



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redact

DECISION

KIN/164385

PRELIMINARY RECITALS

Pursuant to a petition filed February 11, 2015, 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 via telephone on March 31, 2015.

The issue for determination is whether it was correct to discontinue petitioner's Kinship Care in June 2014.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703
BY: Redact, 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 (CARES # Redact) is a resident of Milwaukee County, Wisconsin.

2. Petitioner was receiving Kinship Care.
3. PSG was notified via e-mail by the Sex Offender Registry ["SORP"] that there was an address match to petitioner's home for a registered sex offender; the registered sex offender was petitioner's adult brother.
4. PSG (both the assessor and the Program Manager) repeatedly attempted to make contact with petitioner regarding the SORP address match (at least 6 message were left for petitioner regarding this); petitioner failed to provide PSG with the necessary paperwork to show that her brother did not live with her.
5. On June 23, 2014 SORP informed PSG that petitioner's brother had personally informed SORP that his address was still that of petitioner's.
6. PSG discontinued petitioner's Kinship Care.

DISCUSSION

Eligibility for Kinship Care payments is governed by state law. Wis. Stat. § 48.57(3m) (2013-14); Wis. Admin. Code § DCF 58.01 (April 2015). Under state law, a person must satisfy several requirements to be eligible for Kinship Care. Wis. Stat. § 48.57(3m)(am) (2013-14); Wis. Admin. Code § DCF 58.10 (April 2015). If a person satisfies these requirements, he or she is eligible for Kinship Care.

One of the requirements for Kinship Care is that the Kinship Care relative must provide information sufficient for the agency to conduct a criminal background check on any adult resident of the Kinship Care relative's home. Wis. Admin. Code § DCF 58.04(2)(a)1. (April 2015); See also, Wis. Stat. §§ 48.57(3m)4., 4m. & 5. (am) (2013-14) and Wis. Admin. Code § DCF 58.04(3)intro. & (3)(c) (April 2015). This includes providing verification of who lives in the home and who does not. Petitioner has failed to do this. Therefore, it was correct to discontinue petitioner's Kinship Care in June 2014.¹

PSG argues that petitioner did not request a Hearing in a timely manner and that, for this reason, DHA does not have jurisdiction. However, petitioner and her fiancé testified that petitioner never received notice that her Kinship Care would end in June 2014. Moreover, PSG has failed to show that petitioner was ever given proper advanced, written notice (with appeal rights) of the June 2014 discontinuance of her Kinship Care. Therefore, this master cannot be dismissed for lack of jurisdiction. See, Wis. Stat. § 48.57(3m)(f) (2013-14); See also, Wis. Admin. Code § DCF 58.08(3) (April 2015).

CONCLUSIONS OF LAW

For the reasons discussed above, whether it was correct to discontinue petitioner's Kinship Care in June 2014.

¹ The evidence in the record of this matter is that, in addition to being a registered sex offender, petitioner's brother has been convicted of bank robbery and that, at the very least, he visits petitioner's home frequently and stays for a few hours.

NOW, 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, Room G200, 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 May, 2015

\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 May 13, 2015.

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