

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Claudette Hallman,

Appellant,

vs.

South Carolina Department of Social
Services,

Respondent.

Docket No. 17-ALJ-18-0308-AP

**ORDER
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SC Court of Appeals**

STATEMENT OF THE CASE

This matter is before the South Carolina Administrative Law Court (ALC or court) pursuant to the appeal of Claudette Hallman (Appellant). The Appellant challenges the South Carolina Department of Social Services' (Department) Final Administrative Order, in which the Department upheld its decision to terminate the Appellant's Family Child Care Home, a Level B provider, from the ABC Quality Program. Upon careful review of the record and the briefs, the decision of the Department is affirmed.

BACKGROUND

The Appellant was registered with the Department to operate a small daycare, or family childcare home, out of her residence. The Appellant's registration status limits her to caring for no more than six children, including her own or those related to her. The Appellant was also a participant in the ABC Quality Child Care Program, a childcare subsidy funded by a grant through the U.S. Department of Health and Human Services and the Child Care and Development Block Grant Act of 1990. The ABC Program is a voluntary program for child care providers, where childcare providers receive voucher payments for qualified children attending their daycare. The Appellant was a Level B or Enhanced Provider, in the ABC Program. As a requirement of the ABC Program, the Appellant agreed to provide service to any child enrolled through the ABC Program only at the facility and address where the child was enrolled. In July 2016, the Department was notified that the Appellant was caring for more than six children and that she was sending children in her facility to her sister's unregistered home next door. The Department

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SC ADMIN. LAW COURT

conducted an unannounced visit to the Appellant's sister's home, where Department employees heard children's voices inside the residence. The Appellant refused to grant the Department access to her sister's home and law enforcement officials were then notified and requested to assist in the matter. While waiting for law enforcement personnel to arrive, a sixteen-year-old child attempted to leave the premises with six younger children. After the arrival of law enforcement personnel, and after gaining access to the sister's home, three more children were discovered there. Four of the children found in the sister's home were enrolled in the Appellant's home daycare. The Appellant was receiving a voucher through the ABC Program for one of those children. By letter dated August 16, 2016, the Appellant was terminated as a provider in the ABC program.

The Appellant appealed her termination as an ABC provider to the Department's Fair Hearing Committee. A hearing on the matter was conducted on November 15, 2016. Evidence and testimony was presented by the Department. The Appellant testified and presented statements from parents of children in her program. The Appellant stated that the parents of the children authorized the Appellant's sister to pick up and care for the children so as not to incur overtime charges while in the Appellant's facility. The Appellant also indicated that she did not know she was in violation of the rules of the ABC Program by permitting her sister to pick up children from her child care center and transport them to an unregistered home for further care. On March 3, 2017, after reviewing the record of the hearing, the Department Director's designee issued the agency's Final Administrative Order upholding the termination of the Appellant's Family Child Care Home, a Level B provider, from the ABC quality program. The Appellant appealed the order to this court for review.¹

The Appellant is pro se, and her appeal only alleges broad assertions of a misunderstanding. She did not specifically allege any error of law or ground for appeal, and her brief to the court consisted of a short letter re-stating the arguments she made to the Department at her hearing. However, this court has determined to couch her appeal as that of an assertion that the Department's determination is not supported by substantial evidence on the record.²

¹ In her correspondence with this court, the Appellant included a letter dated June 15, 2017 from the Department requesting that she repay the grant funds she received from the ABC Program. It appears that the Appellant received \$9,840.00 in funding from the ABC Program. However, the recoupment of these funds is not an issue that is before this court, therefore, the court declines to address that matter in this order.

² S.C. Code Ann. §1-23-380(5) (Supp. 2017).

STANDARD OF REVIEW

In this matter, the court sits in its appellate capacity, pursuant to the Administrative Procedures Act. S.C. Code Ann. § 63-13-850(C) (2010) & § 1-23-600(D) (Supp. 2016). Thus, the court's review of the case is limited to the record. S.C. Code Ann. § 1-23-380(4) (Supp. 2016). Additionally, the court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact, but may modify or reverse the decision of the agency when substantial rights of the appellant have been prejudiced. S.C. Code Ann. § 1-23-380(5) (Supp. 2016). Substantial rights of the appellant are prejudiced when the agency's decision, including the agency's findings, inferences, and conclusions, are in violation of constitutional or statutory provisions; in excess of the statutory authority of the agency; made upon unlawful procedure; affected by other error of law; clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Id.* Substantial evidence is "not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached" *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 135, 276 S.E.2d 304, 306 (1981) (citation omitted).

