

**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.: 2011-929
Issue No.: 6000
Case No.: [REDACTED]
Hearing Date: January 3, 2011
Wayne County DHS (69)

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 Monday, January 3, 2011. The Petitioner appeared and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Petitioner's Request for Hearing is timely?

FINDINGS OF FACT

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

1. On May 10, 2007, the Department received the Petitioner(s) Adoption Support Subsidy/Nonrecurring Adoption Expenses Application.
2. On July 20, 2007, the Adoption Support Subsidy Office determined that Adoption Support Subsidy rate of \$32.84/month.
3. On August 11, 2007, the Petitioner(s) signed the Adoption Support Subsidy/Nonrecurring Adoption Expense Agreement.
4. On August 30, 2007, the Order Placing Child (D.O.B. September 12, 2006) into Adoption/Order of Adoption was entered.
5. On August 19, 2009, the Department received the Petitioner's written request for hearing.

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. CFS 100 The purpose of support and medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs. CFS 100; 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 the 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). CFS 100; 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. CFS 100 The money grant program provides assistance to adoptive parents in certain defined and limited ways. CFS 100 A support subsidy is a monthly payment to the parent or parents of an eligible adopted child. CSM 100

Issues of eligibility, computation of subsidy rates, case closure, and/or reduction of benefits are issues subject to administrative hearings. CFA 744 Support subsidy rates are agreed to by parents or legal guardians by the act of signing the Adoption Support Agreement ("Agreement"). *Id.* Rates are not negotiable and therefore do not qualify for administrative hearings. *Id.* It is outside the authority of Administrative Hearings to renegotiate support subsidy rates. *Id.* Hearing requests must be submitted in writing within 90 calendar days of the date of the written notice of the decision of the Adoption Subsidy Program Office. *Id.*

In this case, the Adoption Subsidy Program Office determined the Adoption Support Subsidy amount to be \$32.83/month. The Petitioner(s) signed the Agreement on August 11, 2007. The Agreement contains a paragraph (1F) which details the appeal process specifically noting the 90 day requirement. The Petitioner's request for hearing was received approximately two years later. In light of the foregoing, the Petitioner's Request for Hearing is DISMISSED as untimely.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Petitioner's Request for Hearing is untimely.

Accordingly, it is ORDERED:

The Petitioner's Request for Hearing is DISMISSED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/05/2011

Date Mailed: 01/05/2011

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. 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:

