

Office of Hearings and Appeals
3601 C Street, Suite 1322
P. O. Box 240249
Anchorage, AK 99524-0249
Telephone: (907) 334-2239
Fax: (907) 334-2285

**STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
OFFICE OF HEARINGS AND APPEALS**

In the Matter of)
)
 [REDACTED],)
) OHA Case No. 11-FH-387
) Division (Child Care) No. [REDACTED]

Claimant.)

FAIR HEARING DECISION

STATEMENT OF THE CASE

Ms. [REDACTED] (Claimant) was receiving child care assistance based on an application filed April 25, 2011. (Ex. 4a) On August 9, 2011, Claimant was notified her child care assistance case was closed effective July 31, 2011 because she failed to supply self-employment income information by July 21, 2011. (Ex. 10) Claimant requested an administrative review of this decision. (Ex. 15a) On September 22, 2011, the Child Care Program Office (CCPO) sent Claimant written notice that the administrative review had upheld its decision to close Claimant's child care case. (Exs. 16b-16e)

On October 6, 2011, the Child Care Program Office designee,¹ received Claimant's request for a Fair Hearing. (Exs. 17a-17b) The Office of Hearings and Appeals (Office) has jurisdiction to decide this case by authority of 7 AAC 49.010-.020;

Claimant's Fair Hearing was begun on December 29, 2011 and continued to January 5, 2012. Claimant participated telephonically, represented herself and testified on her own behalf on each day. Ms. [REDACTED], the Division's Child Care Program Coordinator, participated by telephone on December 29, 2011 and in person representing the Division and testified on behalf of the Division on January 5, 2012. Ms. [REDACTED], Public Assistance Analyst, testified in person on behalf of the Child Care Program Office. All offered exhibits were admitted and the evidentiary record closed on January 5, 2012.

ISSUE

On August 9, 2011, was the Child Care Program Office correct to terminate Claimant's child care assistance benefits because she failed to provide self-employment information for May 2011 on or before July 21, 2011?

¹ As of September 1, 2011, the CCPO's designee, "thread Child Care Assistance," was serving child care assistance participants in the Fairbanks area. (Ex. 13; Ex. 17a)

FINDINGS OF FACT

The following facts have been proved by a preponderance of the evidence:

1. Claimant first applied for child care assistance on April 25, 2011 in Fairbanks, Alaska. (Ex. 4a; Claimant's testimony) Claimant's application was not provided at the hearing or in the hearing case file. Every application includes a page titled "Your Rights and Responsibilities" which is given to the applicant and which is reviewed and discussed at the eligibility interview. (██████ testimony; *see* Exs. 14g-14h) Claimant's rights and responsibilities were reviewed at the time of her eligibility interview in connection with her April 25, 2011 application. (██████ testimony)

2. On May 19, 2011, the Child Care Program Office (CCPO) staff wrote Claimant notifying her that she had been found eligible for child care assistance beginning May 23, 2011 through September 15, 2011.² (Exs. 4a-b) Claimant was approved based on "countable monthly" self-employment income of \$1,983.12 for her family of three persons. (Exs. 4a, 4d)

3. On June 6, 2011, the Division sent written notice to all "Participating Child Care Assistance" families that they would need to interact with the Division of Public Assistance "CCPO³ Child Care Assistance team" in Fairbanks, instead of the Fairbanks North Star Borough, effective July 1, 2011. (Ex. 7a)

4. On July 8, 2011, the Child Care Program Office sent Claimant a letter requesting specific information "to maintain your eligibility." (Ex. 8; Ex. 9) This notice stated Claimant should "[s]ubmit the items listed below by July 21, 2011 or your eligibility will end effective July 31, 2011." (Ex. 8) The specific items needed were:

Provide verification of all income received and expenses incurred in May and June from your self-employment. This information is needed to determine continued eligibility for benefits and failure to provide it may result in closure of your case.

(Ex. 8)

5. On July 20, 2011, the Child Care Program Office received Claimant's information pertaining to self-employment income and expenses for the month of June 2011. (Ex. 11a) Claimant's information included a profit or loss statement prepared on an Alaska Housing Finance Corporation, Public Housing Division form, signed by Claimant on July 5, 2011 and showing the reporting period as June 1, 2011 through June 31, 2011. (Exs. 11a-d) On each page of the profit and loss statement, there is a date stamp showing receipt on July 5, 2011, initialed by "TH" at AHFC. (Exs. 11a – 11v) The information included itemization of expenses (Exs. 11e-f), itemization of cash register tapes (Ex. 11g), and pages of receipts for expenses. (Exs. 11h-v)⁴

² The approval letter referenced Claimant's request to start benefits on May 23, 2011. (Ex. 4a)

³ CCPO is the acronym used by the Child Care Program Office.

⁴ Exhibits 11n-s show copies of receipts from ████████ Coffee that appear to be blank. This is attributed to poor photocopying and not to the absence of information on the receipts. The absence of information is immaterial to this decision.

6. Accompanying the information was a note signed by Claimant, with her telephone number, stating:

“I still have May I will have it in by 7/26/11 Thanks. Do I turn monthly or quarterly”

(Ex. 11a)

7. By August 9, 2011, the Child Care Program Office had not received Claimant’s May 2011 income information. (Ex. 12; █████ testimony)

8. On August 9, 2011, the Child Care Program Office sent Claimant written notice “[y]ou are not eligible for child care assistance and your case was closed on July 31, 2011. The reason your case [sic] closure: you did not provide verification of income received and expenses incurred in May from your self employment.” (Ex. 10)

9. On August 14, 2011, Claimant faxed Child Care Program Office nineteen pages of information pertaining to her May self-employment income and expenses. (Exs. 15a-15aa) The Division date stamped this information as received on August 15, 2011 and August 17, 2011. (Exs. 15a-15b)

10. The May 2011 self employment information included a profit or loss statement prepared on an Alaska Housing Finance Corporation, Public Housing Division form, signed by Claimant on May 31, 2011 and showing the reporting period as May 1 to May 31. (Exs. 15c-15e) On each page of the profit and loss statement, there is a date stamp showing receipt on June 3, 2011, initialed by “TH.” (Exs. 15a – 15e) Claimant’s information included itemization of cash register tapes (Exs. 15aa, 15ai-15aj) and pages of receipts for expenses.⁵ (Exs. 15g – 15ah)

11. Also on August 14, 2011, Claimant faxed to the Child Care Program Office a request for administrative review of its decision to close her case effective July 31, 2011. (Ex. 15a) The Child Care Program Office date stamped receipt of this request as both August 15, 2011 and August 17, 2011. (Ex. 15a)

12. On August 16, 2011, the Child Care Program Office sent “Participating Child Care Assistance” families written notice that they would need to interact with “thread Child Care Assistance” instead of the Division of Public Assistance “CCPO Child Care Assistance team” in Fairbanks, effective September 1, 2011. (Ex. 13)

13. On September 7, 2011, Claimant signed a completed Child Care Assistance Application. (Exs. 14a-14h) The “date received” box on the first page of the Application is hand-written as “9/1/11 with initials that are undecipherable.”⁶ (Ex. 14a)

14. The last two pages of the Application consist of “Your Rights and Responsibilities.” (Exs. 14g-14h) In the “Your Responsibilities” section, a participant is advised “you must report any changes in your circumstances that may affect your eligibility for Child Care Assistance within ten (10) days of when you know of the change.” Further, the participant is instructed: [y]ou must report the following... [c]hanges in employment...change in your pay... [c]hanges in income in excess of \$200 a month or any other change that would affect your family’s program benefits or eligibility.” (Ex. 14g)

⁵ Some pages appear blank or have indecipherable lines on them. This flaw is not material to this decision.

⁶ The discrepancy in the dates is unexplained.