ISSUE ON APPEAL

Whether the Department's decision is supported by substantial evidence on the record.

DISCUSSION

The Department has been entrusted with the safeguarding of children in care in places other than their own homes and ensuring for them minimum levels of protection and supervision. S.C. Code Ann. § 63-13-10(A) (2010). In this capacity, the Department enforces laws and promulgates regulations related to childcare facilities. S.C. Code Ann. § 63-13-20(11) (2010) & § 63-13-180 (2010). This includes "family childcare homes," defined as "a facility within a residence occupied by the operator in which childcare regularly is provided for no more than six children, unattended by a parent or legal guardian, including those children living in the home and the children received for childcare who are related to the resident caregiver." S.C. Code Ann. § 63-13-810 (2010). "The

number of children present in the facility at any given time shall not exceed the number specified on the registration.” S.C. Code Ann. Reg. 114-528(D)(3) (2012). Additionally, the Department is responsible for the administration of the ABC Quality Child Care Program, a federal childcare subsidy funded by a grant through the U.S. Department of Health and Human Services and the Child Care and Development Block Grant Act, that gives childcare providers voucher payments for qualified children attending their daycare.

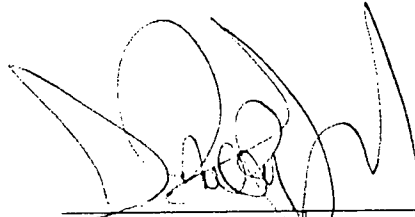
In this case, the record establishes that the Appellant was registered as a family childcare home operator in South Carolina. Her registration specifically limited the capacity of her facility to no more than six children. The Appellant signed a statement regarding her intent to comply with the applicable regulations. The Appellant is also a participant in the ABC Quality Child Care Program as a Level B provider. The Appellant signed a Level B provider agreement with the Department, agreeing to the terms and conditions of the program that required her to remain properly licensed and meet all applicable state and local health and safety requirements. The Appellant also consented to the requirement that she serve any children enrolled through the agreement only at the facility and address she had enrolled, which was her residence. Substantial evidence on the record further supports the Department’s finding that the Appellant permitted children, including at least one child enrolled in the ABC Program, to be removed from her facility and taken for care over to the unregistered home of her sister. The Appellant regrets allowing her sister to care for the children in violation of program requirements. The Appellant has been in operation for 19 years.

Based on a review of the record in this matter, there is substantial evidence to support the Department’s findings that the Appellant violated the terms of the ABC Program. The law mandates that the ABC Program coordinators will initiate termination of an ABC child care provider’s enrollment agreement if the provider fails to comply with the requirements of the ABC Program and criteria to maintain enrollment at the Level at which the provider is enrolled. Providers are only authorized to serve a child at the site which is enrolled and has been approved by the ABC Program. The voucher program pays for a higher quality of care at the enrolled location and cannot guarantee the quality of care at locations other than the enrolled site. Thus, the court affirms the Department’s decision in this matter.

ORDER

THEREFORE, IT IS HEREBY ORDERED that the Department's decision is **AFFIRMED.**

AND IT IS SO ORDERED.

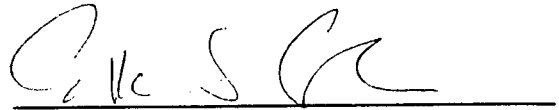


S. Phillip Lenski, Judge
S.C. Administrative Law Court

April 13, 2018
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Erika S. Easler, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail to the address provided by the party(ies) and/or their attorney(s).

A handwritten signature in black ink, appearing to read "Erika S. Easler", is written over a solid horizontal line.

Erika S. Easler
Judicial Law Clerk

April 18, 2018
Columbia, South Carolina