



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

█ █
█
█

DECISION

KIN/147422

PRELIMINARY RECITALS

Pursuant to a petition filed February 15, 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 May 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in denying kinship care to petitioner relating to her care for her granddaughter KG.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

█ █
█
█

Respondent:

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

By: Stephanie Purpero, 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 is a resident of Milwaukee County.
2. Petitioner applied for Kinship Care for her granddaughter KG. KG will turn 19 in December 2013.
3. KG is expected to graduate from high school on 6/1/15 according to her school.

4. Petitioner's request for Kinship Care for KG was denied.
5. 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 replaces the former Non-Legally Responsible Relative (NLRR) Aid to Families with Dependent Children (AFDC) payment (Wis. Admin. 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).

In addition to the above, any 18-year old child for whom Kinship Care payments are being issued must be expected to graduate from high school before turning age 19. If the child will not meet that timeline, the Kinship Care agency is not allowed to continue Kinship Care payments for that particular child pursuant to Wis. Admin. Code § DCF 58.04(4), "Verification of School Status for 18 Year Olds."

In this case, the expected high school graduation date is June 1, 2015 according to documentation from the school. The child, KG, turns 19 in December of 2013. Petitioner argued at hearing that her high school graduation is actually now expected to be in 2014. This distinction does not change the outcome. If she is not going to graduate high school before her 19th birthday in December 2013 then Kinship cannot be paid.

CONCLUSIONS OF LAW

The Department did not err in its denial because KG is not expected to graduate from high school before her 19th birthday.

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 13th day of June, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
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 June 13, 2013.

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