



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

KIN/146171

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 27, 2012, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Perez-Pena Limited in regard to Kinship Care, a hearing was held on March 12, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its denial of Kinship Care Program benefits.

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  
Madison, Wisconsin 53703

By: Jazette Anderson, Kinship Care Worker  
Bureau of Milwaukee Child Welfare  
1555 Rivercenter Drive  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner seeks Kinship Care Program payments for her care of child MG.
3. Petitioner has a daughter [REDACTED]. [REDACTED]'s father is [REDACTED].

- 4. [REDACTED] [REDACTED] and petitioner were never married.
- 5. [REDACTED] [REDACTED] has a sister named [REDACTED] [REDACTED]. MG is the child of [REDACTED] [REDACTED].
- 6. The Department denied kinship payments by notice dated December 21, 2013.
- 7. Petitioner filed a timely appeal.

**DISCUSSION**

The Kinship Care benefit is a public assistance payment paid to a qualified relative who bears no legal responsibility to support the child. In Wisconsin, this benefit replaced the former Non-Legally Responsible Relative (NLRR) AFDC payment. Wis. Adm. Code, §§DHS 201.17; 201.31. To be eligible for the payments thereunder, the relative must meet all of the conditions set forth in Wis. Stat. §§48.57(3m)(am)(1-5) or 48.57(3n)(am)(1-6).

Under the statute, a recipient of kinship payments must fit the definition of a “Kinship Care relative,” which is stated at Wis. Stats., § 48.57(3m) (a). Per WI Stats § 48.57(3m)(a)2, a qualified relative is defined as follows:

2. *"Kinship care relative" means a relative other than a parent.*

“Relative” is defined, for the purposes of Chapter 48, in Wis. Stat. § 48.02(15) as follows:

*(15) "Relative" means a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, 2nd cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person named in this subsection, even if the marriage is terminated by death or divorce. For purposes of the application of s. 48.028 and the federal Indian Child Welfare Act, 25 USC 1901 to 1963, "relative" includes an extended family member, as defined in s. 48.028 (2) (am), whether by blood, marriage, or adoption, including adoption under tribal law or custom.*

The petitioner testified that she was never married to [REDACTED] [REDACTED]. She does not meet any other part of the definition of relative with regard to MG. She is therefore not a kinship care relative of MG and in not eligible for payments.

**CONCLUSIONS OF LAW**

Petitioner is not a relative of MG under the kinship care definition of “relative.”

**THEREFORE, it is ORDERED**

That this appeal is 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 served and 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 1st day of April, 2013

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\sJohn P. Tedesco  
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 April 1, 2013.

Perez-Pena Limited  
DCF - Kinship Care  
DCF - Kinship Care