



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

KIN/148546

PRELIMINARY RECITALS

Pursuant to a petition filed April 06, 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 02, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly terminated Kinship Care payments to the Petitioner effective March 1, 2013.

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:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner cares for AA and received Kinship Care payments for him. At the time of the annual re-assessment in March, 2013, AA was 17 years old and in the 10th grade of high school.

3. On January 11, 2013, the agency mailed a letter to the Petitioner regarding the need for an annual re-assessment.
4. On January 16, 2013, a home visit was scheduled by the Petitioner for January 18, 2013.
5. On January 18, 2013, the Petitioner cancelled the home visit. It was rescheduled for January 22, 2013.
6. On January 22, 2013, the Petitioner cancelled the home visit. It was not rescheduled at that time.
7. On January 23 and January 24, 2013, the assessor attempted to contact the Petitioner via telephone to reschedule the assessment. There was no answer and no voicemail.
8. On January 29, 2013, the Petitioner contacted the agency. The home visit was rescheduled for February 4, 2013.
9. On February 4, 2013, the assessor went to the Petitioner's home for the scheduled home visit. AA was present but the Petitioner was not at home. The assessor attempted to phone the Petitioner but got no answer and no voicemail.
10. On February 5, 2013, the assessor attempted to contact the Petitioner by telephone but received no answer and no voicemail.
11. On March 1, 2013, the agency issued a Notice of Non-Approval of Kinship Care payment to the Petitioner based on failure to cooperate with the agency in the reassessment process.
12. On April 6, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The Kinship Care benefit is a public assistance payment of \$215 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 (NLRR) Aid to Families with Dependent Children (AFDC) payment (see s. HSS 201.17, 201.31, Wis. Adm. Code). The eligibility requirements for the Kinship Care Program are mandated by statute. See Wis. Stats. § 48.57.

Upon receipt of a Kinship Care application for either new or continued benefits, the statute requires that the agency perform an assessment and conduct certain investigations. If the relative does not cooperate with the agency during the assessment process, the agency may deny the application. That is reflected in the following statutory provision:

5. The kinship care relative cooperates with the county department or department in the application process, including applying for other forms of assistance for which the child may be eligible.

See Wis. Stat. §48.57(3m)(am)5.

In this case, the Petitioner does not dispute that she cancelled two home visit appointments and was not present when the assessor came to the home. She did provide an explanation for the cancellations and not being present. However, the agency must be able to assess whether a Kinship Care relative continues to meet the criteria for Kinship Care and whether the placement continues to be in the best interests of the child. In this case, the agency was unable to make that assessment despite repeated attempts to schedule and conduct a home visit. The agency properly terminated benefits when it was unable to conduct a re-assessment. This decision does not prevent the Petitioner from re-applying for benefits.

CONCLUSIONS OF LAW

The agency properly terminated Kinship Care payments to the Petitioner.

THEREFORE, it is ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 15th day of July, 2013

\sDebra Bursinger
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 July 15, 2013.

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