears
Commissioner**

**Voice: (617) 748-2000
FAX: (617) 261-7428**

**IN THE MATTER OF:
K.G.
FH# 2017-1187**

FAIR HEARING DECISION

The Appellant, K.G., appealed the Department of Children and Families' [hereinafter "DCF" or "the Department"] Park Street Area Office decision of August 17, 2017, to close the Appellant's DCF on-going young adult case and terminate services, pursuant to 110 CMR 10.06 (4) & (10).

Procedural History

The Appellant is now a twenty-two year-old adult who, when she turned eighteen on [REDACTED] 2013, signed a voluntary placement agreement [VPA] for continued support from the Department. On August 17, 2017, when the Appellant was twenty one and just short of her twenty-second birthday, the Department made a decision to terminate services and close the Appellant's case as of September 16, 2017. The Department declined to extend the Appellant's case to her twenty-third birthday, which will be on September 9, 2018. The Appellant was notified of the decision and her appeal rights by a letter dated August 17, 2017, which was mailed to the Appellant at her sister's home where she lived and delivered in hand to the Appellant at the DCF Park Street Area Office on or about September 5, 2017. Through her attorney and by fax, the Appellant filed a request for Fair Hearing ["Hearing"] on September 18, 2017. This was granted and the Appellant's DCF on-going case remained open, pending the outcome of her appeal.

The Appellant's Hearing was held on December 21, 2017 at the Department's Park Street Area Office in Dorchester, MA. Present were the DCF Area Program Manager [APM] G.S.; the DCF On-Going Supervisor, S.C.; the DCF On-Going Social Worker, M.T.G.; the Appellant's Attorney, S.L.; and, the Appellant. With the exception of the Appellant's attorney, all others were sworn in and testified at Hearing. The proceeding was digitally recorded, pursuant to 110 CMR 10.29, and transferred to compact disc [CD].

Admitted into evidence for the Department was the Appellant's Discharge Summary of October 2017 from The [REDACTED] Resource Network [REDACTED] Program [Exhibit A]; the Appellant's DCF Case Closing Letter of August 17, 2017 [Exhibit B]; and, the Appellants DCF Closing Summary (partial): Case History Put in on September 12, 2017 [Exhibit C].

Admitted into evidence for the Appellant was the Appellant's DCF Foster Care Review Report. Approved in August 2017 [Exhibit 1]; the DCF Permanency Hearing Report Filed with the Court on December 18, 2017 [Exhibit 2]; the Appellant's DCF Foster Care Review Report Approved on July 15, 2016 [Exhibit 3]; the Appellant's DCF Service Plan Covering February 4 to August 4, 2016 [Exhibit 4]; An Overview of [REDACTED] (RN Program) [Exhibit 5]; the Appellant's Statement of December 21, 2017 [Exhibit 6]; and, a Letter of September 25, 2017 from Program Director, L.P. [Exhibit 7]. The Hearing Record was closed on January 19, 2018, following receipt of Exhibit 7.

In accordance with 110 C.M.R. 10.03, the Hearing Officer attests to impartiality in this case, having had no direct or indirect interest, personal involvement, or bias in this case.

Pursuant to 110 C.M.R. 10.21 (1), the Hearing officer need not strictly adhere to the rules of evidence. The Massachusetts Rules of Evidence do not apply but the Hearing Officer shall observe any privilege conferred by statute such as social worker-client, doctor-patient, and attorney client privileges. Only evidence, which is relevant and material, may be admitted and may form the basis of the decision. Unduly repetitious or irrelevant evidence may be excluded.

