

IN THE COURT OF APPEALS OF IOWA

No. 9-418 / 08-0866
Filed July 2, 2009

STATE OF IOWA,
Plaintiff,

vs.

**IOWA DISTRICT COURT FOR
JOHNSON COUNTY,**
Defendant.

Appeal from the Iowa District Court for Johnson County, Stephen C. Gerard II, Judge.

The State of Iowa, by certiorari action, claims the juvenile court acted illegally in ordering the Iowa Department of Human Services to incur certain expenses. **WRIT SUSTAINED.**

Sue Kirk, Iowa City, for appellee-mother.

Deanna Shaw, Iowa City, pro se.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, Janet Lyness, County Attorney, and Kristin Parks, Assistant County Attorney, for appellant.

Shelly Mott, Coraville, for child.

Considered by Mahan, P.J., and Eisenhauer and Mansfield, JJ.

EISENHAUER, J.

Following the entry of a child in need of assistance adjudication, the child was placed in relative care with his maternal grandmother. After a review hearing, the juvenile court entered an order providing, “[The Department of Human Services (DHS)] shall provide funds to assist grandmother in obtaining a legal guardianship.” The State filed a writ of certiorari, which our supreme court granted. It alleges the juvenile court exceeded its authority. We review for errors of law. *French v. Iowa Dist. Ct.*, 546 N.W.2d 911, 913 (Iowa 1996).

Absent statutory authority, a court may not require a state agency to incur financial obligations. See, e.g., *Batcheller v. Iowa State Highway Comm'n*, 251 Iowa 364, 368, 101 N.W.2d 30, 33 (1960) (“Nor may the courts require defendant to pay or disburse public funds without statutory authority.”). There is no statute authorizing the juvenile court to order the DHS to subsidize guardianships for children in need of assistance who are in foster care. Although the legislature has appropriated funds for the DHS to operate a pilot program for subsidized guardianships, see, e.g., 2007 Iowa Acts ch. 1184, § 10; 1996 Iowa Acts ch. 1213, § 10, there is no evidence the conditions for eligibility to participate in the program have been met. See Iowa Admin. Code r. 441-204.2(1)(c). Because the juvenile court acted illegally when it ordered the DHS to provide financial assistance to the maternal grandmother, we sustain the writ of certiorari and annul those parts of the juvenile court order requiring the DHS to incur such expenses.

WRIT SUSTAINED.