



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOS/142794

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2012, under Wis. Stat., § 48.64(4), to review a decision by the Children's Service Society of Wisconsin to deny a foster home license, a hearing was held on October 17, 2012, by telephone.

The issue for determination is whether the agency correctly denied a foster home license application.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Christina Gray, Foster Care Supervisor
Children's Service Society of Wisconsin
620 South 76th Street, Suite 120
Milwaukee, WI 53214

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner applied for a foster home license in July, 2012, specifically for a granddaughter who was placed with her.
3. By a notice dated July 24, 2012, the agency denied the application.

4. Petitioner has a history of minor criminal/municipal violations, most recently a disorderly conduct ticket in January, 2012. She also has a history of evictions and owes \$1,627 on legal claims.
5. Petitioner resides in her home with three daughters. The home has 805 square feet of living space. Both the basement and the upstairs pose safety threats due to steep, rotting stairs.

DISCUSSION

Wis. Admin. Code, §DCF 56.05(1) provides, in relevant part, as follows:

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....

Wis. Admin. Code, §DCF 56.05(1)(b) provides that the applicant must show a history of managing economic resources. § DCF 56.07(1)(a) provides that the home must be maintained in a safe condition to safeguard the health of all occupants. §DCF 56.07(2)(a) provides that the home must have a minimum of 200 square feet for each occupant including foster children.

The agency had several adequate reasons for denying petitioner’s application. Her legal history is troubling. Although petitioner asks for a “second chance,” the agency cannot disregard the history, especially since petitioner had a disorderly conduct citation this year. Petitioner’s history of evictions and money judgments also is troubling. The dangerous condition of the stairways has resulted in at least two family members falling when negotiating them. The simplest basis for denial is the clearest, however. There simply is insufficient space in the home. Even leaving out petitioner’s home health worker, who appears to spend more time at her home than at his own residence, the home has substantially less than 200 square feet for each of the five occupants that would include the foster child. The agency has no discretion in that finding.

CONCLUSIONS OF LAW

The agency correctly denied petitioner’s foster home license application for a number of adequate reasons.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of October, 2012

Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 19, 2012.

Children's Service Society of Wisconsin
DCF - Foster Care