



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

KIN/146685

PRELIMINARY RECITALS

Pursuant to a petition filed January 17, 2013, 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 April 24, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner is related to the child to be eligible for Kinship Care.

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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner received Kinship Care for FY, a seven-year-old girl (d.o.b. 7/1/2005). On documents submitted to the respondent petitioner has listed her relationship to FY as maternal aunt and maternal stepsister.

3. By a letter dated January 15, 2013, the agency terminated petitioner's Kinship Care eligibility because petitioner is not related to the child.
4. Petitioner has not verified her relationship to FY.

DISCUSSION

The Kinship Care benefit is a public assistance payment of \$220 per month per child paid to a qualified relative who bears no legal responsibility to support the child. In Wisconsin, this benefit replaces the former Non-Legally Responsible Relative (NLR) Aid to Families with Dependent Children (AFDC) payment (see, Wis. Stat. § 49.19). 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). See also, Wis. Admin. Code ch. DCF 58.

Qualified relatives are as follows: stepparent, brother, sister, stepbrother, stepsister, first cousin, nephew, niece, aunt, uncle 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 paragraph, even if the marriage is terminated by death or divorce. Wis. Stat., §48.57(3m)(a)2.

Petitioner's father was the boyfriend of the child's grandmother. They were engaged to be married, but petitioner's father passed away before they married.¹ Petitioner argues that she has had legal guardianship over the child, FY, since 2006. She has cared for FY since she was three months old.

Unfortunately, her relationship with the child does not meet the definition of Kinship Care Relative. As such I conclude that the respondent properly determined that petitioner is not eligible for Kinship Care benefits. Petitioner should inquire into possibly obtaining a foster license for FY through the Department of Children and Families. I am uncertain if she can obtain such a license since she already has guardianship, but it would be worth a call to find out.

CONCLUSIONS OF LAW

Petitioner is ineligible for Kinship Care because she is not a qualified relative of the child in question.

NOW, 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.

¹ Petitioner contacted this ALJ post-hearing and left a message indicating that her father and FY's grandmother had a child together, though the baby did not live long. Unfortunately, the fact that they had a child together does not extend any relative status to petitioner as pertains to the child, FY.

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 14th day of May, 2013

\sPeter McCombs
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 May 14, 2013.

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