

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-427
Issue No.: 6004
Case No.: [REDACTED]
Hearing Date: February 16, 2011
Wayne County (SOAHR)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Petitioner's request for a hearing. After due notice, a hearing was held in Detroit, Michigan on Wednesday, February 16, 2011. The Petitioner appeared and testified by telephone. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for Adoption Support Subsidy post adoption finalization?

FINDINGS OF FACT

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

1. On January 17, 1992, an Order Terminating Parental Rights After Consent and order Placing Child was entered by the Probate Court. (Exhibit 1)
2. On March 26, 1993, the Order of Adoption ([REDACTED]) was entered by the by the Probate Court. (Exhibit 2)
3. On April 8, 2008, the Claimant submitted a letter to the Department requesting an application for a post-adoption support subsidy. (Exhibit 3)
4. On April 23, 2008, the Petitioner submitted a letter and a Post Adoption Support Subsidy Request application. (Exhibit 4)
5. On February 9, 2009, the Department denied the Petitioner's Request for post-adoption support subsidy. (Exhibit 5)

6. On May 1, 2009, the Department received the Petitioner's timely written request for hearing. (Exhibit 6)

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department of Human Services ("DHS" - formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies (at the time) regarding adoption subsidy are found in the Child & Family Services Manual ("CFS") and the Adoption Subsidy Manual ("AAM"). 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 support and medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs, as defined by MCL 400.15f; CFA 737 Based on each individual child's situation and needs, one or more of the subsidy benefits may be available to support the adoption. Subsidy is available without respect to the income of the adoptive parent(s). CFA 737; MCL 400.115g(2) The adoption support subsidy is intended to assist with the payment of expenses of caring for and raising the child and is not intended to meet all of the costs of raising the child. CFA 737

There are limited circumstances in which the Department may approve an adoption support subsidy request that is made subsequent to the placement of the adopted child. CFS 200 The process is limited to children who were in the state's care when the petition for adoption was filed. CFS 200 An Administrative Law Judge ("ALJ") may grant approval of the program through the administrative hearing process only in cases where there has been a determination that one of the specific errors was made. CFS 200 If it is found that an error occurred, the child's pre-adoptive circumstance are evaluated. CFS 200 The specific errors are limited to the following:

1. An erroneous written determination of a child's ineligibility by the DHS Adoption Subsidy Program Office prior to June 1, 2002.
2. The documented denial of eligibility by the DHS Adoption Subsidy Program Office based on a means test of the adoptive family.
3. For children under the care and custody of DHS and placed for adoption after January 1, 1995 only: failure

by the DHS local office adoption program (or private agency under contract with DHS to provide adoption services) of the availability of adoption support subsidy and/or non-recurring adoption expenses.¹

If the child's circumstances did not meet adoption support subsidy/non-recurring adoption expenses eligibility requirements prior to the date of the finalization of the adoption, the presence of an error is not relevant. CFS 200

In this case, an erroneous written determination of the child's ineligibility does not exist nor was there a denial based on a means test. In light of the fact that a specific error does (did) not exist, evaluation of the child's eligibility is not required. Accordingly, the Department's determination must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department established it acted in accordance with department policy when it denied the Petitioner's post-adoption support subsidy request.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/23/2011

Date Mailed: 2/23/2011

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.

¹ Documented receipt of DHS Publication 538, Michigan's Adoption Subsidy Programs, is deemed evidence of notice

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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.

CMM/jlg

cc:

