

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.: 2008-18993

Issue No.: 6004

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

September 24, 2009

Wayne County DHS (69)

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 September 24, 2009 and petitioner appeared and testified.

ISSUE

Did the petitioner request a hearing for denial of Adoption Subsidy Supports in a timely manner?

FINDINGS OF FACT

- (1) The petitioner adopted two children Child #1 (Date of Birth 11/11/03) and Child #2 (Date of Birth 11/12/04).
- (2) Petitioner requested an Adoption Support Subsidy for Child #1 on June 6, 2005.
- (3) Petitioner requested an Adoption Support Subsidy for Child #2 on September 27, 2005.
- (4) Child #1 was placed in adoption status by the court on August 4, 2005.
- (5) The adoption order for Child #2 was signed on January 4, 2006.

(6) The department denied the request for a support subsidy for Child #1 on July 7, 2005.

The department denied the request for a support subsidy for Child #2 on October 3, 2005.

(7) On August 17, 2006 petitioner requested a hearing contesting the denial of her requests for Adoption Support Subsidies for both children.

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 FIA has an administrative hearing process to provide for the right to contest an Agency decision or case action when a client believes the decision is contrary to law or FIA 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. Support subsidy rates are agreed to by parents or legal guardians by the act of signing the Adoption Support Subsidy Agreement (FIA 4112 or FIA 4113). Rates are not negotiable and therefore do not qualify for administrative hearings. It is outside the authority of Administrative Hearings (AH) to renegotiate support subsidy rates. CFA 744. By law (MCLA 400.115k), administrative hearings may be requested by the adoptee, the

adoptee's guardian, or the adoptive parent(s). Prospective adoptive parents or foster parents do not have the right to a hearing regarding subsidy prior to the Family Court's signing of the Order Placing Child After Consent (PCA 320). After adoptive placement by the Family Court's order, the adoptive parent (or legal guardian appointed under MCLA 700.422 and 700.424), does have the right to appeal decisions they believe are contrary to law or FIA policy. Administrative Hearings (AH) may grant or deny the hearing request. Only AH has the authority to deny a hearing request. AH will deny requests signed by unauthorized persons and requests without original signatures (faxes or photocopies of signatures are unacceptable) and requests received over 90 calendar days after the date of the decision of the Adoption Subsidy Program Office. **For pre-adoption support subsidy denials only**, the hearing request must be submitted in writing within 90 calendar days of the date the Family Court signed the Order Placing Child After Consent (PCA 320). CFA 744.

In the present case, according to the aforementioned policy in effect at the time of the denial, a petitioner has 90 days from the court Order Placing Child After Consent to request a hearing for denial of a pre-adoption request for a support subsidy. Petitioner's request for a hearing (August 17, 2006) for both children was more than 90 days after the Order Placing Child After Consent (August 4, 2005 for Child #1, the Order for Adoption for child #2 is January 4, 2006. It is presumed that the Order Placing Child After Consent for Child #2 was made before the Order for Adoption) for both children. Therefore petitioner's request for a hearing contesting the denial of a pre-adoption request for an Adoption Support Subsidy is untimely. Petitioner is not entitled to a hearing and the request must be dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that petitioner's request for a hearing is untimely. Therefore petitioners request for a hearing in this matter is hereby DISMISSED.



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

Date Signed: 11/17/09

Date Mailed: 11/17/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RPC/jlg

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