



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
FOS/172083

PRELIMINARY RECITALS

Pursuant to a petition filed February 16, 2016, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Outagamie County Department of Human Services in regard to Foster Care, a hearing was held on March 24, 2016, at Appleton, Wisconsin.

The issue for determination is whether Petitioner’s application for a foster home license was correctly denied.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED], Foster Care Worker
Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Outagamie County.
2. Petitioner applied for a foster home license through Outagamie County Department of Human Services. That application was denied because the agency concluded that Petitioner’s personal history did not lead to the conclusion that Petitioner meets all of the standards that are found in the Wisconsin Administrative Code at Chapter DCF 56.

3. Specifically, the agency was aware that Petitioner was herself sexually abused as a child and that this lead to Petitioner being involved in inappropriate touching of others when she was about 12, that she has had thoughts of inappropriately touching a child family member though she did not act on those thoughts and because, though unsubstantiated, there was an allegation that Petitioner inappropriately touched a child she was babysitting for.

DISCUSSION

The legal basis for the agency denial of Petitioner's application is found in the Wisconsin Administrative Code and includes that the following provisions:

DCF 56.05 Licensee qualifications. (1) PERSONAL REQUIREMENTS AND BACKGROUND.

(a) *General.* 1. A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. DHS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.

2. The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements under subd. 1. Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.

3. In determining whether a person is fit and qualified, the licensing agency shall consider the person's qualifications under this section and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state, any local government or other U.S. jurisdiction substantially related to the care of children.

(b) *Characteristics.*

1. 'All foster parents.' As evidenced through interviews with foster family members, the use of formalized assessment systems, communication with references, and other methods considered to be effective components of a comprehensive foster home study, a licensee shall have or exhibit all of the following characteristics to a degree that will allow the licensee to adequately provide foster care services:

a. An adequate understanding of what it means to be a foster child and a recognition of a child's strengths and needs consistent with the child's age and abilities, or a motivation to learn.

b. A history of managing or an indication of the ability to manage stress related to economic resources, employment, home, neighborhood, family size, health problems, or other factors and an indication of an ability to cope with an additional stress factor of the placement of a foster child.

c. A satisfactory self-concept.

d. An ability to communicate ideas, feelings, and needs.

e. An outlook regarding his or her own history that indicates that any negative aspects have been recognized and adequately addressed.

f. Parenting ability appropriate to the age, abilities, strengths, and needs of foster children to be placed in the licensee's home or a motivation to learn.

g. A history of positive parenting, if applicable.

h. An adequate knowledge of child growth and development or a motivation to learn.

i. Reasonably constructive social relationships and the ability to provide encouragement and understanding of a foster child's need for positive social relationships.

j. Effective intrafamilial communication and the existence of appropriate family roles, marital or other relationship stability, integration into the community, and organization in the home.

k. An appropriate understanding of child abuse and neglect as a social problem or a motivation to learn.

l. An appropriate understanding of the needs of children who have been abused or neglected and of parents who abuse or neglect their children or a motivation to learn.

m. Adequate preparation of all family members to become a foster family, particularly preparation for the stress that having a foster child in the family may place on each family member.

n. An appropriate motivation for applying to be a foster family and an ability to follow through on difficult endeavors.

o. A willingness to work with the supervising agency, placing agency, licensing agency, and the biological or adoptive parents in achieving a foster child's permanence goal as established in the child's permanency plan.

Wis. Admin. Code, § DCF 56.05(1)(a) & (b).

Petitioner notes that it was in 1993 when she was 12 that inappropriate behavior occurred and that it was a direct result of being abused herself. She notes that she was candid about her thoughts in therapy but has not acted on those thoughts. She had had extensive counseling and has done babysitting and worked as a nanny, worked as a CNA, provided daycare, worked with [REDACTED], worked in [REDACTED] and has provided respite foster care in another county. I do not, however, have other agency decisions here to review. There is no way to know what any agency knew when it processed any other license or certification that Petitioner may have or has had. I can only review the instant denial.

The agency denied the application reasoning that children in foster care are quite vulnerable and have often been the victims of abuse and may exhibit sexualized behaviors and that Petitioner's own history could impact her ability to successfully parent a child with an abuse and neglect history. This argument is the more persuasive here. I understand that Petitioner has worked hard in counseling and wants to 'give back' to others. Nonetheless, I am not reversing the agency denial. Viewed globally, the standards detailed in the Administrative Code and reproduced above support the agency analysis and conclusion.

Finally, even if I reversed the agency I do note that there is nothing that mandates that the agency place children with Petitioner.

CONCLUSIONS OF LAW

That the agency correctly denied Petitioner's foster care application.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on

those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 8th day of June, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 8, 2016.

Outagamie County Department of Human Services
DCF - Foster Care