



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

KIN/151063

PRELIMINARY RECITALS

Pursuant to a petition filed August 01, 2013, under Wis. Stat. § 48.57(3m)(f), and Wis. Admin. Code § DCF 58.08(2)(b), to review a decision by the Professional Services Group - PSG in regard to Kinship Care, a hearing was held on August 21, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its denial of 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: Diane Curley, 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 benefits on May 6, 2013.
3. Petitioner is caring for her granddaughter TH. She has been caring for the child since birth, when the birth mother was 15 years old. Both birth parents live in Chicago. Petitioner asserts that the

birth mother is a prostitute. The mother calls the child several times a year and sees her less frequently.

4. In 2007, the birth mother was the subject of a CPS report/referral. At that time, a person reported that the 15 year old birth mother regularly left TH with others and that TH's boyfriend was violent. See ex. #1.
5. The agency denied Kinship benefits to petitioner.
6. 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 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).

In this case, the agency argued that petitioner is not a suitable kinship relative because of the CPS report from 2007. The agency representative halfheartedly asserted that because the 15 year old birth mother was neglecting the child. This reasoning is illogical. It is clear that petitioner is the ideal choice for a kinship relative as she has cared for this child since birth and the birth parents have abandoned the child.

The agency presented no other argument for denial. There is no apparent justifiable reason why this was denied.

CONCLUSIONS OF LAW

The Department had no reasonable basis to deny this application.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its agent with direction to approve the Kinship Care application retroactive to the denial date of May 31, 2013. The agency must issue retroactive benefits to that date. These actions must be completed within 10 days.

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 14th day of November, 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 November 14, 2013.

Professional Services Group - PSG
DCF - Kinship Care
DCF - Kinship Care