

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Petitioner

Reg. No. 2008-18554

Issue No. 6004

Case No. ██████████

Load No. ██████████

Hearing Date:

October 22, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon petitioner's request for a hearing. After due notice, an in-person hearing was held on October 22, 2009 and petitioner appeared and testified.

ISSUE

Did the Department of Human Services (DHS) properly deny petitioner's request for an Adoption Support Subsidy?

FINDINGS OF FACT

- (1) Petitioner adopted a child (Date of Birth ██████████) on ██████████ 2007. The petition for adoption was filed on October 20, 2006.
- (2) The child was placed with the petitioner as a Foster Care Child on ██████████ 2005. At all times, the Level of Care for the child in Foster Care was never above Level I.
- (3) On October 12, 2006, petitioner requested an Adoption Support Subsidy.
- (4) On November 15, 2006, the department denied the request.

- (5) On December 29, 2006, petitioner requested a hearing contesting the department's denial of an Adoption Support 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).

The State of Michigan administers three adoption subsidy programs: Adoption Support Subsidy; Adoption Medical Subsidy and Nonrecurring Adoption Expenses Reimbursement. The purpose of support and medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs, as defined by MCL 400.115f. The purpose of the nonrecurring adoption expense reimbursement program is to assist in paying the out-of-pocket expenses of adoption of special needs children. Based on each individual child's situation and needs, one or more of the subsidy benefits may be available to support their adoption. Some children do not qualify for any subsidy program based on their individual circumstances. Subsidy is available without respect to the income of the adoptive parent(s). The adoption support subsidy is intended to assist with the payment of expenses of caring for and raising the child. It is not intended to meet all of the costs of raising the child; rather, it is a money grant program, which provides assistance to adoptive parents in certain defined and limited ways. Adoptive parents retain financial and decision-making responsibility and authority for their child. A support subsidy is a monthly payment to the parent or parents of an eligible adopted child. This payment provides assistance to the parent or parents of the adopted child and eligibility is determined

before the petition for adoption is filed. The child placing agency, the Department of Human Services (DHS), or the Department of Community Health unit that has responsibility under Michigan's law for the care and supervision of the child is responsible for submitting the application for support subsidy. CFS Manual Item 740.

Under departmental policy CFA 750 at the time of the request, at the time of eligibility determination, the child must be a "child with special needs" to be certified for an Adoption Support Subsidy. This means that the child must meet each factor in a - c as follows: . . . c. The child has one of the following specific factors or conditions:

- c-1. The child is SSI eligible as determined by the Social Security Administration.
- c-2. The child has a special need for medical, mental health, or rehabilitative care that equals or exceeds the DHS foster care Level 2 Determination of Care (DOC), and

is documented by the DHS-approved DHS-470, 470A, or 1945, and

is supported by the current DHS Updated Service Plan (USP), and

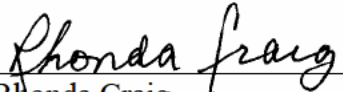
is being paid through the DHS foster care payment system.
- c-3. The child is age 3 years or greater.
- c-4. The child has been in foster care for at least 2 years since the termination of parental rights and efforts to locate a family willing to adopt without subsidy have failed.
- c-5. The parental rights for the child were terminated prior to 8/1/ 02 and the child has lived with the prospective adoptive parent for 12 months or more.
- c-6. The child is being adopted by a relative (CFF 721).
- c-7. The child is being adopted by the parent(s) of his/her previously adopted sibling.

- c-8. The child is a member of a sibling group being adopted together and at least one sibling group member qualifies for Adoption Support Subsidy through this program.

In the present case the petitioner's requested an Adoption Support Subsidy prior to the petition for adoption. The department denied the petitioners' request because the petitioner's child could not be certified for a support subsidy. The department specifically found that the child did not meet the certification condition outlined above for a "child with special needs" under Section (c). Pursuant to policy as cited above, the child must meet one of the eight (8) criteria to qualify for this requirement. The petitioner's child failed to meet any of these eight criteria. Therefore the child could not be certified for a support subsidy and the petitioner is not eligible for an Adoption Support Subsidy. Petitioner argues that the child is a "special needs child" because the child should have received a Level II, Level of Care designation when the child was receiving foster care. At the hearing the petitioner presented documentation that the child did have some medical problems which she felt warranted an increase in the Level of Care. Petitioner provided evidence that the child use braces for her feet and required special formula. The child had been hospitalized for ailments stemming from fetal drug addiction. Petitioner testified that the department was made aware of the child's medical situation. From the documents presented, it appears that the department took all the information provided by the petitioner into account in making the decision regarding the Level of Care. There is no evidence to show that the department abused it's discretion in determining the child's Level of Care. According to the aforementioned policy since the child was not determined to need a Level II, Level of Care and did not meet the other criteria for a "special needs" child, the child was not eligible for an Adoption Support Subsidy. The department was correct in denying petitioner's request for an Adoption Support Subsidy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the petitioner child was not eligible for an Adoption Support Subsidy because the child was not a “special needs” child and IT IS ORDERED that the department’s denial of the request for an Adoption Support Subsidy be and is hereby AFFIRMED.


Rhonda Craig
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/07/09

Date Mailed: 12/11/09

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

RC/dj

cc:

