



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

FOS/148821

PRELIMINARY RECITALS

Pursuant to a petition filed ██████ 18, 2013, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Foster Care in regard to Foster Care, a hearing was held on November 04, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its denial of the foster license application of petitioner.

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: Atty. Jennifer Wakerhauser, DCF-OLC

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County. She has five adult daughters: ██████, ██████, ██████, ██████ and ██████.
2. Mellissa's three children were placed under court order with petitioner in late 2012 and early 2013.
3. ██████ also had three children and they were removed from her care in late 2012 due to abuse or neglect. Those children were ultimately placed in ██████'s home. ██████ went to live with ██████.
4. In mid-November, 2012, child protection and services workers removed ██████ ██████'s three minor children from her care and the only home they had known, maternal grandmother ██████.

██████████'s home, and placed them with the ██████████ ██████████ their maternal aunt, as foster children. ██████████ then moved to her other sister's (██████████ ██████████) residence.

5. A baby, ██████████, was subsequently born to ██████████ ██████████ in January, 2013, and remained in her care.
6. On January 22, 2013, a meeting was convened at the offices of the Department's foster home management agency, Children's Hospital of WI Community Services, with the petitioner, her two sisters, ██████████ ██████████ and ██████████ ██████████, and the petitioner's mother, ██████████ ██████████, all in attendance. The agency representatives from Integrated Family Services were ██████████ ██████████ and Carey Wilson. In addition, six staff members from Children's Hospital of WI Community Services (██████████, ██████████, ██████████, ██████████, ██████████ and ██████████) were also present. The four adult women from the ██████████ family (██████████, ██████████, ██████████ and ██████████) were informed in a clear and direct manner by the Department's representatives that the six grandchildren of ██████████'s that were placed by the Department with ██████████ (3 children) and ██████████ (3 children) must be living and residing in the respective foster homes in which they were placed by Integrated Family Services. And Children's Hospital of WI Community Services. In addition, all four ██████████ family women agreed that they would do so, and that any of them would communicate with case professionals on a daily basis, if need be, to ensure that changes in the provision of care be reported immediately.
7. On March 1, 2013, the Milwaukee County Child Protection Service agency received a telephone report that during a visit to the home ██████████ ██████████ was sharing with ██████████ ██████████ on February 28, 2013, the reporter observed that infant ██████████ was observed to have dark bruises on each cheek, described as "blackish/bluish, with a little red". The bruises were further described as "round, 1 bruise was bigger than the other, and higher up". When questioned how her child got the bruises, ██████████ reportedly answered "I was wondering the same thing."
8. 9. On March 1, 2013, Initial Assessment Social Worker ██████████ ██████████ and Ongoing Care Manager ██████████ went to ██████████ ██████████'s residence to attempt to locate ██████████ and observe physically. She found ██████████ ██████████, ██████████ ██████████, and ██████████ at the residence about 4:16 P.M. Paisley and ██████████ were also present, along with another minor cousin, ██████████. Mrs. ██████████ declined a request from ██████████ to turn a lamp or lights on so she could more closely examine ██████████. ██████████ had ██████████ bring the child to the couch by the front window, where she could detect the bruises to ██████████'s face, as well as a large round mark on her lower back. ██████████ was then dressed and prepared for transport to a medical facility for examination.
9. On the same date, at 7:22 P.M., IASW ██████████ received a phone call from Dr. ██████████ at Children's Hospital providing an update that indicated a head cat scan was planned; that the bruises on ██████████'s face were not diagnosed as bite-marks and that the bruising on her eye, cheek, chest and back were all indicative of abuse. Dr. ██████████ stated that ██████████ had linear bruising on her arm, elbow and wrist.
10. On the same date, at 7:27 P.M., OCM ██████████ called ██████████ and report that ██████████ had been diagnosed with multiple fractures in her leg, rib and arm.
11. The three children of ██████████ that had been placed with ██████████ were frequently spending the night at ██████████ ██████████'s home under the care of ██████████ ██████████ and their biological mother, ██████████ ██████████, because ██████████ reported for work very early in the morning, between 5:00 A.M. and 6:00 A.M. This was occurring between 3 – 5 nights per week. ██████████ was reported to "sometimes" stay the night, but usually leave after the children went to sleep. The petitioner admitted to social worker ██████████ during an interview on March 11, 2013, that sometimes the children slept over at ██████████ ██████████'s home up to 7 nights per week.
12. ██████████ ██████████ and/or ██████████ ██████████ would transport the three foster children to daycare in the morning on the nights that the children stayed over at ██████████ ██████████'s home. ██████████ ██████████ on occasion transported the children without a valid driver's license; and without car seats and using only seatbelts. Frequently, ██████████ and/or ██████████ ██████████ would pick up the foster children from daycare or school, and transport them back to ██████████ ██████████'s home.
13. On ██████████ 3, 2013 the Department sent a notice to petitioner informing her that her application for a foster license was denied.

DISCUSSION

The Wisconsin Administrative Code, Chapter DCF 56, sets out the duties of a foster parent. The licensee must be familiar with the Wisconsin Administrative Code, Chapter DCF 56, and must comply with its requirements. Wis. Adm. Code, §DCF 56.05(1)(c). Violation of administrative provisions may be grounds for revoking the foster home license. Wis. Stat., §48.715(4)(d). Foster parent requirements relevant to this appeal are as follows:

(1) PERSONAL REQUIREMENTS AND BACKGROUND.

(a) General.

- 1.** A person licensed to operate a foster home shall be a responsible, mature individual who is fit and qualified, who does not abuse alcohol or drugs or have a history of a civil or criminal conviction or administrative rule violation that substantially relates to caring for children or operating a foster home, as described in ch. DHS 12, and who exercises sound judgment and displays the capacity to successfully nurture foster children.
- 2.** The applicant or licensee shall give truthful and sufficient information to enable the licensing agency to verify whether or not he or she meets the requirements under subd. 1. Giving false information or withholding relevant information shall constitute grounds for denial or revocation of the license.
- 3.** In determining whether a person is fit and qualified, the licensing agency shall consider the person's qualifications under this section and any history of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state, any local government or other U.S. jurisdiction substantially related to the care of children.

(b) Characteristics.

- 1.** 'All foster parents.' As evidenced through interviews with foster family members, the use of formalized assessment systems, communication with references, and other methods considered to be effective components of a comprehensive foster home study, a licensee shall have or exhibit all of the following characteristics to a degree that will allow the licensee to adequately provide foster care services:
 - a.** An adequate understanding of what it means to be a foster child and a recognition of a child's strengths and needs consistent with the child's age and abilities, or a motivation to learn.
 - b.** A history of managing or an indication of the ability to manage stress related to economic resources, employment, home, neighborhood, family size, health problems, or other factors and an indication of an ability to cope with an additional stress factor of the placement of a foster child.
 - c.** A satisfactory self-concept.
 - d.** An ability to communicate ideas, feelings, and needs.
 - e.** An outlook regarding his or her own history that indicates that any negative aspects have been recognized and adequately addressed.
 - f.** Parenting ability appropriate to the age, abilities, strengths, and needs of foster children to be placed in the licensee's home or a motivation to learn.
 - g.** A history of positive parenting, if applicable.
 - h.** An adequate knowledge of child growth and development or a motivation to learn.
 - i.** Reasonably constructive social relationships and the ability to provide encouragement and understanding of a foster child's need for positive social relationships.
 - j.** Effective intrafamilial communication and the existence of appropriate family roles, marital or other relationship stability, integration into the community, and organization in the home.

- k. An appropriate understanding of child abuse and neglect as a social problem or a motivation to learn.
- l. An appropriate understanding of the needs of children who have been abused or neglected and of parents who abuse or neglect their children or a motivation to learn.
- m. Adequate preparation of all family members to become a foster family, particularly preparation for the stress that having a foster child in the family may place on each family member.
- n. An appropriate motivation for applying to be a foster family and an ability to follow through on difficult endeavors.
- o. A willingness to work with the supervising agency, placing agency, licensing agency, and the biological or adoptive parents in achieving a foster child's permanence goal as established in the child's permanency plan.

Wis. Admin. Code §DCF 56.05.

This was not a close case. I decide this case based on the demeanor of the petitioner at hearing, the facts surrounding the case as admitted to by petitioner and those supported by the weight of evidence in the record. Petitioner's attitude appears to be one of her family against the government. She clearly feels wronged by the involved government and social service agencies. Petitioner's overall demeanor demonstrated that she is defensive, quick to argue, and that her first reaction is to doubt and disagree with the agencies representatives. This is not a good place to start for a person applying for a license to care for children under the supervision and authority of those agencies. How does petitioner intend to work cooperatively with these agencies in a child's best interests if she is unwilling to cooperate? Petitioner is entitled to her views and attitudes, but she is not simply "entitled" to a foster care license without showing that she meets the requirements above.

The record supports the conclusion that the children that were to be in [REDACTED]'s care were, in reality, living with petitioner and were often under the care of [REDACTED]. Petitioner was aware that [REDACTED]'s children were to be in [REDACTED]'s care. Petitioner was knowingly violating the orders by having [REDACTED]'s children to live with her. And argument that the children were not living with her is misplaced as even petitioner admitted that the children slept in her home at least two and as many as five nights per week. This fact alone justifies denial of the license.

The record supports the finding that IASW [REDACTED] visited petitioner's home on [REDACTED] 18, 2013 and that petitioner was uncooperative. Petitioner stated at hearing that [REDACTED] demanded entry to the home without identifying herself. This claim was not believable. After entry, petitioner was argumentative with [REDACTED] regarding her attempts to determine whether [REDACTED] was suffering from injuries. That evening, [REDACTED] was taken from the home and found to have multiple fractures and bite-marks and bruising as determined by a physician and Milwaukee Childrens' Hospital.

At hearing, petitioner did not make any apologies for her combativeness with IASW [REDACTED] or her agency. She certainly did not concede that further communication or willingness to work together may have helped [REDACTED] get medical treatment sooner or even avoided the injuries in the first place. She just did not seem to care that her infant granddaughter head clearly been abused. Petitioner simply acts as if this level of contempt is normal and expected, and justified. Regardless, the attitudes demonstrated at hearing, and in the conduct of petitioner supported by the evidence, are not those of a person who is fit and qualified to be a foster parent in this state. I have no question that petitioner would be unwilling to comply with the rigorous rules of the program and that she would continue to show contempt for the agency that would need to oversee her care. The Department clearly did not err in denying this license.

CONCLUSIONS OF LAW

The Department did not err in denying the application for a foster care license because petitioner is not fit and qualified under the program rules.

THEREFORE, it is

ORDERED

That this matter 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 8th day of January, 2014

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on January 8, 2014.

Foster Care
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