

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Petitioner

Reg. No: 2007-14094

Issue No: 6029

Case No:

[REDACTED]

Load No:

Hearing Date:

November 7, 2007

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 722.627; upon the petitioner's request for a hearing. After due notice, an in-person hearing was held November 7, 2007.

ISSUE

Whether the Department of Human Services (department) properly denied petitioner's request to have her named expunged from the Children's Protective Services (CPS) Central Registry.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) On or about December 1996, the department received a complaint that petitioner had struck her child with a belt. On or about December 12, 1996, a CPS investigation was begun.

Child was examined and photos were taken of bruises and scabbed areas on the child's buttocks and hip. Petitioner was interviewed. After thorough investigation in compliance with the Child Protection Law, allegations against petitioner were substantiated and child was removed from home. A risk assessment was completed, scored "high" risk of further abuse, and petitioner was placed on Central Registry. Department Exhibit A, pgs 3-10.

(2) On or about February 2007, petitioner requested her named be expunged from the Central Registry, citing that child was returned to her home while still in school and that other children had remained in her custody.

(3) February 15, 2007, the department completed a second risk assessment based on the original 1996/1997 investigation. The risk assessment scored "high." Department Exhibit A, pg 11. March 6, 2007, the department sent petitioner written notice that the second risk assessment scored "high" and required entry on the Central Registry. Department Exhibit A, pg 1.

(4) April 19, 2007, the department denied petitioner's request for expungement. Department Exhibit A, pg 2.

(5) April 23, 2007, the department received petitioner's timely request for hearing.

#### CONCLUSIONS OF LAW

The purpose of Child Protective Services (CPS) is to assure that children are protected from further physical or emotional harm caused by a parent or other adult responsible for the child's health and welfare and that families are helped, when possible, to function responsibly and independently in providing care for the children for whom they are responsible.

The CPS program is based on the conviction that the protection of children is primarily the responsibility of parents. When parents and other responsible adults fail, and children are harmed

or at sufficient risk to warrant intervention, CPS intervenes to safeguard the rights and welfare of children whose families are unable or unwilling to do so.

By law, the department has the responsibility to receive and to respond to any complaint of child abuse, child neglect, sexual abuse, sexual exploitation, maltreatment or improper custody.

By law, the department shall maintain a statewide, electronic Central Registry to carry out the intent of the Child Protection Law. Prior to July 1, 1999, Central Registry cases were any case where allegations of child abuse or neglect were substantiated. Post July 1, 1999, Central Registry case means a Child Protective Services case the department classified under Sections 8 and 8d of the Child Protection Law as Category I or Category II. A Category II CPS case is one where Child Protective Services are required, the department determines that there is evidence of child abuse or neglect, and the structural decision making tool indicates a high or intensive risk of future harm to the child. If the investigation of a report conducted under this act fails to disclose evidence of abuse or neglect, the information identifying the subject of the report shall be expunged from the Central Registry. If evidence of abuse or neglect exists, the department shall maintain the information in the Central Registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead. 722.622; Section 2(c)(d); 722.627; Section 7(1). 722.628(d); Section 8d(1)(d). 722.627; Section 7(7).

In this case, the department conducted an investigation within the Child Protection Act. As the investigation substantiated abuse and required department services, the department was required by law to place petitioner's name on the Central Registry. Upon receiving petitioner's request for expungement, the department conducted a second analysis of the investigative results and arrived at the same conclusion: the risk at the time of further abuse was high making it a Category II case, also requiring placement on the Central Registry. At hearing, no testimonial

evidence was provided to substantiate that petitioner did not strike her son with a belt causing bruises and scabbed areas. Accordingly, a preponderance of evidence establishes that child abuse by the petitioner was substantiated, risk of further abuse to the child was high, and the department properly placed petitioner's name on the Central Registry. Therefore, petitioner is not eligible for expungement. Accordingly, the department has met its burden of proof and its action to deny expungement must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides that the department properly denied petitioner's request to be expunged from the Childrens Protective Services Central Registry.

Accordingly, the department's action is, hereby, UPHELD.

/s/ \_\_\_\_\_  
Jana A. Bachman  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: February 22, 2010

Date Mailed: February 22, 2010

NOTICE: The law provides that within 60 days of mailing of the above Hearing Decision the Petitioner may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing of this Hearing Decision, may order a rehearing.

2007-14094/jab

JAB/db

cc:

