

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON  
REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of	)	
	)	OAH No. 12-0856-APA
D T	)	Agency No.
_____	)	

**DECISION**

**I. Introduction**

D T applied for Interim Assistance Benefits as part of the Adult Public Assistance program. While the Division of Public Assistance (division) was processing his application, Mr. T requested a hearing. The division referred that request to the Office of Administrative Hearings and a hearing was scheduled. Mr. T appeared in person, and Jeff Miller appeared by telephone on behalf of the division.

Before the hearing, the division filed a written motion to dismiss Mr. T' hearing because it has not taken an adverse action. At the hearing, Mr. T opposed the dismissal and determined that he did not wish to withdraw his request for a hearing. As discussed below, no adverse action has yet been taken so the request for a hearing is denied.

**II. Facts**

Mr. T applied for Interim Assistance once, about a year ago. That application was denied.<sup>1</sup> He re-applied as is permitted at any time, and on October 12, 2012, the division issued a notice requesting that additional forms be completed and sent to the division.<sup>2</sup> This notice did not contain a date by which those forms had to be submitted. Accordingly, a second notice was issued on or about November 7, 2012, asking for this same information and stating that it should be provided by November 19, 2012.<sup>3</sup>

Mr. T stated that he provided all of the requested forms shortly after receiving the first notice, and that he also submitted the documents a second time. He also stated that he contacted the division and he was told there was nothing further he needed to submit. Mr. Miller confirmed from the division's records that Mr. T' application had not been denied,

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<sup>1</sup> Testimony of Mr. T. Mr. T was inadvertently not placed under oath. However, the accuracy of his statements were not challenged, and his statements are accepted as true for purposes of this decision

<sup>2</sup> Exhibit 5.

<sup>3</sup> Exhibit 1. This second notice caused some confusion as Mr. T had already responded to the first notice, and nothing in the second notice indicated that it was a correction to or supplementation of the prior notice.

and that it was still being processed. Mr. Miller noted that as part of the application Mr. T was providing a release of medical information, and sometimes hospitals and doctors could be slow in processing those requests and providing the division with the requested records.

### III. Discussion

A hearing request must be granted for a client whose

- (1) request for an application is denied;
- (2) claim to financial, food, or medical assistance, contained in his application, is denied or is not acted upon with reasonable promptness;
- (3) receipt of benefits the division intends to modify or terminate; or
- (4) request for a covered Medicaid service is denied.<sup>[4]</sup>

In this case, Mr. T' claim for financial assistance has not been denied, but he does have the right to a hearing on the question of whether the division has acted on his application with "reasonable promptness."<sup>5</sup>

Mr. T stated that he provided all of the requested documents in early November. He wasn't sure whether it was the first week of November or the second week. Assuming for purposes of this hearing that he provided the information on November 1, 2012, it would have taken his medical providers at least a day or two to copy and submit the medical records to the division. Accordingly, the division has possessed the necessary information for less than six weeks.

To a person waiting for financial assistance, any delay will seem unreasonable. However, the division has many claims to process, and has to wait for and then analyze medical records to determine whether the applicant is eligible for Interim Assistance. There is nothing in the facts of this case to show that six weeks is an unreasonable amount of time.

It is noted, however, that Mr. T' application is still being processed. The division is expected to make its Interim Assistance decisions quickly.<sup>6</sup> An unreasonable delay would entitle Mr. T to some form of relief. However, without knowing when the division actually received his medical records, and without more information about the division's case load, it is not possible to determine what length of delay would be too long.

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<sup>4</sup> 7 AAC 49.020.

<sup>5</sup> 7 AAC 49.020(2).

<sup>6</sup> *In re M.H.*, OAH No. 12-0688-APA (Commissioner of Health and Social Services 2012), page 2. <http://aws.state.ak.us/officeofadminhearings/Documents/APA/APA120668.pdf>

#### **IV. Conclusion**

At this time, Mr. T has not shown that the delay in processing his application has been unreasonable. The division has not taken an adverse action since it is still processing his application. Accordingly, Mr. T' request for a hearing is denied without prejudice to requesting another hearing if he believes the delay has become excessive, or to requesting a hearing if his application is denied, or because of any other adverse action taken.

Dated this 14<sup>th</sup> day of December, 2012.

*Signed* \_\_\_\_\_

Jeffrey A. Friedman  
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 28<sup>th</sup> day of December, 2012.

By: *Signed* \_\_\_\_\_

Name: Jeffrey A. Friedman

Title: Administrative Law Judge

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