15. The portion of “Your Rights and Responsibilities” titled “Sanctions for Non-Compliance” informs participants their participation in the Child Care Assistance Program may be suspended or terminated for several reasons, including “[f]ailing to report complete, accurate, and current information regarding family income and eligibility” and “[f]ailing to keep family income and eligibility information current with the local Child Care Assistance office....” (Ex. 14h)

16. On September 22, 2011, the Child Care Program (Program) Office informed Claimant by letter of the outcome of the administrative review of its action closing Claimant’s child care assistance case effective July 31, 2011. (Exs. 16b-16e) The letter stated the outcome of the review was: “[t]he information was not received by the CCPO within the established timelines. Therefore, the grantee’s decision is upheld and your request is denied.” (Ex. 16b) Claimant was not involved in the administrative review. (Claimant’s testimony)

17. On October 5, 2011, Claimant appealed this unsatisfactory result by completing a “7 AAC 49 Notice of Appeal and Request for Hearing” and faxing it to the Program office, which received it on October 6, 2011. (Exs. 17a-17b) Claimant requested a fair hearing because her questions were not answered by the Program office, she had no significant changes in income, and her family income did not exceed \$200, among other reasons. (Ex. 17b) Claimant supplied pages of documents with her hand-written comments concerning her position in the matter. (Exs. 17f-17m) Claimant requested continued receipt of benefits pending the final outcome of her appeal. (Ex. 17b)

18. The following facts were established by Claimant’s testimony and notations:

a. Claimant did not have her detailed, itemized income and expense information for the month of May 2011 as of July 21, 2011 because she had given all this information to the Alaska Housing Finance Corporation, Public Housing Division (AHFC) and had not kept copies.

b. Claimant believed she would be able to obtain the May 2011 information from AHFC in time to turn it in by July 26, 2011. The AHFC office was going through changes during this time and her caseworker there was not able to return her original May 2011 information to her as promptly as anticipated. She did not know not to turn in her original information before going through this experience. She is being coached and educated by her caseworkers at AHFC and child care.

c. Claimant was first able to provide the May 2011 income information on August 14, 2011, because that was as soon as she could get someone to work her coffee stand and get to a fax machine after receiving the information back from AHFC. (*See also* Ex. 17f)

d. Claimant believed she had been determined eligible for child care assistance through September 30, 2011 and she had no significant changes in income to report. (*See also* Ex. 17i) She did not understand how often she was expected to provide information and was unprepared to respond to the July 8, 2011 notice in the short time frame she had in which to respond.

e. Claimant repeatedly attempted to confer with CCPO staff and was unsuccessful. Claimant attempted to learn if she could supply self-employment income quarterly, like she could for AHFC, and had other questions.

19. The following facts were established from testimony of Child Care Program Office Public Assistance Analyst [REDACTED]:

a. She administered the Fairbanks child care assistance caseload between the end of the prior designee and the start of the next designee in September 2011. She did the work of 4 persons and had a caseload of 350 families and could not issue the notice requesting the information from Claimant any sooner than July 8, 2011. She did not have any telephone contact with Claimant prior to closing Claimant's case. The Child Care Program Office did not respond to Claimant's questions.

b. The Child Care Program Office routinely grants extensions of time upon receiving a participant's request for additional time to respond and did extend the time for Claimant to provide her May 2011 information until July 26, 2011.

c. The Child Care Program Office did not inform Claimant it accepted her offer to provide the information it requested from her by July 26, 2011. The CCPO intentionally waited until after July 26, 2011 to send the notice closing Claimant's case because it automatically extended the deadline for her submission of documents.

d. The CCPO Public Assistance Analyst [REDACTED] believed Claimant was authorized only for three months, through July 2011, and therefore thought Claimant needed to supply additional information.

PRINCIPLES OF LAW

I. Burden of Proof

"Ordinarily the party seeking a change in the status quo has the burden of proof." *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985).

II. Standard of Proof

The regulations applicable to this case do not specify any particular standard of proof. A preponderance of the evidence is the normal standard of proof in an administrative proceeding. *Amerada Hess Pipeline Corp. v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). Therefore, the standard of proof is the preponderance of the evidence.

