



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

AAP/167666

PRELIMINARY RECITALS

Pursuant to a petition filed July 29, 2015, under Wis. Admin. Code §DCF 50.065, to review a decision by the Adoption Assistance in regard to Adoption Assistance Program, a hearing was held on September 24, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department of Children and Families correctly denied the Petitioner's request for continued adoption assistance payments.

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: Attorney Nancy Wettersten, DCF Office of Legal Counsel

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. In 2003, the Petitioner adopted a child, PL. Petitioner signed an Adoption Assistance Agreement on March 24, 2003, which advised the Petitioner that PL's adoption assistance would end when she turned 19. (Exhibit R-1)
3. PL turned 19 in July 1996. (Exhibit R-1)

4. On March 27, 2014, DCF sent the Petitioner a notice indicating that she would receive the last adoption assistance payment in July 2015. (Testimony of Paul [REDACTED]; Exhibits R-2 and R-3)
5. On April 1, 2015, the Petitioner completed a request for the continuance of adoption assistance payments. In that request, Petitioner indicated that she did not have written notice of a denial of Supplemental Security Income, based on disability, for the child. (Exhibit R-5)
6. On July 14, 2015, DCF sent the Petitioner a notice, indicating that adoption assistance payments were not approved to continue after the child's 19th birthday. (Exhibit R-6)
7. The Petitioner file a request for fair hearing that was received by the Division of Hearings and Appeals on July 29, 2015. (Exhibit P1)

DISCUSSION

Adoption assistance is defined as a payment, by DCF to an adoptive or a proposed adoptive parent of a child, that is intended to help the parent pay for the cost of caring for that child. Wis. Stats. §48.975(1); Wis. Admin. Code §DCF 50.01(1)(2). Adoption assistance may only be provided for, "a child with special needs and only when the department has determined that such assistance is necessary to assure the child's adoption." Wis. Stats. §48.975(2); *See also* Wis. Admin. Code §DCF 50.03(1)(b)

Wis. Stats. §48.975(3m) allows adoption assistance to continue past a child's 18th birthday. Under Wis. Admin. Code §DCF 50.06(3)(b), adoption assistance must end when a child reaches age 18, unless the child falls into a stated exception. For example, adoption assistance may continue until a child reaches age 21, if the child is 1) a full time high-school student, 2) has a mental or physical handicap which warrants the continuation of assistance, 3) the child is not eligible for other benefits, such as supplemental security income, and 4) the child otherwise lacks adequate resources to continue in high school or the equivalent. *Id.*

In the case at hand, no one disputed the fact that the child has a handicap. However, in order for the child to qualify for continued adoption assistance, she must be determined to be ineligible for other assistance, such as Supplemental Security Income.

The Petitioner testified that the child in question has not yet applied for and been denied Supplemental Security Income. Accordingly, DCF may not approve the continuation of adoption assistance, at this time.

CONCLUSIONS OF LAW

DCF correctly denied the Petitioner's request for the continuation adoption assistance payments.

THEREFORE, it is

ORDERED

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 24th day of November, 2015.

\sMayumi M. Ishii
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 November 24, 2015.

Adoption Assistance
Attorney Nancy Wettersten