Standard of Review

The issue presented in this Hearing is whether, based on the evidence and the Hearing record as a whole, the Department's decision or procedural action, in terminating the Appellant's DCF services and closing her voluntary case, violated applicable statutory or regulatory requirements, or the Department's policies or procedures, and resulted in substantial prejudice to the Appellant. If there is no applicable statute, policy, regulation or procedure, the question is whether the Department failed to act with a reasonable basis or in a reasonable manner, which resulted in substantial prejudice to the Appellant. 110 CMR 10.05

Findings of Fact

1. The Appellant was born on [REDACTED], nearly twenty-two years-old, when the Department made its decision to close the Appellant's on-going case on August 17, 2017; and, twenty-two when her Hearing was held on December 21, 2017. [Exhibit B; Exhibit C; Testimony of the On-Going Social Worker]
2. The Department declined to extend the Appellant's case to age twenty-three because the Appellant did not fully engage in services, had a criminal record, and had not renewed her green card at that time. Thus, the Department made a decision on August 17, 2017 to close the Appellant's young adult case and terminate DCF services in a month. [Exhibit B; Testimony of the On-Going Social Worker]

3. The Appellant became involved with the Department at a young age due to neglect and abandonment by her mother. [Testimony of the On-Going Social Worker]
4. The Appellant was born in [REDACTED] and brought to the United States by her brother and eventually cared for by a guardian, who was identified by her mother. In 2006, the guardian left Massachusetts, leaving the Appellant in the care of a friend who, in turn, left the child in the care of another person. [Exhibit C; Exhibit 2; Exhibit 6; Testimony of the On-Going Social Worker; Testimony of the Appellant]
5. The Department assumed custody of the twelve year-old Appellant in 2008, via a care and protection petition. Custody continued until [REDACTED] 2013, when the Appellant turned eighteen and signed a Voluntary Placement Agreement [VPA] with the Department's Park Street Area Office for continued support. [Exhibit 1; Exhibit 2; Exhibit 6; Exhibit C; Testimony of the On-Going Social Worker; Testimony of the Appellant]
6. The Appellant is not a U.S. citizen. She has since lost two of her green cards, but at the time of her Hearing of December 21, 2017, had obtained a new one and was asking questions of her on-going social worker about citizenship. [Testimony of the On-Going Social Worker; Testimony of the Appellant; Exhibit C]
7. The Appellant's permanency planning goal is Alternative Planned Placement Living Arrangement [APPLA]. This goal was previously established on May 21, 2011. [Exhibit 1; Exhibit 4]
8. The Appellant has a diagnosis of Post Traumatic Stress Disorder [PTSD] due to a history of physical abuse, neglect, and sexual abuse. She struggled with school, housing, and with consistent therapy to address her past trauma. [Exhibit C; Testimony of the On-Going Social Worker]
9. Although the Appellant has a lot of potential, this has been offset by her inability to manage her PTSD and substance abuse. [Exhibit C]
10. In June or July 2016, the Appellant was incarcerated for ninety days for violating a restraining order. This was in violation of the terms of her VPA contract with the Department. The Department could have closed the Appellant's case at the time, but chose not to. [Exhibit 2; Testimony of the On-Going Social Worker; Testimony of the Appellant]
11. At the time of the Appellant's Hearing of December 21, 2017, the restraining order was active and scheduled to expire in January 2018. [Testimony of the On-Going Supervisor]
12. The Appellant also faced charges filed by two staff members, whom she "boxed out" while in placement at a residential facility prior to her eighteenth birthday. [Testimony of the Appellant; Exhibit C]
13. The Department provided support to the Appellant by referring her to the [REDACTED] [REDACTED] RN program on December 28 2012. She was discharged from the program on [REDACTED]

██████████, 2017, when she turned twenty-two and because she was not utilizing services. The following is a brief, but not inclusive synopsis of her involvement in the program. [Exhibit A; Testimony of the On-Going Social Worker; Testimony of the Area Program Manager]

- (a) When first referred in 2012, the Appellant actively participated in services, maintained her weekly case management meetings, and addressed issues and concerns related to her DCF Service Plan [now Action Plan]. [Exhibit A]
 - (b) The Appellant's last known employment was as an adult entertainer at a club. The therapeutic life coach had many discussions with the Appellant about finding alternative, safe/stable employment; however, the Appellant was not interested in exploring other options. [Exhibit A]
 - (c) The Appellant's housing has been unstable for the past three to four years. She lived with her ex-boyfriend's family for a few months; then with a friend for several months until evicted for non payment of rent; then couch surfed in and around ██████████, and, then lived in an apartment by herself which her boyfriend damaged and during which time she struggled to pay the rent. During her last exchange with her life coach in July 2017, the Appellant was living with her adult sister in a scattered site shelter. [Exhibit A]
 - (d) The Appellant struggled with financial planning; would work odd jobs, and spend her money as soon as she received it. The Appellant's life coach attempted to work with her on budgeting, but the Appellant did not want the support.
 - (e) From July 2017 to September 2017, the Appellant's contact with her life coach was extremely limited. The Appellant did not return calls or texts. [Exhibit A]
 - (f) Upon discharge from ██████████ RN, the Appellant was participating in therapy. [Exhibit A]
14. The Appellant engaged in therapy on an inconsistent basis, predominately when in crisis. The Appellant can continue therapy, fee for service, when her case is closed. [Testimony of the On-Going Social Worker]
15. There is no dispute that the Appellant has a pattern of unstable housing. She had multiple placements prior to her eighteenth birthday and was on the run. The Department explored pre-independent placements and programs with the Appellant, like foster care, but the Appellant felt she was independent enough to navigate becoming a young adult without this support. Consequently, the Appellant lived in various apartments that she found for herself, and bounced around a lot per her choice. At one point, the Appellant rented a four bedroom house for \$1,200 which she could not afford and was evicted. Efforts were made to work with the Appellant on budgeting through ██████████ RN so she could live within her means. [Testimony of the On-Going Social Worker]
16. The Appellant's most stable living arrangement was with her adult sister, whom she was living with during the Spring of 2017. She remained there for three months in order to save

money for her own place. At that time, she was working as a dancer and making a lot of money. [Testimony of the On-Going Social Worker]

17. At her Hearing of December 21, 2017, the Appellant explained she was kicked out, because her sister chose her baby's father over her. After that, the Appellant slept in a car, which occurred three weeks ago, and then began living with a friend in [REDACTED] which is her current location. The Appellant said she has been looking for apartments all over – in Rhode Island, New York, New Jersey. She has been trying to get out of Massachusetts, because the Department was not helping her and she felt stuck. [Testimony of the Appellant]
18. The Appellant seeks a nice, safe, stable home and wants the Department's help in facilitating that. She opined that the Department has failed her in this regard. [Exhibit 6; Testimony of the Appellant]
 - (a) The Appellant testified at Hearing that she would like one of the many apartments at [REDACTED] through [REDACTED] RN. She reported having told the Department she wanted an apartment previously, even before she turned eighteen, however, the Department basically told her to "go f--- herself". [Testimony of the Appellant; Exhibit 6] In addition, the Appellant's attorney made concerted efforts at Hearing to settle the Appellant's appeal by seeking the Department's agreement to refer the Appellant to [REDACTED] [a very new [REDACTED] RN Program]. The Hearing record was left open to address this latter issue, but the Department declined to refer the Appellant, because the Appellant had not fully utilized the [REDACTED] RN program previously in place for her, and the program director of [REDACTED], having learned this, assigned the room to another young woman. [Exhibit 5; Exhibit 7; Administrative Hearing Record]
 - (b) According to the Appellant's on-going social worker, M.T.G., the Appellant never told her that she wanted more structure, e.g., at [REDACTED] or [REDACTED]. The Appellant, at the time of the decision to close her case, was living with her sister and able to manage her living arrangements. She was not homeless. If she had been, the Department would not have been able to approve the Appellant for area office stipends to help with rent. [Testimony of the On-Going Social Worker]
 - (c) At the present time, the Appellant completed several housing applications, state and federal and is on waiting lists. She was also informed about several shelters such as The Bridge Over Troubled Waters, which she does not want to utilize, and the Pine Street Inn. [Testimony of the On-Going Social Worker]
 - (d) The Appellant reported that at a shelter, she would have to get up at 7:00 a.m., which presented a problem since at that time she worked nights and did not get off until 2:00 a.m. [Testimony of the Appellant]
 - (e) The Appellant does not dispute being on the wait list for subsidized housing [Section 8]. [Testimony of the Appellant]

- (f) There is a housing crisis and priority has been given to women with children, which the Appellant does not have. Consequently, she has been on the wait list for quite some time. [Testimony of the On-Going Social Worker]
19. The Appellant has received financial help from DCF and Department of Transitional Assistance [DTA]:
- (a) The DCF Park Street Area Office approved young adult support payments, i.e., a monthly stipend, to help the Appellant pay some of her rent to keep herself safe. This has been in place for the last four years. The Department terminated this stipend. The Appellant's last payment from the Department to the Appellant was in September 2017. [Testimony of the On-Going Social Worker]
- (b) The Appellant reported not needing any money because she can find a way of making money and she is good at saving. She has learned [the hard way] that, as long as she is not around the "wrong crowd", she will be alright and not lose everything. [Testimony of the Appellant; Exhibit 6]
- (c) The Appellant receives Supplemental Nutrition Assistance Program [SNAP] benefits, i.e., food stamps, to help her purchase groceries. [Exhibit C; Testimony of the On-Going Social Worker]
20. The Appellant has a driver's license [Exhibit C] and was able to buy her own vehicle. [Testimony of the Appellant]
21. The Appellant receives Mass Health, which will remain in effect until she turns twenty-five, even if her case closes. [Exhibit C; Testimony of the On-Going Social Worker]
22. The Appellant's education is "slowly" progressing:
- (a) The Appellant did not finish high school, but took the High School Equivalency Test [HiSET] and obtained her GED in 2016. Prior to this, the Appellant was not in school nor engaged in any vocational training. [Exhibit 2; Testimony of the On-Going Social Worker; Testimony of the Appellant]
- (b) The Appellant has always talked about wanting to go to college, but she struggled to get her GED and was focused on working a lot. On her twenty-first birthday, the Appellant said she would commit to a community college, but that did not happen. [Testimony of the On-Going Social Worker]
- (c) The Appellant does not dispute starting school late. She reported that she did not want to go to school, she wanted to experience life. She worked multiple jobs, including dancing and stripping. When she got bored of working, she decided it was time to go to school. [Testimony of the Appellant]

- (d) The Appellant registered for two classes at a community college on [REDACTED] 2017; a week before her twenty-second birthday and just after the Department made a decision to close her case on August 17, 2017. The Appellant provided her DCF on-going social worker with documentation of her enrollment. Because the Appellant lost her green card and delayed in securing another, her ability to apply to educational programs was impeded. [Testimony of the On-Going Social Worker; Exhibit 1]
- (e) The Department had the option of extending the Appellant's case to age twenty-three, if she was close to graduating with an associate degree or a bachelor degree or from a vocational training program, for example. In this case, the Appellant had only registered for her first classes at a community college on [REDACTED], a week before her twenty-second birthday, so the Department chose not to extend her involvement. [Testimony of the On-Going Supervisor; Testimony of the Area Program Manager]
- (f) The Department was aware that the Appellant was employed as a stripper at a club; however, at her Hearing of December 21, 2017 [Testimony of the On-Going Social Worker], the Appellant testified that she no longer works, because she wants to attend school, though also testified that she just completed an application to work for [REDACTED] from 4:00 a.m. to 9:00 a.m., and is waiting to hear. [Testimony of the Appellant]
- (g) The Appellant reported just taking her finals and said she did really well. She said she is currently taking two classes and plans to pick up a third class for the next semester. The Appellant is trying to stay on a positive track to complete college, but acknowledged she has gotten sidetracked. [Testimony of the Appellant]
- (h) The Appellant is eligible for a tuition waiver at a state or community college, until she is twenty-five, even if her case closes. [Exhibit C; Testimony of the On-Going Social Worker]
23. Pursuant to 42 USC §675 (5)(H) and the Department's Permanency Planning Policy, the Department provided the Appellant with assistance and support in developing a transition plan. This has been done on a continuous, regular basis, started early, and included discussions with the Appellant about her goals, education, employment, living arrangements, and what other things were needed to be in place. [Testimony of the On-Going Social Worker]
24. The Appellant testified that she is not perfect. She said that she has made a lot of mistakes, because she wants a lot for herself and sees things differently than others, and tries to advocate for herself in a "very strong demeanor way". The Appellant said that "being an adult is super hard" and she is "really trying to get the hang of it". She reports trying to balance work with school and with her normal life and all its daily activities. [Testimony of the Appellant]
25. The Appellant received support from her probation officer; from DCF, though case management will terminate upon case closure; the [REDACTED] RN program, which terminated in September because the Appellant did not avail herself of full services; [REDACTED], Inc.; [REDACTED]

██████████ Employment Service]; her attorney, S.L.; and an outreach social worker, M, who will be available to her after case closure. [Exhibit A; Exhibit C; Testimony of the On-Going Social Worker; Testimony of the APM]

26. The Appellant has an adult sister, but the Appellant reports their relationship is unstable. The Appellant has a lifelong connection with her former foster mother, Mrs. ██████████, and with her attorney. [Exhibit A; Exhibit C; Exhibit 2; Testimony of the Appellant; Testimony of the On-Going Social Worker]
27. The Appellant is smart and knows how to navigate her community. She is able to access community based services and other public assistance services, independently. [Exhibit 2; Testimony of the On-Going Social Worker]
28. Pursuant to the Department's case closing policy at #86-007, revised 12/3/17, generally, cases are recommended for approval to the Area Program Manager for closure, when Department involvement is no longer necessary to support and sustain child safety and well-being. The social worker and supervisor, in discussion with the family/young adult, identify a case for closure for one of the following reasons, as it pertains to the young adult: (1) The young adult has turned 22, no extension was been granted, a transition plan is complete, and a lifelong connection identified. In the instant case, the Department met this particular criterion. Therefore the Department's decision to close the Appellant's case and terminate services is affirmed.
29. Pursuant to 110 CMR 8.02, the Department is committed to assisting older adolescents and young adults in their transition to independence and self-sufficiency." As such, the Department continues ...to serve children as they turn 18 years of age and up until their 22nd birthday, to the extent that other departments (for example, ...DMH,...DMR, etc.) are not primarily responsible for such persons. The decision to continue to serve individuals beyond age 18 years of age is based on their educational and/or rehabilitative needs, their willingness to enter into an agreement with the Department, and the availability of resources ... In the instant case, the Appellant has engaged in therapy on an inconsistent basis and only enrolled in community college just shy of her twenty-second birthday. She is now twenty-two and about five months shy of her twenty-third birthday.

Analysis

A young adult, age eighteen or older, may appeal the Department's decision of August 17, 2017, to terminate services and close her on-going young adult case. [110 CMR 10.06 (4) & (10). Through her attorney, the Appellant filed a request to appeal the decision made by the Department's Park Street Area Office. This request was granted and the Appellant's Hearing held on December 21, 2017.

Applicable statutes, regulations, and policies pertaining to the instant case include, but are not limited to, the following.

Pursuant to M.G.L. C.119, §23(f),¹ the Department has a mandate that it "...shall offer to continue its responsibility to any young adult² who is under the custody, care, or responsibility of the department including, but not limited to, those persons who meet any of the criteria set forth in 42 USC §675(8)(B)(iv): (i) for the purposes of specific educational or rehabilitative programs, or (ii) to promote and support that person in fully developing and fulfilling that person's potential to be a participating citizen of the commonwealth under conditions agreed upon by both the department and that person. The department's continued responsibility for such persons is contingent upon the express written consent of the person or their guardian unless..." certain conditions are present. M.G.L. c.119, §23(f). (Emphasis added.) "The purposes and conditions of such responsibility may be reviewed and revised or terminated by either the person or the department; provided, however, that within 90 days before the termination of such responsibility, the department shall provide the person with assistance and support in developing a transition plan which fulfills the requirements of 42 USC §675(5)(H)." Id.

As per 42 USC §675(5)(H), "during the 90-day period immediately prior to the date on which the child will attain 18 years of age, or such greater age as the State may elect under paragraph (8)(B)(iii),³ ... a caseworker on the staff of the State agency, and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, and is as detailed as the child may elect." Id.

Pursuant to DCF regulation at 110 CMR 8.02, the Department is committed to assisting older adolescents and young adults in their transition to independence and self-sufficiency." As such, the Department continues ...to serve children as they turn 18 years of age and up until their 22nd birthday, to the extent that other departments (for example, ...DMH,...DMR, etc.) are not primarily responsible for such persons. The decision to continue to serve individuals beyond age 18 years of age is based on their educational and/or rehabilitative needs, their willingness to enter into an agreement with the Department, and the availability of resources. Such decisions require the approval of the Area Director."

Pursuant to 110 CMR 10.02, a Young Adult is defined as an individual between the ages of 18 and 22.

Pursuant to 110 CMR 10.09, the filing of a request for Fair Hearing shall stay or otherwise affect the implementation of the challenged decision, when a request is made to deny services or to reduce the quantity of services and to close a recipient's case.

Pursuant to 110 CMR 10.23, to prevail, an Appellant must show based upon all of the evidence presented at the hearing, by a preponderance of the evidence that: (a) the Department's or Provider's decision was not in conformity with the Department's policies and/or regulations and/or statutes and/or case law and resulted in substantial prejudice to the Appellant, (b) the

¹ As amended by 2010, 359, Sec. 19, effective January 3, 2011.

² "Young adult" is defined as a person between the ages of 18 and 22. (M.G.L. c.119, s.21.)

³ A young adult "who has not attained 19, 20, or 21 years of age..." (42 USC §675(8)(B)(iii).)

Department's or Provider's procedural actions were not in conformity with the Department's policies and/or regulations, and resulted in substantial prejudice to the aggrieved party, (c) if there is no applicable policy, regulation or procedure, that the Department or Provider acted without a reasonable basis or in an unreasonable manner which resulted in substantial prejudice to the aggrieved party; or (d) if the challenged decision is a supported report of abuse or neglect, that the Department has not demonstrated there is reasonable cause to believe that a child was abused or neglected.

The Department's case closing policy at #86-007, revised 12/3/17, outlines the procedures governing case closing recommendations and approval. Generally, cases are recommended for approval to the Area Program Manager for closure, when Department involvement is no longer necessary to support and sustain child safety and well-being. The social worker and supervisor, in discussion with the family/young adult, identify a case for closure for one of the following reasons, as it pertains to the young adult: (10) The young adult who had chosen to sustain connection with the Department, is living successfully in the community, transition plan is complete, and a lifelong connection identified. (11) The young adult has turned 22, no extension had been granted, a transition plan is complete, and a lifelong connection identified. (12) The young adult, who had been in Department care or custody has reached age 18 or older, has declined to sustain Department connection, transition plan is completed, and a lifelong connection identified. (13) The young adult age 18 or older does not meet/no longer meets the criteria for a sustained department connection, transition plan is completed, and a lifelong connection identified.

