



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

KIN/163304

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 15, 2015, under Wis. Stat., §48.57(3m)(f), to review a decision by the Bureau of Milwaukee Child Welfare to discontinue Kinship Care, a hearing was held on February 4, 2015, by telephone.

The issue for determination is whether the agency correctly discontinued Kinship Care when petitioner did not follow up with a foster care application.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Julie Bischoff, St. Aemelian  
Bureau of Milwaukee Child Welfare  
635 North 26<sup>th</sup> Street  
Milwaukee, WI 53233-1803

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner's granddaughter T.C. was placed with her by a Milwaukee County Circuit Court pursuant to a Child In Need of Protection or Services (CHIPS) order. Petitioner began to receive Kinship Care for the child and was told that she had to apply for a foster license.
3. After initially applying for the foster license, petitioner decided to withdraw from the foster licensing process. When the Kinship Care agency was told of the withdrawal from foster

licensing, it took action to discontinue Kinship Care. It informed petitioner of the discontinuance by a notice dated January 7, 2015.

### DISCUSSION

The Kinship Care benefit is a public assistance payment of \$226 per month per child (in 2014) 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. 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).

The eligibility requirements were changed in Wisconsin Act 28, the 2009 biennial budget bill. Wis. Stat., §48.57(3m)(am)1 now reads that one of the conditions of Kinship Care eligibility is that: "The kinship care relative applies to the county department or department for payments under this subsection and, if the child is placed in the home of the kinship care relative under a court order, for a license to operate a foster home." The change was made by the legislature to shift the funding for care of children from the Kinship Care program to the foster care program. See DSP Memo Series no. 2010-09, dated September 17, 2010.

Therefore, under current rules when a child is placed by a court in a relative's home, the relative must apply for both Kinship Care and a foster home license. If the caretaker relative does not complete the foster licensing process, the Kinship Care agency must discontinue the Kinship Care payments. This requirement is set out in the Wis. Admin. Code, §DCF 58.065(1); see also DSP Memo Series no. 2012-10, dated November 5, 2012, which explains the time lines for the application process as well as the requirement that the Kinship Care agency discontinue payments if the caretaker does not complete the foster licensing process.

Petitioner testified that she receives Kinship Care for two older siblings of T.C. without the foster licensing requirements. My assumption is that those children were placed before the change in law was implemented and the foster licensing rule did not apply to them. It is clear, however, that under the current law there is a requirement that the caretaker of a child placed by a court must apply for a foster home license. The agency thus correctly sought to discontinue petitioner's Kinship Care for T.C. because she did not complete the foster licensing process.

### CONCLUSIONS OF LAW

The Kinship Care agency correctly sought to discontinue petitioner's Kinship Care for T.C. because petitioner did not complete the foster licensing process.

**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 6th day of February, 2015

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 6, 2015.

Kinship-DCF  
DCF - Kinship Care