



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████
██████
██████████████
██████████████████

DECISION

KIN/150815

PRELIMINARY RECITALS

Pursuant to a petition filed July 18, 2013, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Kinship-DCF in regard to Kinship Care benefits, a telephonic hearing was held on October 16, 2013, at Friendship, Wisconsin. At the request of petitioner, the hearing set for August 28, 2013 was rescheduled due to petitioner's request to retain an attorney for representation. Petitioner did not retain any attorney even by the date of the October 16, 2013 rescheduled hearing date, and represented herself at the October 16, 2013 hearing.

The issue for determination is whether the Department correctly discontinued the petitioner's Kinship Care benefits for her two great-grandchildren as of July 20, 2013, because the petitioner allowed the children to spend unsupervised time with Registered Sex Offenders despite warnings from county personnel regarding that this unsupervised time was a violation of Kinship Care policy.

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: Erin Schiferl, child welfare specialist
Adams County Health & Human Services Department
108 East North Street
Friendship, WI 53934

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Adams County.
2. The petitioner has received Kinship Care benefits in Adams County since 2007 for care of her great grandchildren KC and CC. [REDACTED] [REDACTED] is the son of the petitioner.
3. Petitioner was approved during annual re-assessments to continue receiving Kinship Care until 2008, when it was discovered that two registered Sex Offenders, [REDACTED] and [REDACTED] (the grandparents of KC and CC), were residing on her property in violation of DCF 58.04(2)(c).
4. The petitioner did have [REDACTED] and [REDACTED] leave her property and her Kinship Care was reinstated.
5. During the annual review in 2009, it was discovered that [REDACTED] and [REDACTED] were once again having contact with the Kinship Care children in petitioner's care. The county agency sent a November 3, 2009 denial notice to the petitioner regarding termination of her Kinship Care benefits.
6. Petitioner appealed this denial, and the denial was overturned by the county agency director.
7. Child welfare specialist, Erin Schiferl, has had several conversations with the petitioner about the inappropriateness of [REDACTED] and [REDACTED] having any contact with the children in her care, especially unsupervised contact. Ms. Schiferl informed petitioner on multiple occasions that unsupervised contact would be a violation of Kinship Care rules.
8. Based upon a June 26, 2013 Child Protective Services report, the petitioner was allowing the children to spend unsupervised time with [REDACTED] and [REDACTED].
9. The Department sent a July 10, 2013 notice to the petitioner discontinuing her Kinship Care for KC and CC because petitioner's great grandchildren were spending unsupervised time with registered sex offenders ([REDACTED] and [REDACTED]), despite warnings regarding such action was a violation of Kinship Care Rule DCF 58.04(2)(c).

DISCUSSION

The petitioner failed to cooperate with the Kinship Care agency when she allowed her great grandchildren (Kinship Care children) to spend unsupervised time with registered sex offenders ([REDACTED] and [REDACTED]), despite warnings regarding such action was a violation of Kinship Care Rule DCF 58.04(2)(c). See Wis. Adm. Code §DCF 58.04(1),(2)(c),(3). Based upon a June 26, 2013 Child Protective Services Report, petitioner was allowing the Kinship Care children to spend weekends unsupervised with [REDACTED] and [REDACTED]. The petitioner was unable to present any reliable evidence to refute the county agency's accusation. As a result, petitioner failed to cooperate with the agency and failed to protect the best interests of the children. The June 26, 2013 Child Protective Services Report indicated the children go to their paternal grandparent's home on weekends, despite the grandparents being registered sex offenders. CPS is concerned that the children may be at risk for sexual abuse by their grandparents while left unsupervised by the petitioner in violation of Kinship Care Rule DCF 58.04(2)(c).

As explained in Findings of Fact #3 - #8 above, the petitioner was fully aware from prior denials that it was a clear violation to leave her Kinship Care children unsupervised with her son, [REDACTED] [REDACTED] and his wife. Petitioner was unable to refute that she did so. Accordingly, based upon the above, I conclude that the Department correctly discontinued the petitioner's Kinship Care benefits for her two great-grandchildren as of July 20, 2013, because the petitioner allowed the children to spend unsupervised time with Registered Sex Offenders despite warnings from county personnel regarding that this unsupervised time was a violation of Kinship Care policy.

CONCLUSIONS OF LAW

The Department correctly discontinued the petitioner's Kinship Care benefits for her two great-grandchildren as of July 20, 2013, because the petitioner allowed the children to spend unsupervised time with Registered Sex Offenders despite warnings from county personnel regarding that this unsupervised time was a violation of Kinship Care policy.

THEREFORE, it is

ORDERED

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.

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 17th day of December, 2013

\sGary M. Wolkstein
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 December 17, 2013.

Kinship-DCF
DCF - Kinship Care