The case closing policy also requires that the Department notify the young adult of the planned case closing and that written notification shall include, at minimum: (a) the specific date formal Department involvement will end; (b) the reasons the case is being closed; (c) contact information for current service providers and supports; (c) information on how to reconnect with the Department, if applicable; and, (d) the right of each family member or young adult who is a Department consumer to appeal the case closing decision through a fair hearing, if applicable. To prevent closing of the case, the request for a fair hearing must be received by the Department, as applicable: (1) within 14 days after receipt of the written notification by the family, or (2) within 30 days after receipt of the written notice by the young adult.

The Department's mandate with respect to its policy and procedures for Permanency Planning for Youth in Department Placements is provided in the Department's Permanency Planning Policy – Section 1 - pp. 52-63 (Effective 7/1/13). See applicable citations below:

Young Adult: A young adult is a person between the ages of 18 and 23.

Support for Continuing Education. The Department expects youth/young adults in placement to attend school regularly, to do their best in school, to graduate from high school or obtain a GED, and whenever possible, to continue their education in college or a vocational program after high school. Youth/young adults who remained in Department custody until age 18 or reconnect with the Department after turning age 18, ... may be eligible for various educational supports up to the age of 25, including: Foster Child Grant Program; Education and Training Voucher Program; Tuition and Fee Waiver Program; and, the William Warren Scholarship Program.

Planning Sustained Department Connection. The Department continues the provision of services beyond age 18 to young adults who remain in Department care or custody until their 18th birthday. The Department will offer each young adult the opportunity to continue with Department services beyond the age of 18. ...

Voluntary Placement Agreement (VPA). In order to continue in placement (or reenter placement), the youth/young adult signs a VPA for Young Adult Over 18 during the month prior to turning 18, or at the time they reenter placement. (Note: The six month limit on VPA's does not apply in cases involving youth over age 18; however, the VPA must be reviewed at least every six months and revised, if necessary.) A new VPA must be completed every 12 months.

Termination of a Young Adult's VPA. If, at any time, the young adult fails to comply with the requirements for sustained connection, the Department may elect to terminate the VPA and service provision. The Department must provide at least 30 calendar days' notice of termination of the VPA to the young adult, along with notice of the young adult's right to challenge the termination through the Department's fair hearing process. The young adult has the right to request a fair hearing to appeal the termination of services. The Department must also complete the 90 day transitional planning with the young adult prior to termination of the VPA.

90 Day Notice and Discharge/Case Closing Plan. Planning for discharge and case closing can begin at many different points, but the Department must, beginning 90 calendar days prior to discharge and case closing, provide a transition planning process in collaboration with the youth/young adult, based on an assessment of her/his readiness for living interdependently in the community, age and follow up supports. ... The Department must provide written notice to the youth/young adult at least 30 calendar days prior to the anticipated date of discharge from placement and case closing (which may occur later).

During the 90 calendar days prior to case closing, the Department social worker and the adolescent outreach worker, if applicable, collaborate with the youth/young adult to plan specific tasks/activities necessary to address identified needs and achieve targeted goals, as well as the person responsible to assist in the process. The discharge and transition planning should include a description of the resources that will be available to the youth/young adult and documents to be provided to the youth/young adult prior to case closing including: appropriate and stable housing arrangements; employment/source of income; appropriate community resources; consistent, caring adult(s) with whom the youth/young adult is anticipated to maintain a life-long relationship; the medical, dental and education information from DCF records; and original social security card, birth certificate, etc.

Discharge Support Program. Subject to the limitations of funding, the Discharge Support Program may be able to provide financial support to young adults who are transitioning to living interdependently as adults. Discharge support may include: payment toward first/last month's rent, security deposit, essential household items, or other related needs, e.g., bus passes, work-related items, union dues.

To be eligible for the Discharge Support Program, the young adult must be: age 19 through 20, including a young adult reconnecting with the Department; ...

Fair Hearing. Youth/Young adults turning 18 or older have the right to appeal the Department's decisions to discharge the youth/young adult from placement, not to continue services beyond age 18, and closing the youth/young adult's case through the fair hearing process. If the youth/young adult files for a fair hearing, an area manager sends notice of the fair hearing request to the youth/young adult's social worker for inclusion in the case record, and the Department continues to provide services to the youth/young adult. The youth/young adult will need to sign a VPA in order for placement services to the youth/young adult to remain unchanged until the fair hearing outcome is received. Until the fair hearing outcome is received, existing services will continue and the Department social worker will not close the youth/young adult's case.

The Department's policy and procedures for all cases, including young adults, may be found within the Department's Family Assessment and Action Planning Policy #2017-01, effective 2/6/2017.

Upon review of the parties' evidence, the Hearing Officer finds for the Department in the matter under review. See Findings #1-#29 and the below discussion.

The Appellant and her attorney's primary argument during this Hearing was the Appellant's need for a safe, stable living arrangement. There is no dispute between the parties in this appeal that the Appellant's living arrangements have been unstable over time. Despite the Appellant's argument otherwise, however, the Hearing Officer finds that the Department offered the Appellant placement options, which she declined, preferring instead to navigate becoming a young adult without this support. As a result, the Appellant lived in various apartments and bounced around a lot at her choice, but was never homeless. Now, at the age of twenty-two, nearing twenty-three, the Appellant requests an apartment through the [REDACTED] RN Program, which required a referral from the Department. The Department declined to initiate the referral during the Hearing process, because the Appellant had not fully utilized the [REDACTED] RN Program previously in place for her. See Finding #18. At no time did the Appellant request an apartment through [REDACTED] RN Program] from her current on-going social worker, until her Hearing of December 21, 2017, when twenty-two. At present, the Appellant is living with a friend in [REDACTED], is on state and federal wait lists for housing, and has been provided information about some shelters.

The Appellant has been provided with significant support from a number of agencies and individuals, though she did not always avail herself of this support, engaged in transitional planning with the Department on an on-going basis, and have lifelong connections with a former foster mother, Mrs. [REDACTED] and with her attorney. She owns a vehicle, receives SNAP benefits; will receive Mass Health up to her twenty-fifth birthday; and, although she started late in life to resume her schooling at a community college by her choice, she is eligible for a tuition waiver up to her twenty-fifth birthday. The Appellant by her own report has been employed in a variety of positions, has currently applied to [REDACTED] for a position, and testified that she has no need of money from the Department, because she can make money herself and save it, provided she stays away from the wrong crowd, which she has learned the hard way.

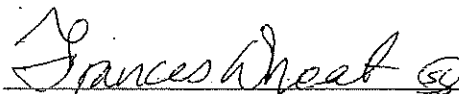
The Appellant is a strong woman able to advocate for herself and able to access community and public assistance services, independently.

To prevail in this appeal, the Appellant must demonstrate, by a preponderance of the evidence, that the Department's decision or procedural action, to terminate close her don-going young adult case and terminate services, violated applicable statutory or regulatory requirements, or the Department's policies or procedures, and resulted in substantial prejudice to the Appellant. If there is no applicable statute, policy, regulation or procedure, the question is whether the Department failed to act with a reasonable basis or in a reasonable manner, which resulted in substantial prejudice to the Appellant. The Hearing Officer finds, in this appeal, that the Appellant has not met her burden of proof. [110 CMR 10.23]

Order

1. The Department's decision of August 17, 2017, to Close the Appellant's Young Adult On-Going Case, is **AFFIRMED**.

This is the final administrative decision of the Department. If the Appellant wishes to appeal this decision, she may do so by filing a complaint in the Superior Court in Suffolk County, or in the county in which she resides, within thirty (30) days of the receipt of this decision. (See, M.G.L. c. 30A, §14.) In the event of an appeal, the Hearing Officer reserves the right to supplement the findings.



Frances I. Wheat, MPA
Administrative Hearing Officer
Office of the General Counsel

6/21/2018

Date



Sophia Cho, LICSW
Supervisor of Fair Hearing Unit
Office of the General Counsel