



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

KIN/165453

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 13, 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 on May 05, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner's application for kinship care benefits.

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, Room G200  
Madison, Wisconsin 53703

By: Stephanie Purpero, Kinship Care Worker  
Bureau of Milwaukee Child Welfare  
1555 Rivercenter Drive  
Milwaukee, WI 53212

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Milwaukee County.
2. The petitioner is caring for a relative child.
3. On February 27, 2015 the petitioner applied for kinship benefits.

4. On March 6, 2015 the agency, PSG, conducted a home visit at the petitioner's home. PSG was unable to reach the mother to complete a home visit of the mother's home.
5. On April 8, 2015 the agency sent a letter to the petitioner stating that they denied her application for kinship benefits because this relative placement was a voluntary arrangement. There was nothing preventing the mother from caring for her child except convenience. Although the mother did not have stable housing, she had a job, and the ability to obtain stable housing. The child was never removed from the mother's care due to abuse or neglect. In addition, the mother did not have any documented AODA issues or criminal contacts listed on Wisconsin Circuit Court Access (CCAP).
6. On April 17, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

### DISCUSSION

The Kinship Care benefit is a public assistance payment of \$215 per month per child 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).

For Kinship Care cases in which the relative is not a guardian appointed under Wis. Stat., §48.977, the conditions listed in Wis. Stat., §48.57(3m)(am) must be met. The pertinent "conditions specified in par. (am)" here are as follows:

1. The kinship care relative applies to the county department or department for payments under this subsection and the county department or department determines that there is a need for the child to be placed with the kinship care relative and that the placement with the kinship care relative is in the best interest of the child.
2. The county department or department determines that the child meets one or more of the criteria specified in s.48.13 or 938.13 or that the child would be at risk of meeting one or more of those criteria if the child were to remain in his or her home.

*Id.*, (3m)(am)1, 2. In Decision No. KIN-40/51985, dated May 22, 2002, the Department's deputy secretary concluded that even if there was an apparent need for the placement, there still must be evidence that there is a risk to the child cited in Wis. Stat., §48.13 if the child were to live with a parent. Essentially that decision ties together the first two conditions cited in Wis. Stat., §48.57(3m)(am), that there be a need for the placement and that the child be at risk of harm that could lead to a CHIPS case.

The primary criteria under §§48.13 at issue in Kinship Care cases are that the child needs protection because he has no parent or his parents have abandoned him, he has been a victim of abuse or is at risk of abuse, or the parents refuse to or are unable to provide necessary care, food, clothing, or shelter for reasons other than poverty.

The petitioner argues that the mother has abandoned the child and is unable to provide the appropriate care, however there is no documented evidence showing this. The petitioner did not disclose that the mother had AODA issues in the home visit. At the hearing the petitioner stated that the mother had AODA issues. I do not find this testimony credible. There are no criminal records on CCAP showing an AODA history. In addition, the petitioner offers no treatment records or other evidence of an AODA history. I agree with the agency that this arrangement appears to be out of convenience. There is no evidence that the child would be abused or neglected were the child in the mother's care. The mother has no history of other children being abused or neglected in her care. Based upon the record before me I

cannot conclude this petitioner qualifies for kinship payments. I note that if the petitioner obtains additional evidence or documentation, she can reapply for kinship payments.

**CONCLUSIONS OF LAW**

The agency correctly denied the petitioner’s application for kinship benefits.

**THEREFORE, it is** **ORDERED**

That the petition is 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 Milwaukee,  
Wisconsin, this 19th day of May, 2015

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\sCorinne Balter  
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 19, 2015.

Professional Services Group - PSG

DCF - Kinship Care

DCF - Kinship Care