

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

**CAROLYN KURTZ,**  
**Petitioner,**

v.

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


:  
:  
: **Docket No.:**  
: **OSAH-DFCS-SAA-1647700-44-**  
: **Walker-Russell**  
:  
: **Agency Reference No.: 16609447**



**JUL 06 2016**

**INITIAL DECISION**

Appearances: For Petitioner: Carolyn Kurtz, *Pro Se*  
For Respondent: Tia Dillard, Adoption Assistance Program Consultant and Andrea Perkins, Regional Post Adoption Manager

  
Christa Orban, Legal Assistant

**I. Introduction**

Petitioner appeals Respondent's decision to terminate Adoption Assistance benefits past the age of 18 for her adopted daughter because she was placed on adoptive status at the age of 3 and not age 13, pursuant to the Adoption Assistance Policy. The hearing was held on July 5, 2016. The parties were provided an opportunity to present sworn testimony and documentary evidence at the hearing. For the reasons indicated below, Respondent's decision is **HEREBY AFFIRMED**.

**II. FINDINGS OF FACT**

1.

Petitioner adopted A.K., an 18 year old female born on September 17, 1997. Prior to the adoption, A.K. lived with Petitioner as a foster child and was placed on adoptive status at age 3. On August 23, 2001, Petitioner signed an Adoption Assistance Agreement [Form 402]. (*Testimonies of Tia Dillard and Petitioner; OSAH Form 1*).

2.

Sabrina Reed was the caseworker assigned to Petitioner's adoption case. Sabrina Reed was present on August 23, 2001, when she and Petitioner signed the Adoption Assistance Agreement. (*Testimonies of Sabrina Reed and Carolyn Kurtz*). Sabrina Reed gave credible and undisputed testimony that although she remembers Petitioner and A.K., she does not recall promising Petitioner that Adoption Assistance benefits would be available to A.K. until age 21. However, Sabrina Reed does recall that, at the time Petitioner signed the Adoption Assistance Agreement in 2001, the policy provided that a child placed on adoptive

status **at age 13** may continue to receive Adoption Assistance benefits after age 18 if enrolled on a full time basis and remain in need of assistance. (*Testimony of Sabrina Reed*).

3.

Ernestine P. Cole was the County Director over Petitioner's adoption case. Ms. Cole was present on August 23, 2001, when she and Petitioner signed the Adoption Assistance Agreement. (*Testimonies Ernestine P. Cole and Carolyn Kurtz*). Ernestine P. Cole gave credible and undisputed testimony that she does not remember Petitioner and A.K. in particular and does not recall promising Petitioner that Adoption Assistance benefits would be available to A.K. until age 21. (*Ernestine P. Cole*).

4.

The Adoption Assistance Agreement signed by Petitioner on August 23, 2001, states that "Termination of Adoption Assistance payments shall occur when the child reaches the age of 18. Adoption Assistance may be provided by State Option if the child has a developmental, physical or emotional disability which warrants continuation of benefits. He or she must be attending secondary school on a full time basis and remain in need of assistance. Benefits terminate when secondary school is completed or the child turns 21, whichever comes first. **Any child placed for adoption at age 13 or older may continue to receive benefits until age 21 if attending college on a full time basis**". (*Testimony of Frank Twitty, Adoption Assistance Program Consultant; Exhibit R-1*).

5.

Although Petitioner signed the Adoption Assistance Agreement on August 23, 2001, Petitioner left the meeting believing that A.K. would continue to receive Adoption Assistance benefits through college up to the age of 21, as long as she remained enrolled in school. (*Testimony of Carolyn Kurtz; OSAH Form 1*).

6.

A.K. was three (3) years old at the time that Petitioner signed the Adoption Assistance Agreement on August 23, 2001. A.K. turned 18 on September 17, 2015, but continued to receive Title IV-E Adoption Assistance benefits until she graduated high school in May 2016. Respondent terminated A.K.'s Adoption Assistance benefits in May 2016 because A.K. had graduated high school and did not meet the requirements for Adoption Assistance because A.K. was not placed on Adoptive status *prior to July 1, 1998, or at age 13 or older* pursuant to the Adoption Assistance Manual. (*Testimony of Frank Twitty, Adoption Assistance Program Consultant and Tia Dillard; OSAH Form 1*).

7.

The parties stipulate that A.K. met Title IV-E Adoption Assistance eligibility prior to age 18. (*Stipulation by the Parties*).

### III. CONCLUSIONS OF LAW

1.

Respondent bears the burdens of persuasion and going forward with the evidence in all matters, as this case involves an agency action terminating Adoption Assistance benefits. OSAH Rule 616-1-2-.07(1) (e). 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, A.K. met federally funded Title IV-E Adoption Assistance eligibility and was eligible for Adoption Assistance because she was in the permanent custody of Respondent when placed into the custody of Petitioners for the purpose of adoption.

3.

