

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF CHILDREN AND)	
FAMILY SERVICES,)	
)	
Petitioner,)	
)	
vs.)	Case No. 99-3962
)	
MARIE BURROWS,)	
)	
Respondent.)	
_____)	

RECOMMENDED ORDER

Pursuant to notice, a formal hearing was held in this case on January 13, 1999, at Miami, Florida, before Susan B. Kirkland, a designated Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Rosemarie Rinaldi, Esquire
Department of Children and Families
401 Northwest 2nd Avenue, Suite N-104
Miami, Florida 33128

For Respondent: Marie Burrows, pro se
409 Northwest 48th Street
Miami, Florida 33127

STATEMENT OF THE ISSUE

Whether Petitioner should revoke the foster home license of Respondent.

PRELIMINARY STATEMENT

By letter dated April 21, 1998, Petitioner, Department of Children and Family Services (Department) notified Respondent,

Marie Burrows (Burrows), that it was revoking her foster care license immediately for violation of the Bilateral Service Agreement. Burrows requested a formal administrative hearing, and the case was forwarded to the Division of Administrative Hearings on September 22, 1999, for assignment to an administrative law judge.

The final hearing was originally set for December 28, 1999. On December 20, 1999, Petitioner filed an unopposed motion for continuance, which was granted by order dated December 22, 1999. The final hearing was rescheduled for January 13, 2000.

At the final hearing, Petitioner called the following witnesses: Maria Arroyo, Evelio Torres, Lisa Fowler, Reinaldo Gonzalez, Tara Smith, and Gloria Ocasio. Petitioner's Exhibits 1-3 were admitted in evidence. At the final hearing, Respondent testified in her own behalf and called Mary Reardon and N. M. as witnesses. Respondent presented no exhibits.

The parties agreed to file proposed recommended orders within ten days of the filing of the transcript. On February 10, 2000, the Transcript was filed. Petitioner filed its Proposed Recommended Order on February 21, 2000. Respondent did not file a proposed recommended order. Petitioner's Proposed Recommended Order has been considered in rendering this Recommended Order.

FINDINGS OF FACT

1. Respondent, Marie Burrows (Burrows) was a licensed foster parent for approximately twelve to fourteen years. During

the course of relicensing her home, Burrows signed a Bilateral Service Agreement on May 13, 1997. Burrows agreed to the following:

We may request the Department to remove a child from our home, but will, whenever possible, give the Department at least two week's notice.

* * *

We will comply with all requirements for a licensed foster home as prescribed by the Department.

* * *

We understand that any breach of the Agreement may result in the immediate removal of the child(ren) and revocation of the license.

2. On April 1, 1998, a sibling group of four elementary-aged children were placed in Burrows' foster care. Maria Arroyo, the Department case worker for the children, accompanied the children from their prior foster home in Fort Pierce, Florida, to Burrows' home. Ms. Arroyo gave Burrows a bag of clothing and a bag of shoes for each child along with a large number of toys. She also gave Burrows the children's glasses, Medicaid cards, Social Security cards, and prescription medications.

3. One of the children was taking Prozac, another was taking Ritalin, and two were taking Mellaril. Ms. Arroyo gave the prescription bottles to Burrows and explained to her when the children needed to take their medications. Ms. Arroyo also gave Burrows her telephone and beeper numbers.

4. The children were hyperactive, and Burrows had trouble controlling their behavior. The children destroyed a swing set in Burrows' yard, broke a fan in their room, and damaged vertical blinds in their room. Burrows called the Department's placement unit several times and asked to have the children removed from her home. She did not get a response from the Department.

5. On a previous occasion in 1997, Burrows had returned a child to the Department without giving the Department two weeks' notice to arrange for an alternate placement for the child. She was advised orally and in writing by Reinaldo Gonzalez, one of the Department's licensing counselors, that she should have given the Department two weeks' notice unless it was an emergency in which the child was a danger to himself or others.

6. On April 10, 1998, Burrows told her backup caretaker, Mary Reardon, to take the four siblings to the Department for placement with another foster home. She did not advise the Department that Ms. Reardon was bringing the children.

7. Apparently Ms. Reardon was not sure exactly where the children should be left. She went to the building where the Department was located and left the children with the licensing section. The children were dirty and were wearing no shoes, with the exception of one child who had on one shoe. The children's clothes were dirty and their hair was unkempt. They had their belongings in garbage bags that contained mismatched shoes, empty prescription medication bottles, wet clothing, and some adult

clothing. The children were hungry, and the prescriptions for their medications had not been refilled.

8. Prior to Burrows leaving the children unannounced at the licensing section, staff in the placement section had been seeking an alternate placement for the children. Within an hour after the children were left, placement with another foster home had been finalized.

9. The evidence did not show that an emergency existed or that the children were a danger to themselves or others.

CONCLUSIONS OF LAW

10. The Division of Administrative Hearings has jurisdiction over the parties to and the subject matter of this proceeding. Section 120.57(1), Florida Statutes.

11. Section 409.175, Florida Statutes, provides for the licensing of foster homes. Subsection 409.175(2)(f), Florida Statutes, states:

A license under this section is issued to a family foster home or other facility and is not a professional license of any individual. Receipt of a license under this section shall not create a property right in the recipient. A license under this act is a public trust and a privilege, and is not an entitlement. This privilege must guide the finder of fact or trier of law at any administrative hearing or court action initiated by the department.

12. The Department has adopted rules, which set forth the minimum standards by which foster parents must be evaluated. Rule 65C-13.010, Florida Administrative Code, identifies the foster parent's role and provides:

(1) Responsibilities of the Substitute Parent to the Child.

(a) General.

1. To give love, acceptance, and care to a child without expecting a demonstration of appreciation from the child.

2. To provide the child with opportunities for normal growth and development.

3. To make a commitment to keep the child for a planned period of time.

4. To assist in preparing the child for return to the parents or permanent placement.

(b) Family Care Activities.

1. Daily living tasks.

a. The substitute care parents are expected to provide structure and daily activities designed to promote the individual physical, social, intellectual, spiritual, and emotional development of children in their home.

b. The substitute parents should assist the children in performing tasks and developing skills which will promote their independence and the ability to care for themselves.

c. The substitute care parents are expected to help children in their care to maintain a sense of their past and a record of their present.

d. The substitute care parents should ask children in their care to assume household chores reasonable for their age and ability not to exceed those expected of their own children.

2. Food and Nutrition.

a. The substitute care parents must provide nutritionally balanced and age appropriate snacks.

b. The substitute care parents are expected to provide for any special dietary needs of foster children placed in their home.

3. Clothing and Personal Belongings.

a. All children should be provided with their own clean, well-fitting, attractive clothing appropriate to their age, sex, and individual needs, in keeping with community standards and appropriate to the season.

b. Each child must be provided his own towel, washcloth, and toiletry items such as toothbrush, comb, and hairbrush.

c. All children must be allowed to bring, retain and acquire personal belongings while in care. Substitute parents must help each child protect and preserve possessions which are important to the child.

d. When the child leaves the family home, the substitute care parents must send along with him all serviceable clothing and personal belongings bought for, earned, or given to the child. This includes toys, bicycles, radios, or other things that are the child's personal belongings.

* * *

m. The substitute must not threaten a child with removal or with a report to authorities as punishment for behavior. Threatening the child with removal plays into the child's conviction that they are doomed to a series of placements and rejections. The counselor's first task is to identify the child's specific behaviors which are causing the substitute parent to request the child's removal. Once the problems are identified the counselor along with the substitute parents and child assess ways to correct the problem. If problems are not corrected and the substitute family continues to request removal, a conference should be held by the counselor with the substitute family and child to discuss the possibility of removal and replacement. Involving the child in the planning may help him feel he has some control over his life.

* * *

7. Medicine.

a. The substitute care parents must be responsible for dispensing the medication as prescribed by the physician and recording the exact amount of any medication prescribed for a child by a physician or dentist.

b. The substitute care parents must inform the department within one working day of any drugs prescribed for the child.

c. The substitute care parents must inform the department immediately of any prescription drugs taken by a child which were not prescribed for him and must secure emergency medical care if this indicated.

d. All medication must be stored in a safe place which is not accessible to the children.

13. The Department has established that Burrows violated the Bilateral Service Agreement by returning the children without two weeks' notice when no emergency existed which would require the immediate removal of the children from Burrows' home.

14. Section 409.175(8), Florida Statutes, provides that the Department may revoke a foster home license if there is a violation of the Department's rules. Burrows' failed to provide clean clothing and shoes for the children. Burrows failed to send all the children's possessions with them when the children were left with the Department. When the children were returned to the Department, they were dirty and unkempt. The children's medications had not be refilled.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that a final order be entering revoking the foster home license for Marie Burrows.

DONE AND ENTERED this 10th day of March, 2000, in
Tallahassee, Leon County, Florida.

SUSAN B. KIRKLAND
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of March, 2000.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.