



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOS/168869

PRELIMINARY RECITALS

Pursuant to a petition filed September 16, 2015, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Sheboygan County Department of Human Services in regard to Foster Care, a hearing was held on January 07, 2016, at Sheboygan, Wisconsin.

The hearing was originally schedule for October 22, 2015. However, the Petitioner and Sheboygan County Corporation Counsel agreed to reschedule the hearing to try to resolve the matter.

The hearing was then scheduled for December 10, 2015. On that date the Petitioner indicated that she would like to reschedule the hearing to give the Agency an opportunity to obtain clarification/confirmation of what the State of California intended to do with three children that it previously sought to place in Petitioner’s care, given that Wisconsin incorrectly denied the Petitioner’s application for a Foster Care license.

The hearing was then set for January 7, 2015, and took place at that time.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly denied the Petitioner’s application for a Foster Care license.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Scott Schackelford, Child and Family Services Manager, Foster Care Worker
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:
 Mayumi M. Ishii
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Sheboygan County.
2. On August 18, 2015, the Petitioner submitted a Data Sheet for Child Foster Home Applications, to apply for a Foster Care license. Petitioner intended to take in three related children who currently reside in the state of California. (Exhibit 3; Stipulation of the Parties)
3. On September 10, 2015, the agency sent the Petitioner a letter indicated that her application was denied because she had a 15 page criminal record that included nine aliases, a conviction for prostitution and a conviction for marijuana possession. (Exhibit 1)
4. The Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on September 16, 2015. (Exhibit 1)
5. On October 16, 2015, the Sheboygan County Office of Corporation Counsel acknowledged that the Wisconsin Department of Justice confirmed that the Petitioner was the victim of identity theft and that the criminal record belonged to Petitioner's sister, not the Petitioner. (See Exhibits 1 and 4)

DISCUSSION

It is undisputed that the basis for the denial of Petitioner's Foster Care License, as stated in the September 10, 2015 notice, was false. As such, the agency incorrectly denied the Petitioner's Foster Care License.

After Petitioner filed her appeal, the agency also stated that Petitioner's application needed to be denied because it did not state the name of her physician, the name and address of the clinic in which he works, nor the date of her last physical. (See Exhibit 3) However, this was never stated in the September 10, 2015 notice and cannot be used in this decision as a basis to uphold the September 10, 2015 denial. Indeed, Petitioner testified that she was never previously informed about this deficiency. Further, this absence of information is something that should have been easily remedied.

The agency argued that the denial of the application became moot, because California closed interest on the matter. However, that occurred, only because the agency incorrectly denied the Petitioner's Foster Care license. It is now unclear what California's intentions are, given that the denial of the Foster Care license was incorrect.

At the hearing on January 7, 2015, the agency indicated that the children's current social worker was not previously made aware of the situation and is currently determining whether placing the children with the Petitioner is appropriate. As such, the denial of Petitioner's application is not moot, nor is it moot, if Petitioner would like to take in any other children.

CONCLUSIONS OF LAW

The agency incorrectly denied Petitioner's Foster Care license.

THEREFORE, it is

ORDERED

The agency shall send the Petitioner a request for the name of her physician, the name and address of the clinic in which s/he works, and the date of Petitioner's last physical. Immediately upon receipt of that information, the agency shall process the Petitioner's application and issue her a Foster Care license if it

deems it appropriate. If the agency denies Petitioner's application, it shall issue to Petitioner a new notice of denial with new appeal rights. The agency shall take all administrative steps necessary to complete these tasks within 20 days of this decision.

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 8th day of January, 2016.

\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 January 8, 2016.

Sheboygan County Department of Human Services
DCF - Foster Care