



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

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

DECISION

KIN/150871

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 16, 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 ["Perez"] in regard to Kinship ██████, a Hearing was held via telephone on August 15, 2013.

The issue for determination is whether it was correct to deny petitioner's application for Kinship ██████.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Kathleen O'Connell, Kinship Assessor  
Bureau of Milwaukee Child Welfare  
1555 Rivercenter Drive  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is the paternal grandmother of ALO, JR (male; 3 years old).
3. Petitioner applied for Kinship for ALO, JR.

4. By a letter entitled *Re: Notice of Non-Approval of Kinship Care Payment* and dated June 28, 2013, Perez informed petitioner that her application for Kinship Care payments for ALO, JR could not be approved.
5. ALO, SR (20 years old) is ALO, JR's father and petitioner's son; ALO, SR is employed as a [REDACTED] [REDACTED] [REDACTED] ["PCW"] for petitioner and is in petitioner's home daily for at least 2 hours; ALO, SR uses petitioner's address as his mailing address; ALO, SR and ALR, JR have a good relationship
6. ALO, SR lives with his girlfriend; he has no drug or alcohol issues and no mental health issues; he has no history of involvement with Child Protection Services ["CPS"] or incarceration.

### **DISCUSSION**

Eligibility for Kinship Care payments is governed by state law. Wis. Stat. § 48.57(3m) (2011-12); Wis. Admin. Code § DCF 58.01 (September 2010). Under state law, a person must satisfy several requirements to be eligible for Kinship Care. Wis. Stat. § 48.57(3m)(am) (2011-12); Wis. Admin. Code § DCF 58.10 (September 2010). A person is eligible for Kinship Care only if he or she satisfies these requirements. Perez denied Kinship Care in this case. Given the evidence in the record of this matter it must be concluded that Perez was correct to deny Kinship Care.

One of the requirements is that the child meets one or more of the criteria for being in need of protection or services (or would be at risk of meeting one or more of those criteria if the child were to remain in his or her home). Wis. Stat. §§ 48.13, 48.57(3m)(am)2. & 938.13 (2011-12); Wis. Admin. Code § DCF 58.10(3) (September 2010). The evidence in the record of this matter, as reflected in the above *Findings of Fact*, is that ALO, JR would not meet one or more of the criteria for being in need of protection or services (or would be at risk of meeting one or more of those criteria) if he lived with his father (ALO, SR).

Petitioner testified that ALR, SR's home, where he lives with his girlfriend, is not safe. However, she offered no evidence to support this claim.

This *Decision* only means that petitioner cannot receive Kinship care payments for taking care of ALO, JR, it does not mean that ALR, JR cannot live with her.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to deny petitioner's application for Kinship Care.

**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.

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 20th day of August, 2013

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\sSean P. Maloney  
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 August 20, 2013.

Perez-Pena Limited

DCF - Kinship [REDACTED]

DCF - Kinship [REDACTED]