Preponderance of the evidence is defined as follows:

"Where one has the burden of proving asserted facts by a preponderance of the evidence, he must induce a belief in the minds of the [triers of fact] that the asserted facts are probably true." *Robinson v. Municipality of Anchorage*, 69 P.3d 489, 495 (Alaska 2003) (quoting *Saxon v. Harris*, 395 P.2d 71, 72 (Alaska 1964)).

III. Child Care Assistance Program (CCAP)

The Department of Health and Social Services, through the Division of Public Assistance, administers the child care assistance program as part of public benefits available to families eligible for public assistance. AS 47.05.010; AS 47.25.010-.095; 7 AAC 41. Administration of the child care assistance program is overseen by the Child Care Program Office (CCPO). Regulations pertaining to child care assistance provided to families are found at 7 AAC 41.300-.370. Other regulations that might apply are found at 7 AAC 41.400-.990

Child care assistance is provided through a program that assists qualifying families to pay the costs of child care. AS 47.25.001 *et. seq.* A family must consist of at least one parent and one child under the

age of 18. 7 AAC 41.013. Based on family income, the family pays a portion of the child care costs and a portion is paid by public assistance. 7 AAC 41. Administration of the program may be designated to a municipal government or other entity, called a “designee.” 7 AAC 41.015(a).

Regulation 7 AAC 41.320 identifies “family responsibilities.” Subsection (a) establishes that a family applying for child care assistance must provide information and complete an application, including acknowledging responsibilities on a “family responsibilities form.” Subsection (c) states, in relevant part:

A family participating in the child care assistance program... shall (2) notify the department or designee within seven days after an income change in excess of \$200 a month, a change in a work activity, or any other change that would affect the family’s benefits or eligibility under this chapter; failure to give notice as required under this paragraph may result in a determination of overpayment of program benefits and subsequent action by the department under 7 AAC 41.420....

Regulation 7 AAC 41.405 addresses the notice requirement of a proposed action of the agency.

The department will or a designees shall give written notice to a participating family of an action to reduce or terminate program benefits before a child care authorization expires, unless....(7 AAC 41.405(a).

This regulation addresses agency actions taking place before expiration of the period during which a participating family is authorized as eligible to participate in the child care assistance program. No number of days for issuance of notice is provided by the regulation. But ten (10) days notice is required by policy. *See*, Care Program Office Policy and Procedures Manual (Manual) Section 345 Adverse Action and Notice Requirements.

The Child Care Program Office (CCPO) must give at least 10 days advance written notice to a participating family before taking any action adversely affecting the family’s benefits. Care Program Office Policy and Procedures Manual (Manual) Section 345 Adverse Action and Notice Requirements states, in relevant part:

Adverse action: The CCPO or designee must give written notice to a participating family at least 10 days before taking any action that would adversely affect their benefit by reducing coverage or level of care, terminating eligibility, or increasing their co-pay.

Regulation 7 AAC 41.435, “Request for administrative review”, provides that “a family aggrieved by a written determination may request an administrative review by the department of the determination by submitting a written request” within 15 days of receipt of the determination for which review is sought. 7 AAC 41.435(a). Within fifteen (15) days after receipt of the request, the department must issue a decision to grant or deny the relief sought by the family. (7AAC 41.435(a)) The decision resulting from the administrative review is final, unless the aggrieved party appeals the decision by requesting a fair hearing provided by the regulations 7 AAC 49.010 *et. seq.*

IV. Child Care Program Policies and Procedures

The Child Care Program Office (CCPO) Policy and Procedures Manual can be found on the internet at: http://hss.state.ak.us/dpa/programs/ccare/files/ccpp_manual.pdf

Section 320 pertaining to “SELF-EMPLOYMENT, provides, in relevant part:

Eligibility must be determined at least every three months for families that include self-employment income or activity. A new application is not required every three months but the designee must request updated income verification for all members to evaluate the family’s eligibility. Designees will evaluate the family’s income to determine if the benefit amount will be changed. Changes to income increases will be effective based on adverse action timeframes.

