



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
*Redact*

DECISION

AAP/165828

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 4, 2015, under Wis. Admin. Code, §DCF 50.065, to review a decision by the State Adoption Assistance agency to discontinue adoption assistance, a hearing was held on June 3, 2015, by telephone.

The issue for determination is whether petitioner's son was eligible for adoption assistance after he turned age 19.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
*Redact*

Respondent:

Department of Children and Families  
201 East Washington Avenue, Room G200  
Madison, Wisconsin 53703

By: Atty. [REDACTED]  
*Redact*  
Office of Legal Counsel  
P.O. Box 8916  
Madison, WI 53708-8916

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Marathon County.
2. Petitioner and his wife adopted a child in 2001 and received adoption assistance.
3. Prior to petitioner's son turning age 19 the agency sent two notices informing him of the criteria to continue eligibility beyond age 18. One criterion is that the recipient must be denied Supplemental Security Income (SSI) eligibility by the Social Security Administration.

4. Petitioner's son turned age 19 on April 11, 2015. The adoption assistance agency notified petitioner by a letter dated April 14 that assistance would end May 1, 2015 because petitioner turned age 19 and he did not meet the criteria for continuing assistance until age 21. Petitioner has not applied for SSI for his son.

### DISCUSSION

Adoption assistance is a benefit paid to facilitate the adoption of children with special needs. Wis. Admin. Code, §DCF 50.01(1). Once assistance is approved for an adopted child, the child remains eligible for the benefit until he reaches 18 years of age. In addition, assistance can be continued based upon Wis. Admin. Code, §DCF 50.06(3)(b), which provides:

Discontinue adoption assistance based on any of the following circumstances, as determined by the department:

1. When the adoptee reaches 18 years of age, except that eligibility for adoption assistance may continue to age 19 if the adopted person is a full-time student in high school or the equivalent. Benefits may continue to age 21 if the adopted person is a full-time student in high school or the equivalent, the department determines that the adopted person has a mental or physical handicap which warrants the continuation of assistance under 42 USC 673, *the adopted person is not eligible for other benefits such as supplemental security income* and the adopted person otherwise lacks adequate resources to continue in high school or the equivalent.

Italics added. Under the rule benefits cannot be continued beyond age 18 unless the recipient has been denied other benefits paid to disabled adults. Petitioner did not apply for SSI on his son's behalf because he did not realize he had to do so.

Based upon the administrative code provision, the agency correctly discontinued adoption assistance when petitioner's son turned age 19.

### CONCLUSIONS OF LAW

The adoption assistance agency correctly discontinued eligibility for petitioner's son when he turned age 19 because he did not meet the criteria for continued assistance.

**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 5th day of June, 2015

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\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 June 5, 2015.

Adoption Assistance

Attorney Redact