



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

KIN/147423

PRELIMINARY RECITALS

Pursuant to a petition filed February 13, 2013, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Marathon County Department of Social Services in regard to Kinship Care, a hearing was held on March 18, 2013, at Wausau, Wisconsin.

The issue for determination is whether the Department erred in denying kinship care benefits to petitioner.

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: Courtney Costa, Kinship Care Worker
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner applied for kinship care benefits on 12/29/12.
3. The agency conducted a home visit.

4. On 1/22/13 the Department issued a letter informing petitioner that it was denying the request based on the child's access to the wood-burning stove in the living area, the crib sides not being secure and missing parts, and there being holes in the floor throughout the home.
5. Petitioner filed a request for hearing on 2/18/13 indicating "the crib has been fixed, floor and stairs fixed, stove has two cast-iron doors to conceal the flames...."

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). These conditions include that the placement is in the best interests of the child Wis. Stat. §48.57 (3m)(am)1.

Petitioner does not argue that the agency observations are incorrect. Petitioner merely argues that the objections of the agency have been repaired. Given this, the denial in January was not error. If petitioner would like to become eligible, petitioner will have to re-apply and be subject to a new home visit at which time the agency will re-evaluate the propriety of the residence for child.

CONCLUSIONS OF LAW

The agency did not err in denying kinship care because at the time of the home visit the crib was broken and there were holes in the floor, both of which made the setting unsafe and inappropriate for the child.

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 30th day of May, 2013

\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 May 30, 2013.

Marathon County Department of Social Services
DCF - Kinship Care
DCF - Kinship Care