Section 320 pertaining to “Verification of Self-Employment Income and Costs of Doing Business:

Each self-employed individual is required to provide verification of self-employment income and allowable costs of doing business. Costs of doing business must be clearly identified as business expenses. If written verification of self-employment income and expenses is not readily available, verbal verification is acceptable.

The Child Care Assistance application may be found at:

<http://dpaweb.hss.state.ak.us/e-forms/pdf/cc/CC8.pdf>

ANALYSIS

I. Issue

On August 9, 2011, was the Child Care Program Office correct to terminate Claimant’s child care assistance benefits because she failed to provide self-employment information for May 2011 on or before July 21, 2011?

II. Burden of Proof and Standard of Proof

“The party seeking a change in the status quo has the burden of proof.” *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). The Child Care Program Office (CCPO) is seeking to change the status quo by terminating Claimant’s child care assistance benefits. Therefore, the Division has the burden of proving its action was correct by a preponderance of the evidence.⁷

III. The Child Care Program Office Incorrectly Terminated Claimant’s Child Care Assistance

The material facts of this case are undisputed:

1. Claimant was notified in writing that she had been determined eligible for child care assistance from May 23, 2011 through September 15, 2011.

⁷ At the start of the Fair Hearing, the Hearing Authority identified the burden of proof as belonging to Claimant, because it appeared Claimant was seeking eligibility for continued benefits. After completing the hearing and reviewing the evidentiary record, and sorting through the disorganized documentary evidence submitted by the CCPO, it became clear the burden of proof should be borne by the Division of Public Assistance, Child Care Program Office for the reasons stated herein. All material facts are undisputed and the decision is a matter of applying them to the law. Therefore, which party bears the burden of proof is unimportant in this case.

2. Claimant was made to understand and acknowledge her “Rights and Responsibilities” including that she had to report changes in income in excess of \$200 per month or “any other change that would affect” her family’s benefits. Claimant fruitlessly attempted to confer with CCPO staff about questions she had concerning her reporting obligation(s).

3. The CCPO requested Claimant provide self-employment information for the months of May 2011 and June 2011. The notice informing Claimant of this demand stated she had to supply the information by July 21, 2011 and that “failure to provide it may result in closure of your case.” (Finding of Fact 3)

4. Claimant supplied her self-employment information, in very substantial detail with verifying receipts, for the month of June 2011. The CCPO received this information on July 20, 2011.

5. On July 20, 2011, the CCPO was made aware that Claimant was seeking to provide her self-employment information for May 2011 by July 26, 2011. The CCPO agreed to the extension of time but did not communicate with Claimant.

6. The CCPO did not receive Claimant’s May 2011 self-employment information by August 9, 2011, whereupon it sent Claimant written notice that it determined she was “not eligible for child care assistance and [her] case was closed on July 31, 2011” because she “did not provide verification of income received and expenses incurred in May from” self-employment. (Finding of Fact 8)

These undisputed facts, applied to pertinent child care assistance regulations and CCPO policies, result in finding the CCPO was incorrect to terminate Claimant’s eligibility for child care assistance for the following reasons:

A. The Child Care Program Office failed to correctly apply its regulations and policies.

1. The Child Care Program Office (CCPO) Policy and Procedures Manual Section 320 pertaining to self-employment makes clear that the purpose of the review of the self-employment income of a participating family is to determine if the child care assistance benefit amount will change.

Eligibility must be determined at least every three months for families that include self-employment income or activity. A new application is not required every three months but the designee must request updated income verification for all members to evaluate the family’s eligibility. Designees will evaluate the family’s income to determine if the benefit amount will be changed. Changes due to income increases will be effective based on adverse action timeframes. (Manual, § 320, Self-Employment)

Because a new application is not required every three months, it is clear that the word “eligibility” refers not to eligibility to participate in the child care assistance program, but to eligibility for a certain benefit amount. It may be that the verification of income results in eligibility for a zero (0) amount of benefit, but this is different from being ineligible to participate in the child care assistance program.⁸

In this case, Claimant was authorized as eligible for child care assistance benefits from May 23, 2011 to September 15, 2011, a period of three months and 23 days. Her benefit amount was subject to change based on income, not only as a result of the CCPO’s information request but also as a consequence of

⁸ Otherwise, a participating family with self-employment income would be required to re-apply every three months.

the reporting responsibilities acknowledged by Claimant as her “Rights and Responsibilities.” Such changes are not the same as closing Claimant’s case. The CCPO did not properly follow its policy regarding review of self-employment income. Therefore, the CCPO was incorrect to terminate Claimant’s previously determined eligibility to participate in the child care assistance program, i.e., to “close [her] case,” when the purpose of its review was to re-evaluate the benefit amount appropriate to Claimant’s current family income.

2. The Child Care Program Office (CCPO) Policy and Procedures Manual Section 320 pertaining to “Verification of Self-Employment Income and Costs of Doing Business” states:

Each self-employed individual is required to provide verification of self-employment income and allowable costs of doing business. Costs of doing business must be clearly identified as business expenses. If written verification of self-employment income and expenses is not readily available, verbal verification is acceptable. (Manual, § 320, Verification...)

On July 8, 2011, Claimant was asked to “[p]rovide verification of all income received and expenses incurred in May and June from your self-employment.” Claimant’s compliance on July 20, 2011, as to the information she had for June 2011, was outstanding in its detail and completeness. Her attempt to comply with the requested May 2011 information was clear and unequivocal in her note appended to the materials supplied on July 20, 2011.

The CCPO policy states that if written self-employment information is “not readily available,” verbal verification is acceptable. Claimant repeatedly attempted telephone contact with CCPO staff. The Fairbanks child care assistance designee closed effective July 1, 2011 and was not available again until September 1, 2011. The Public Assistance Analyst tasked with operating the Fairbanks child care assistance program during the interim was overwhelmed with her caseload. Claimant attempted to comply completely but had questions concerning how she could comply completely. The CCPO agreed Claimant’s calls were not returned and her questions not answered. Clearly, communication failed between the two parties. There is no evidence Claimant was refusing to comply. Claimant’s testimony that she was trying to provide the information is credible, and supported by the date stamps of the AHFC office on the documents showing her self-employment income. Claimant did supply the requested information, in part at first, and completely by August 15, 2011, about 19 days after July 26, 2011.

The CCPO has an obligation to respond to Claimant’s questions (and those of its participating families). It also has an obligation to follow its policy and to obtain verbal verification of the information it seeks when written information is not “readily available.” (Manual § 320) Given Claimant’s partial compliance by July 20, 2011, it would not be unreasonable for the CCPO to seek verbal verification, or at least contact Claimant to see why her information for May was not supplied by July 26, 2011 as promised. The CCPO failed to follow its policy of substituting verbal verification when written verification is not readily available. Therefore, the CCPO was incorrect to close Claimant’s child care assistance case because it failed to obtain verbal verification of the May 2011 self-employment income when the written information was not readily available.

3. The CCPO did not follow its regulations and/or policy when on August 9, 2011 it gave Claimant notice of its decision to close her case effective July 31, 2011. Regulation 7 AAC 41.405 addresses the notice requirement of a proposed action of the agency when it intends to take an action to

reduce or terminate benefits at any time during the period a participating family has been determined authorized to participate. This regulation requires:

The department will or a designees shall give written notice to a participating family of an action to reduce or terminate program benefits before a child care authorization expires, unless....(7 AAC 41.405(a))

The CCPO must give at Claimant at least 10 days advance written notice. Child Care Program Office Policy and Procedures Manual (Manual) Section 345 Adverse Action and Notice Requirements states, in relevant part:

Adverse action: The CCPO or designee must give written notice to a participating family at least 10 days before taking any action that would adversely affect their benefit by reducing coverage or level of care, terminating eligibility, or increasing their co-pay.

The CCPO informed Claimant on August 9, 2011 that it had closed her case on July 31, 2011. The CCPO was required to give notice to Claimant before it terminated benefits. In this case, the CCPO gave Claimant notice nine (9) days after it took adverse action on her case. The CCPO did not meet this requirement of its policy and was incorrect to close Claimant's case because it did not give proper notice of its adverse action.

B. The CCPO failed to provide Claimant with notice meeting due process requirement.

In addition, the CCPO notice (of its case closure on July 31, 2011) failed to meet minimal, and essential, requirements of due process that are accorded every recipient of public assistance by the federal Constitution, and that have been recognized by the Alaska Supreme Court. In *Allen v. State, Dep't of Health & Soc. Servs.*, 203 P.3d 1155 (Alaska 2009) the Alaska Supreme Court wrote that “[d]ue process requires that benefit recipients be given ‘timely and adequate notice detailing the reasons for a proposed termination, and an effective opportunity to defend’ before their benefits are reduced or terminated, in order to afford them protection from ‘agency error and arbitrariness.’” *Id.* at 1167. The *Allen* court cited a seminal procedural due process case, *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), in support of its decision. The *Mathews* decision instructed government agencies to consider the reasonable burden placed on an agency versus the risk of erroneously depriving a recipient of a benefit, when an agency gives notice of its action(s). Government agencies must meet procedural due process obligations.

In this case, the CCPO did not meet the requirements of due process because it failed to give timely notice to Claimant before terminating her receipt of child care assistance benefits.⁹ A customary remedy for failure to give adequate notice is to remand the case. In light of this decision, this remedy is not appropriate.

CONCLUSIONS OF LAW

1. The Child Care Program Office (CCPO) Policy and Procedures Manual Section 320 failed to prove by a preponderance of the evidence that it was correct to terminate Claimant's child care

⁹ In Claimant's request to appeal the unsatisfactory result of the administrative review through a Fair Hearing, Claimant requested continued receipt of benefits. (Ex. 17b) There is no other information concerning the status of Claimant's receipt of benefits in the evidentiary record.

assistance benefits and close her case because Claimant did not provide self-employment income information for May 2011 on or before July 21, 2011. Child Care Program Office (CCPO) Policy and Procedures Manual Section 320.

2. The Child Care Program Office (CCPO) did not properly follow the provisions of its Policy and Procedures Manual Section 320 concerning verification of self-employment income to determine the appropriate level of benefits for participants authorized as eligible for child care assistance.

DECISION

On August 9, 2011, the Child Care Program Office was not correct to terminate Claimant's child care assistance benefits because she failed to provide self-employment information for May 2011 on or before July 21, 2011.

APPEAL RIGHTS

If for any reason the Claimant is not satisfied with this decision, the Claimant has the right to appeal by requesting a review by the Director. If the Claimant appeals, the request must be sent within 15 days from the date of receipt of this Decision. Filing an appeal with the Director could result in the reversal of this Decision.

To do this, send a written request directly to:

Director of the Division of Public Assistance
Department of Health and Social Services
PO Box 110640
Juneau, AK 99811-0640

DATED February 8, 2012

/signed/
Claire Steffens
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on February 8, 2012 true and correct copies of the foregoing were sent to:
Claimant, Certified Mail, Return Receipt Requested.

and to other listed persons (via e-mail), as follows:

██████████, DPA / CCPO Fair Hearing Representative
██████████, CCAP Program Coordinator
██████████, CCPO Program Manager
██████████, Social Servs. Coord, Policy & Prgm Dev.
██████████, Chief, Policy & Program Dev.
██████████, Admin. Assist., Dir.
██████████, Admin. Asst., Policy
██████████, Staff Development & Training

/signed/
J. Albert Levitre, Jr., Law Office Assistant I