

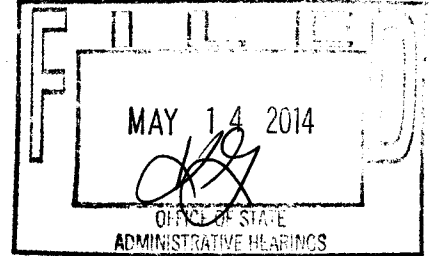
**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

**ERICA AND ADAM HAMBLIN,  
Petitioners,**

v.

**DEPARTMENT OF HUMAN SERVICES,  
FAMILY AND CHILDREN SERVICES,  
Respondent.**

:  
: **Docket No.:**  
: **OSAH-DFCS-SAA-1447468-107-**  
: **Walker-Russell**  
: **Agency Reference No.: 16998186**  
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**INITIAL DECISION**

**I. Introduction**

This matter comes before the Office of State Administrative Hearings pursuant to an appeal by Erica and Adam Hamblin (“Petitioners”) of Respondent’s refusal to enter into an Adoption Assistance Agreement for deferred adoption assistance after finalization of the adoption of Petitioners’ child. Petitioners appeared at the hearing held on May 12, 2014. Joan Chambers, Newton County Case Manager, and Frank Twitty, Adoption Assistance Program Consultant, represented Respondent. The parties have stipulated that the child is eligible for Federal Funded Title IV-E Adoption Assistance. For the reasons indicated below, Respondent’s decision is **HEREBY REVERSED**.

**II. FINDINGS OF FACT**

1.

On December 9, 2013, Petitioners obtained a Final Order of Adoption in Georgia for M.R., a female child who lived with Petitioners as a foster child in Newton County, Georgia since 2011. Petitioners acquired physical custody of M.R. from the Newton County Department of Family and Children Services, which had legal guardianship of M.R. and consented to the adoption. (*Testimony of Joan Chambers*).

2.

Joan Chambers is the caseworker assigned to Petitioners’ adoption case. Ms. Chambers concedes that prior to the finalization of the December 9, 2013, adoption of M.R., Petitioners applied for deferred adoption assistance but she failed to provide Petitioners with a Deferred Adoption Assistance Agreement for signing, which would allow Petitioners to receive future Adoption Assistance benefits should M.R. develop a physical, mental, or emotional disability. State and Federal policies require that the Adoption Assistance Agreement be signed by the parties prior to the finalization of the adoption. (*Testimony of Joan Chambers*).

3.

Since Respondent failed to provide Petitioners with a Deferred Adoption Assistance Agreement for signing prior to the finalization of the adoption of M.R., Petitioners requested this hearing to determine whether extenuating circumstances exist to allow Respondent to enter into a Deferred Adoption Assistance Agreement with Petitioners after finalization of the December 9, 2013, adoption pursuant to Section 109.24 of the Adoption Assistance Manual,. (*Testimony of Joan Chambers*).

4.

The parties stipulate that M.R. meets Title IV-E Federal-Funded Adoption Assistance eligibility. (*Stipulation by the Parties*).

### III. CONCLUSIONS OF LAW

1.

As the applicant, Petitioner bears the burdens of persuasion and going forward with the evidence in all matters. OSAH Rule 616-1-2-.07(1)(C). The standard of proof on all issues is the preponderance of evidence standard.

2.

The primary goal of the Federal Title IV-E and State Adoption Assistance program is to provide financial support to families who adopt difficult-to-place children from the public child welfare system. Children placed on adoptive status while in the permanent custody of the Georgia Department of Human Services (DHS) may be eligible for Adoption Assistance if determined by the State/Tribe to meet Federal and State special needs criteria and either Federal Title IV-E or State Title IV-B Adoption Assistance eligibility requirements. Adoption Assistance Manual, Section 109.

In this matter, the parties stipulate that M.R. meets federally funded Title IV-E adoption assistance eligibility and is eligible to apply for Deferred Adoption Assistance because she was in the permanent custody of Respondent and placed into the custody of Petitioners for the purpose of adoption.

3.

An Adoption Assistance Agreement must be signed and in effect at the time of or prior to the finalization of the adoption. 45 C.F.R. Section 1356.40; Adoption Assistance Manual, Section 109.24.

4.

If any adoptive family feels that they were wrongly denied benefits, they may request an administrative hearing (fair) hearing. If the fair hearing determines that extenuating circumstances exist, the earlier decision to deny benefits under Title IV-E may be reversed. Where the fair hearing decision is favorable to the adoptive parents, the State agency can reverse the earlier decision to deny benefits under Title IV-E. Adoption Assistance Manual, Section 109.24.

5.

In this matter, Respondent failed to follow the relevant policy and procedures of the Department of Human Services regarding Deferred Adoption Assistance. Specially, Respondent failed to provide Petitioners with a Deferred Adoption Assistance Agreement prior to the finalization of the adoption of M.R., which would allow Petitioners to receive future Adoption Assistance benefits. Accordingly, extenuating circumstances exist to allow Respondent to enter into a Deferred Adoption Assistance Agreement with Petitioners after finalization of the December 9, 2013, adoption,

### IV. DECISION

Based upon the foregoing, it is concluded that Respondent's refusal to enter into an Adoption Assistance Agreement for deferred adoption assistance after finalization of the adoption of M.R. is **HEREBY REVERSED**. Accordingly, Respondent is directed to provide Petitioners with a Deferred Adoption Assistance Agreement for Title IV-E Federal-Funded Adoption Assistance benefits.

SO ORDERED, this 14th day of May, 2014.



CAROL WALKER-RUSSELL,  
Administrative Law Judge