

PRELIMINARY STATEMENT

On August 20, 2008, the Petitioner, Lamar's Companion Service Corp., filed a Petition for Formal Administrative Hearing with the Agency for Persons with Disabilities (APD), challenging APD's failure to renew her standard license as a group home for the developmentally disabled. In the Petition, Petitioner also attempted to dispute action taken by the Agency for Health Care Administration (AHCA), a separate agency from APD. AHCA was never served with the Petition. Accordingly, on March 23, 2009, APD forwarded the Petition for Formal Administrative Hearing to the Division of Administrative Hearings. The only issue forwarded to the Division of Administrative Hearings was the issue regarding renewal of Petitioner's standard license as a group home for the developmentally disabled.

At the hearing, Petitioner offered the testimony of 2 witnesses and offered 4 exhibits into evidence. Respondent offered the testimony of 3 witnesses and offered 6 exhibits into evidence.

After the hearing, Petitioner filed a Proposed Recommended Order on June 13, 2009. The proposed order consisted of a letter and several unmarked exhibits. The exhibits were not introduced into evidence at the hearing, but have been considered in the preparation of this Recommended Order.

Respondent agency also filed a Proposed Recommended Order on July 13, 2009.

FINDINGS OF FACT

1. For many years, Petitioner was a licensed group home under APD and filed its annual application for renewal of its license. The group home was known as Lindsey's Group Home and was located in Cantonment, Florida. It was operated by Minnie Lindsey. Around October 1, 2007, Petitioner was again licensed by the Department as a group home caring for developmentally disabled persons. The license issued was Standard license #S-1031. It expired on September 30, 2008.

2. Petitioner and APD also entered into a Medicaid Waiver Services Agreement to provide services to disabled clients of APD under the Developmental Disabilities Home and Community Based Waiver program or the Family and Supported Living Program. Because of its contract with APD, Petitioner was issued a Medicaid provider number by the Agency for Health Care Administration. The Medicaid provider number permitted Petitioner to be paid for providing Medicaid qualified services to APD's clients.

3. By letter dated July 30, 2008, Petitioner was notified that APD was terminating the Medicaid Waiver Services Agreement with Petitioner. The effective date of the termination was

August 29, 2008. The letter took no action against Petitioners' license.

4. As a result of APD's termination of its contract with Petitioner, AHCA cancelled Petitioners' Medicaid provider number. Both actions are in litigation in the Escambia County Circuit Court and the issues and evidence surrounding those actions are not relevant to this proceeding.

5. On the other hand, the evidence was clear, and Petitioner admitted, that no application for renewal of Petitioners' license was submitted to APD. Petitioner also admitted that she knew an application was required for license renewal. Given these facts, Petitioner is not entitled to renewal of its license as a group home since it failed to submit an application for renewal of its license.

CONCLUSIONS OF LAW

6. The Division of Administrative Hearings has jurisdiction over the limited subject matter of and the parties to this proceeding. § 120.57(1), Fla. Stat. (2008).

7. Petitioner has the burden of proving entitlement to a license. Florida Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981). Department of Banking and Finance v. Osborne Stern and Company, 670 So. 2d 932, 934 (Fla. 1996). Additionally, Petitioner must show that it meets all of the relevant statutory criteria to satisfy this burden.

8. Section 393.067, Florida Statutes, states, in relevant part:

(1) The agency shall provide through its licensing authority and by rule license application procedures, provider qualifications, facility and client care standards, requirements for client records, requirements for staff qualifications and training, and requirements for monitoring foster care facilities, residential habilitation centers, and comprehensive transitional education programs that serve agency clients.

* * *

(3) An application for a license under this section must be made to the agency on a form furnished by it and shall be accompanied by the appropriate license fee.

9. Petitioner has admitted that it failed to submit an application for license renewal. By its terms, its license expired on September 30, 2008. There was no evidence in the record that the agency took any action regarding Petitioner's now-expired license. Given these facts, Petitioner is not entitled to a renewal of its license and the Petition for Formal Administrative Hearing should be dismissed.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is, therefore,

RECOMMENDED that a final order be entered finding
Petitioner is not entitled to renewal of its license and
dismissing the Petition for Formal Administrative Hearing.

DONE AND ENTERED this 19th day of August, 2009, in
Tallahassee, Leon County, Florida.

Diane Cleavinger

DIANE CLEAVINGER
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 19th day of August, 2009.

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.