#### DURATION OF ADOPTION ASSISTANCE BENEFITS:

The applicable Adoption Assistance policy in effect at the time that the parties signed the August 23, 2001, Adoption Assistance Agreement was Section 109 of the Adoption Assistance Manual which provides that:

1. A child may continue to receive state funded Adoption Assistance after age 18 (maintenance only) if the child has a developmental, physical or emotional disability which warrants continuation of benefits.
  - A. He/she must be attending a secondary school on a full time basis and remain in need of Assistance.
  - B. The child must be financially dependent on his/her parents to be eligible.
  - C. Benefits may continue to age 21 or when the child finishes school, whichever comes first.

2. **Any child placed on adoptive status at age 13 or older** may continue to receive Adoption Assistance benefits after age 18 if enrolled in college on a full time basis and remaining in need of assistance. (Adoption Assistance Manual, Section 109, Page 8; Exhibit R-2).

4.

In this matter, Respondent followed the policy and procedures of the Department of Human Services regarding termination of A.K.'s Adoption Assistance Agreement. Respondent terminated A.K.'s Title IV-E Adoption Assistance benefits because A.K. turned 18 on September 17, 2015, graduated high school in May 2016, and was not placed on Adoptive status *at age 13 or older* pursuant to the Adoption Assistance Manual.

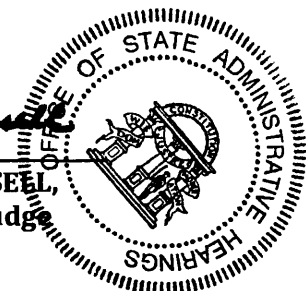
Petitioner argues that, at the time that the parties signed the Adoption Assistance agreement, Petitioner was promised that Adoption Assistance would continue until A.K. reached age 21. Upon careful consideration, I find Petitioner's argument to be unpersuasive. The credible and undisputed evidence in this matter is that the County Director (Ernestine Cole) and agency representative (Sabrina Reed) were present at the signing of the Adoption Assistance Agreement and neither recalls that Petitioner was made such a promise. However, Sabrina Reed recalls that the Adoption Assistance policy provided that a child placed on adoptive status **at age 13** may continue to receive Adoption Assistance benefits after age 18 if enrolled in college on a full time basis and remain in need of assistance. Moreover, Petitioner signed the Adoption Assistance Agreement which clearly states that Adoption Assistance payments will terminate when the child reaches the age of 18. However, any child placed for adoption **at age 13 or older** may continue to receive benefits until age 21 if attending college on a full time basis. Accordingly, Respondent properly terminated Adoption Assistance benefits in this matter.

#### IV. DECISION

Based upon the foregoing, it is concluded that Respondent's decision to terminate Adoption Assistance benefits for A.K. is **HEREBY AFFIRMED**.

**SO ORDERED**, July 6, 2016

  
\_\_\_\_\_  
CAROL WALKER-RUSSELL,  
Administrative Law Judge



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

CAROLYN KURTZ,	:	
Petitioner,	:	Docket No.: OSAH-DFCS-SAA-1647700-44-Walker-
	:	Russell
v.	:	
	:	Agency Reference No.: 16609447
DHS, FAMILY & CHILDREN SERVICES,	:	
Respondent.	:	

**NOTICE OF INITIAL DECISION**

This is the Initial Decision of the Judge in the case. This decision is reviewable by the Referring Agency. If a party disagrees with this decision, the party may file a motion for reconsideration or a motion for rehearing (or, if applicable, a motion to vacate or modify a default order) with the Judge. A party may also seek agency review of this decision.

**FILING A MOTION WITH THE JUDGE**

The Motion must be filed in writing within ten (10) days of the entry, i.e., the issuance date, of this decision. **The filing of such motion may or may not toll the time for filing an application for agency review.** See O. C.G.A. §§ 50-13-19 and 50-13-20.1. Motions must include the case docket number, be served simultaneously upon all parties of record, either by personal delivery or first class mail, with proper postage affixed, and be filed with the Clerk at:

Office of State Administrative Hearings  
Attn.: Christa Orbann, [corbann@osah.ga.gov](mailto:corbann@osah.ga.gov)  
225 Peachtree Street, NE, South Tower, Suite 400  
Atlanta, Georgia 30303-1534

**APPLICATION FOR AGENCY REVIEW**

An application for Agency Review must be filed within thirty (30) days after service of this Initial Decision. O.C.G.A. §§ 50-13-17 and 50-13-41. A copy of the application for agency review must be simultaneously served upon all parties of record and filed with the OSAH clerk. The application for Agency Review should be filed with:

Legal Services Unit, Attn: Appeals Reviewer  
Department of Human Resources  
2 Peachtree Street, 29<sup>th</sup> Floor  
Atlanta, Georgia 30303

This Initial Decision will become the Final Decision of the agency if neither party makes a timely application for agency review. O.C.G.A. §§ 50-13-17 and 50-13-41. In certain cases, an Initial Decision may become Final and therefore not subject to review either by agency provision or the provisions of O.C.G.A. § 50-13-17(c). When a decision becomes Final, an application for judicial review must be filed within thirty (30) days in the Superior Court of Fulton County or the county of residence of the appealing party. If the appealing party is a corporation, the action may be brought in the Superior Court of Fulton County or the superior court of the county where the party maintains its principal place of doing business in this state. O.C.G. A. § 50-13-19(b).