

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
Petitioner

Reg. No. 2008-18869
Issue No. 6004
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
May 28, 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; MCL 400.37 upon petitioner's request for a hearing. After due notice, an in-person hearing was held on May 28, 2009 and petitioners appeared and testified.

ISSUE

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

FINDINGS OF FACT

- (1) Petitioners (adoptive parents) requested an Adoption Support Subsidy via the [REDACTED] on September 5, 2002.
- (2) [REDACTED] is an adoptive placement agency under contract with the Department of Human Services (DHS).
- (3) The adopted child (Date of Birth [REDACTED]) was placed with the petitioners on November 14, 2001 as a foster care child. The parental rights of the child's birth parents were terminated on March 18, 2002.

- (4) On September 13, 2002, DHS denied the request for Adoption Support Subsidy because the “best interest” and “reasonable effort” criteria had not been met.
- (5) Petitioners continued to inquire and request Adoption Support Subsidy after the denial. These requests were made to the adoption placement agency. Petitioners made several of these subsequent requests prior to the petition for adoption (January 3, 2003).
- (6) The adoption placement agency failed to process another application for Adoption Support Subsidy.
- (7) On March 11, 2003, petitioners requested a hearing regarding the eligibility for 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 100.

The department policy in effect for the period in question reads:

Applications for Adoption Support Subsidy are to be submitted by the licensed child placing agency that is responsible for the care and supervision of the child. Applications must be consistent with the adoption plan that has been made for the child and documented in the child assessment. The application forms are the FIA-1341 and the FIA-4081. In cases where the adoption agency does not believe the child meets Adoption Support Subsidy eligibility criteria, but the potential adoptive family is requesting Adoption Support Subsidy for the child, the agency should submit the application for the Adoption Support Subsidy to the Adoption Subsidy Program Office. The Adoption Subsidy Program Office will make all determinations of eligibility. CFA 750.

In the present case, petitioner's adoptive placement agency made a request for an adoption support subsidy on September 5, 2002 which was denied on September 13, 2002. The department based the denial on the fact that the child did not meet the "best interest" or "reasonable effort" criteria on the date of the request as outlined in CFA 750 which states:

A reasonable but unsuccessful effort was made to place the child with an appropriate adoptive family without providing an Adoption Support Subsidy or the prospective adoptive placement is the only

placement in the best interest of the child and the adoptive parent or parents are requesting an Adoption Support Subsidy.

One of the following criteria must be met in order to meet the requirement of #4 above:

For children whose parental rights were terminated prior to 8/1/02 only:

The child is being adopted by the child's long-term (one year or more) foster parents and the adopting parent(s) have requested Adoption Support Subsidy by signing the FIA 4081 Adoption Support Subsidy Intent Statement. CFA 750

Subsequent to the denial, the petitioners contacted the adoptive agency and repeatedly inquired about an adoption support subsidy. The agency failed to make another request for adoption subsidy or take any action. The petitioners testified that the requests were made continuously up to and after the petition for adoption was filed. Under the aforementioned policy, the child would have met the "best interest" or "reasonable effort" criteria after November 14, 2002 since the child would have been in the petitioner's home as a foster child for one year. Since the petitioners continued to request a subsidy, another application or request should have been made by the adoptive agency. Per policy cited above, even though the agency may believe that the child does not meet the eligibility criteria, the agency should still make the application for the subsidy. This administrative law judge finds that the petitioners did make another request after November 14, 2002 for an adoption subsidy which was not processed. Therefore, the department should process this request for adoption support subsidy and determine eligibility for the child. The department should notify the petitioners of the determination in writing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the petitioners did make another request for an adoption support subsidy after November 14, 2002 which was not processed.

IT IS ORDERED THAT the department process this request for adoption support subsidy and determine eligibility for the child. The department should notify the petitioners of the determination in writing.

/s/ _____
Rhonda P. Craig
Administrative Law Judge

Date Signed: 06/05/09

Date Mailed: 06/05/09

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:

