



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

FOS/160076

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2014, under Wis. Stat., §48.72, to review a decision by Columbia County Health & Human Services to deny a foster home license, a hearing was held on October 8, 2014, by telephone.

The issue for determination is whether the acted appropriately in denying a foster license based upon perceived lack of stability in the household.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Atty. Krista Miller
Columbia County Health & Human Services
P.O. Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Columbia County.
2. Petitioner applied for a foster home license specifically for an infant girl who was placed with her on a voluntary basis. When the girl was placed with petitioner it was thought that she was petitioner's niece, but later the family connection was excluded following genetic testing.
3. Petitioner owns her home jointly with her 21-year-old sister ██████████, ██████████, her 19-year-old boyfriend ██████████, and their two children also live in the home.

4. Because foster licensing rules require testing all adults in the household, [REDACTED] and [REDACTED] were included in the licensing assessment. During interviews, family members spoke of [REDACTED]'s temper control problems. Mentions were made of arguments between [REDACTED] and [REDACTED], one of which led to police contact in March, 2013. Both [REDACTED] and [REDACTED] admitted to substance abuse issues in the past, approximately three years ago. [REDACTED] attempted suicide in 2010, and she had two retail theft arrests in 2011 and 2012. [REDACTED] and [REDACTED] both had been fired from their jobs in July, 2014, although they did obtain new jobs almost immediately.
5. When the adults were sent to be fingerprinted for the "Adam Walsh – FBI" background check, [REDACTED] refused to attend.
6. By a letter dated August 15, 2014, the county agency denied the foster home license because of concerns with [REDACTED] and [REDACTED]. Exhibit A.
7. Since the denial [REDACTED] has moved out of the home but still spends substantial time there with [REDACTED] and their children.

DISCUSSION

Wis. Admin. Code, §DCF 56.05(1) provides, in relevant part, as follows:

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....

Wis. Admin. Code, §DCF 56.05(1)(b)1 provides that a foster parent shall have the following (relevant provisions only):

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.

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.

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.

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.

This situation is unusual in that the applicant passed the tests well, but other adults in the household had problems that resulted in concern for the county agency. The problem is that the other household members will be regularly involved with the foster child even if they are not the primary caregivers, and thus the other household members are scrutinized along with the applicant.

Family members testified that [REDACTED] and [REDACTED] have matured tremendously in the past couple years, and it is noted that the substance abuse and legal problems appear to be behind them. Their relationship remains somewhat turbulent, however, as arguments have continued and their remains a concern about [REDACTED]'s temper. His reaction to the request for fingerprinting shows that he still has some impatience about him if not a bad temper. [REDACTED]'s move back to his mother's house shows a continuing instability in the relationship.

I think that if the child was related to petitioner I might give the situation a pass, but we know that the child is not related to the family even if she did spend time in the household. For a non-relative placement, the foster home is subject to high standards. It appears that the family has enough challenges on its own with two very young children being raised by young parents. I conclude, therefore, that the agency used sound and experienced judgment in denying the foster license, and there is insufficient reason for me to reverse the determination.

CONCLUSIONS OF LAW

The foster licensing agency acted appropriately in denying petitioner's foster home license based upon reasonable concerns with the backgrounds of adults in the household and with stress factors already existing in the household.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 13th day of October, 2014

\sBrian C. Schneider
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 October 13, 2014.

Columbia County Health & Human Services
DCF - Foster Care