

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. 2008-20345

Issue No. 6004

Case No. ██████████

Load No. ██████████

Hearing Date:

January 27, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

RECOMMENDED HEARING DECISION

This matter is before the undersigned Administrative Law Judge 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 January 21, 2010 and petitioner appeared and testified.

ISSUE

Did the Department of Human Services (DHS) properly deny petitioner's request for an Adoption Subsidy for her child after the child reached 19 years of age?

FINDINGS OF FACT

- (1) Petitioner has an adopted child which had been receiving an Adoption Support Subsidy (hereinafter referred to as subsidy).
- (2) The child was born on ██████████.
- (3) In December 2006, shortly before the child turned 18 years old, the petitioner requested an extension of the subsidy until the child was 21 years old.

- (4) The department extended the subsidy to the age of 19 but denied the request to extend the subsidy until the child reached the age of twenty-one.
- (5) On December 5, 2007, the department sent petitioner notice that the child's subsidy would terminate in January 2008.
- (6) The subsidy ended January 31, 2008.
- (7) Petitioner requested a hearing contesting the department's denial of the request for extension of the Adoption Support Subsidy until the child reached 21 years of age.

#### 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.

The DHS has an administrative hearing process to provide for the right to contest a department decision or case action when a client believes the decision is contrary to law or DHS policy. The issues of eligibility, computation of subsidy rates, case closure, and/or reduction of benefits are issues subject to administrative hearings. The adoptive parent or guardian has the burden of proof in an adoption subsidy hearing.

Pursuant to department policy as outlined in the manual CFA 793, each year, the legislature appropriates funds for the adoption Subsidy Program. If funds are appropriated for subsidy extensions, the annual budget will include the age limit for extensions. An extension of an adoption support subsidy can only be Title IV-E funded if there is documentation in the Adoption subsidy record of a chronic disability or handicapping condition that pre-existed the adoption. If such documentation exists, the extension may be funded with Title IV-E and Medicaid coverage continued. If the case does not meet the above criteria, a non Title IV-E funded support subsidy extension may be approved. Medicaid coverage through the Adoption Support Subsidy Program will not continue. Under the Social Welfare Act 280 of 1939 Section 115 J(2) **if sufficient money is appropriated** (emphasis added), the department may continue adoption assistance or a medical subsidy, or both, for an adoptee under 21 years of age if the department determines that the adoptee is a student regularly attending a high, college, university, or vocational school in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment. Under the state law in effect at the time of the

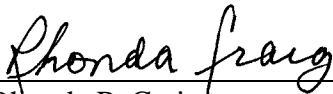
request, Section 503 of Public Act 131 of 2007 sets the maximum age for adoption subsidy at the 19<sup>th</sup> birthday. It states: “The department shall continue adoption subsidy payments to families after the eighteenth birthday of an adoptee who meets the following criteria: ...(c) Has not yet reached his or her nineteenth birthday....”

In the present case, petitioner requested an extension of the subsidy until the child reached 21 years of age. Pursuant to departmental policy, the department may only provide an extension of an adoption support subsidy for a child until the age of 21 if the state legislature indicates that the subsidy is extended until that age. According to the aforementioned enacted laws, the state legislature did not allow a subsidy for children after they have reached 19 years of age. This Administrative Law Judge finds that the department was correct in failing to provide petitioner with an adoption support subsidy for her child after the child reached the age of nineteen.

RECOMMENDED DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department is correct in denying petitioner’s request for an adoption subsidy support for her child after the age of nineteen.

IT IS ORDERED that the department’s denial of petitioner’s request for extended adoption support subsidy is UPHELD.

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

Date Signed: 04/01/10

Date Mailed: 04/01/10

**NOTICE:** If a party chooses to file Exceptions to this Recommended Hearing Decision, the Exceptions must be filed within ten (10) days after the Recommended Hearing Decision is issued and entered. All Exceptions must be filed for consideration by the Director of the Department of Human Services, mailed to the Office of Legal Affairs Lansing, Suite 715 Grand Tower, PO Box 30037, Lansing, MI 48909 and served on all parties to the proceeding and to the Administrative Law Judge.

RPC/dj

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