

III. Discussion

There is only one issue to be resolved in this hearing – the date Mr. J’s APA benefits commence. It is undisputed that Mr. J is eligible for APA benefits. The DPA argued that, under its regulation, 7 AAC 40.380(b), APA benefits commence the first month after the SSA issues written notification that benefits are approved to the applicant. This regulation reads:

Unless an applicant is eligible for payment under (a) of this section, payment for assistance under this chapter to an eligible applicant who is also eligible for SSI begins on the first day of the month after the Social Security Administration issues written notification to the applicant that SSI benefits are approved.

Subsection (a) reads:

Payment for assistance under this chapter to an eligible applicant who meets the eligibility requirements under this chapter, including, if applicable, eligibility for SSI benefits, on the date that a district office of the division receives the applicant’s identifiable application as described in 7 AAC 40.070(a) begins on the date that the identifiable application is received by the division.

The SSA’s written notification to Mr. J is dated May 23, 2012, so the DPA commenced his APA benefits as of June 1, 2012.

Mr. J argued that under either of two alternative theories, his APA benefits should commence the date the APA application is filed. The first theory is that 7 AAC 40.380(a) is the applicable regulation, and the second theory is that Mr. J is being held responsible for, and effectively deprived of benefits because of other people’s actions (delayed processing). Neither theory is persuasive.

First, 7 AAC 40.380(a) is inapplicable because it applies to applications filed by an individual who is already eligible for SSI benefits. Under subsection .380(a), APA benefits begin the date the application is received by the division. Mr. J is eligible for APA because he is disabled. For purposes of this program, an individual is disabled if the individual meets the SSI income standards and has been found by the SSA to meet the definition of disability found at 42 U.S.C. 1382c(a)(3).⁴ Mr. J was found to meet the definition as of March 2012. Therefore, when he completed his application in February 2012, he was not eligible for SSI benefits.

⁴ 7 AAC 40.090(6); 7 AAC 40.170(a).

Second, Mr. J has provided no authority for his contention that that the DPA or this tribunal have the ability to award APA benefits back to the date of application because there was a delay in processing the application. The Department of Health and Social Services' regulations are not mere policy guidance. The regulations are law.⁵ Laws must be interpreted "with due regard for the meaning the[ir] . . . language conveys to others."⁶

Principles of statutory interpretation carry over to the interpretation of regulations.⁷ For a statute, the Alaska Supreme Court prescribes a sliding scale between the plain meaning of a statute, on the one hand, and evidence that the legislature intended something else, on the other.⁸ Thus, "[t]he plainer the meaning of the statute, the more persuasive any legislative history to the contrary must be."⁹ "The party asserting a meaning contrary to a statute's plain language bears a heavy burden of demonstrating a contrary legislative intent."¹⁰ Translated to the context of regulations, this principle means that the plainer the meaning of a regulation, the more persuasive must be the case that it was intended to mean something else.

In this case the meaning from the plain language is clear. Unless someone is already eligible for SSI benefits, APA payments will commence "on the first day of the month *after* the Social Security Administration *issues* written notification to the applicant that SSI benefits are approved."¹¹ Since there is no evidence that this regulation was intended to mean anything but what it says, Mr. J cannot meet his "heavy burden" to overcome a plain reading of the regulation's language.

The argument that if the regulation were read the way it is written the regulation would, in effect, punish Mr. J for something he has no control over would render subsection (b) meaningless. The plain language of subsection (b) provides no discretion nor does it provide an exception for delayed processing by the SSA.

⁵ *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769, 777 (Alaska 1980) ("regulations are laws in every meaningful sense").

⁶ *Wilson v. State Dep't of Corrections*, 127 P.3d 826, 829 (Alaska 2006).

⁷ *State Dep't of Highways v. Green*, 586 P.2d 595, 603 n.24 (Alaska 1978).

⁸ E.g., *City of Dillingham v. CH2M Hill Northwest, Inc.*, 873 P.2d 1271, 1276 (Alaska 1994); *Alyeska Pipeline Serv. Co. v. DCCED*, No. 3AN-07-11593 CI (Alaska Superior Ct., Decision and Order, March 23, 2009).

⁹ *City of Dillingham*, 873 P.2d at 1276.

¹⁰ *Alyeska Pipeline v. DCCED*, slip op. at 6.

¹¹ 7 AAC 40.380(b) (emphasis added).

IV. Conclusion

A regulation must be written to give effect to its plain meaning. Applying the regulation as written, the DPA correctly commenced Mr. J's APA benefits on June 1, 2012, the first day of the month after the SSA issued written notification to Mr. J that his benefits were approved.

Dated this 5th day of October, 2012.

Signed

Rebecca Pauli
Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of October, 2012.

By: *Signed*

Name: Jeffrey A. Friedman
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]