

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Petitioners

Reg. No: 2008-18536
Issue No: 6004
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon petitioners' request for a hearing. After due notice, a hearing was held on July 23, 2009. Petitioners were not represented.

ISSUE

Did the department properly deny petitioners application for Adoption Support Subsidy?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Petitioners adopted a child (Date of Birth [REDACTED]) on [REDACTED].
- (2) The child entered Foster care on [REDACTED]. The child was placed as a court ward and parental rights were terminated on [REDACTED].
- (3) The child was place in petitioners' home on [REDACTED].

- (4) On February 21, 2002, petitioners requested an Adoption Support Subsidy for the child.
- (5) On October 31, 2002 the department denied the request.
- (6) The petitioners filed a petition for adoption on May 20, 2003.
- (7) Petitioners requested a hearing regarding the denial on May 20, 2003
- (8) The department had denied the request for an adoption subsidy because the petitioners did not meet the #4 criteria set forth in CFA 738 which states, “The prospective adoptive family requesting support subsidy for the child is the only placement in the best interests of the child as described in the child assessment; or for a child who does not have a best interests placement, a reasonable effort to locate a family for the child has failed to locate an appropriate family willing to adopt without support subsidy. See CFA 738, pg. 2-3 for details of these processes. ... The only placement in the best interests of the child requires the following: The adoption worker must determine that the planned placement is the only placement in the child's best interests and document it in the child's adoption assessment. In order for the child to be eligible for an adoption support subsidy, the planned adoption must meet one of the following categories: Adoption by the child's long-term (one year or more) foster parents....”
- (9) Before the petition for adoption was filed but after the denial the petitioners may have met #4 criteria.
- (10) At the hearing, the department agreed to review the circumstances surrounding the issue of eligibility for adoption subsidy and determine eligibility.
- (11) As a result of this agreement, the petitioners indicated that they no longer wished to proceed with the hearing.

- (12) This agreement in no way restricts or limits the petitioners' ability to request a hearing on the issue of adoption subsidy if the department again denies the subsidy.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.*. Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

Under Program Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case, the department has agreed to review the application for adoption subsidy. As a result of this agreement, the petitioners indicated they no longer wished to proceed with the hearing. It should be noted that the department representative indicated that they were not notified of the hearing and that an adoption support subsidy specialist, familiar with the case was not available. Further this decision and settlement does not effect petitioners right to request another hearing if the department denies the subsidy. Since the petitioners and the department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department and petitioners have come to a settlement regarding petitioners' request for a hearing. Therefore, it is ORDERED that the department review the adoption subsidy application and make an eligibility decision. The department is to notify the petitioners in writing of the decision in accordance with this settlement agreement.

/s/
Rhonda P. Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/27/09

Date Mailed: 09/01/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order the claimant may appeal it to the circuit court for the county in which he/she lives. Administrative Hearings, on its own motion, or on request of a party within 30 days of the receipt of this Decision and Order, may order a rehearing. Administrative Hearings will not order a rehearing on the agency's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original hearing request.

RC/dj

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