

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

In the Matter of)
)
 K K) OAH No. 13-1471-APA
) Division No.
_____)

FAIR HEARING DECISION

I. Introduction

K K applied for Interim Assistance on July 5, 2013. Her application was denied because she did not provide the Division of Public Assistance (DPA) with the required Preliminary Examination for Interim Assistance (Preliminary Examination) form. She requested a hearing.

Ms. K' hearing was held on December 5, 2013. Ms. K represented herself and testified on her own behalf. Jeff Miller, Public Assistance Analyst with DPA, represented DPA.

This decision concludes that Ms. K did not provide DPA with the completed Preliminary Examination form. Because the completed form was necessary to process Ms. K' application, DPA's decision denying her Interim Assistance application is affirmed.

II. Facts

The following facts were established by a preponderance of the evidence.

Ms. K applied for Interim Assistance on July 5, 2013.¹ On July 30, 2013, a DPA Eligibility Technician gave Ms. K the necessary forms she needed to submit to have her application considered. One of those forms was the Preliminary Examination form, which is also referred to as an AD-2.² On July 31, 2013, DPA sent her written notice that she needed, in addition to other forms, to provide DPA with a copy of the Preliminary Examination form, completed by her doctor, along with the other forms, no later than August 12, 2013.³

On August 13, 2013, Ms. K returned the July 31, 2013 notice with her hand-written interlineations as follows:

- The due date of August 12 was circled.
- The listed forms, with the exception of the Preliminary Examination form, were noted as having been provided.

¹ Ex. 2.
² Ex. 3.
³ Ex. 4.

- With regard to the Preliminary Examination form, Ms. K wrote “there is no ‘preliminary’ . . . this has been on-going since 08/1996” and “you have this from 07/2012 – same since 1996.”⁴

Ms. K did not provide DPA with the completed Preliminary Examination form.⁵ DPA initially sent Ms. K a denial notice on August 22, 2013, stating that her application was denied because she did not meet the Adult Public Assistance program’s disability requirements.⁶ Ms. K made a verbal request for a hearing.⁷ She then made a subsequent written request for a hearing on October 3, 2013.⁸ After Ms. K’ October 3, 2013 request was received, a DPA eligibility technician realized that Ms. K had been sent an incorrect denial form, and sent her a new denial form that informed her, in pertinent part, that her application was denied because she had not provided it with the completed Preliminary Examination form.⁹

Ms. K testified that she did not refuse to submit the completed Preliminary Examination form by the August 12 deadline, but was not able to because she had not been able to obtain a doctor’s appointment to have the form completed. She did not contact DPA to let it know that she was having trouble obtaining a doctor’s appointment.¹⁰

III. Discussion

The Alaska Public Assistance program provides financial assistance to “aged, blind, or disabled needy [Alaska] resident[s].”¹¹ Applicants who are under the age of 65 years are required to apply and qualify for federal Supplemental Security Income (SSI) benefits.¹² Once an applicant is approved for SSI benefits, he or she is then eligible to receive Adult Public Assistance benefits.¹³

Interim Assistance is a monthly payment in the amount of \$280 provided by the State to qualifying Adult Public Assistance applicants while they are waiting for the SSA to approve their

⁴ Ex. 6.1.

⁵ Ex. 7.

⁶ Ex. 8.

⁷ Ex. 9.

⁸ Ex. 10.1.

⁹ The denial notice actually states that her Adult Public Assistance application was denied in its entirety. Ex. 12. The DPA hearing representative stated that only the Interim Assistance application was denied and that the Adult Public Assistance application should have been placed on hold (pend status).

¹⁰ K testimony.

¹¹ AS 47.25.430.

¹² 7 AAC 40.170(a). Adult Public Assistance applicants whose income exceeds the SSI standards are not required to apply for SSI benefits. 7 AAC 40.170(a).

¹³ 7 AAC 40.030(a); 7 AAC 40.170(a).

SSI application.¹⁴ As part of the application process, the applicant is required to have his or her medical provider complete and submit the Preliminary Examination form.¹⁵

It is undisputed that Ms. K did not provide DPA with a completed Preliminary Examination form by the August 12, 2013 deadline. It is also undisputed that she did not contact DPA and notify it that she was having trouble obtaining a medical appointment. Instead, on August 13, 2013, one day after the submission deadline, she provided DPA with a statement that “there is no ‘preliminary’ . . . this has been on-going since 08/1996” and “you have this from 07/2012 – same since 1996.”¹⁶

DPA may not deny an Interim Assistance application if “the applicant did not have an examination . . . if he was unable to have the examination for reasons beyond his control.”¹⁷ In that event, DPA “may postpone an eligibility decision for an additional 30 days.”¹⁸ Ms. K, however, did not notify DPA that there was a problem in obtaining a medical appointment. Instead, she provided DPA with an August 13, 2013 statement, that could reasonably be interpreted as a refusal to provide a new Preliminary Examination form, which directed DPA to use the July 2012 Preliminary Examination form on file. The first indication in the record that Ms. K had difficulty obtaining a medical appointment, to have the Preliminary Examination form completed, was her December 5, 2013 hearing testimony. While this may have provided grounds to extend the eligibility decision on her July 2013 Interim Assistance application, if she had timely notified DPA, that would have only allowed for a 30 day extension. Her hearing testimony about the reason for the delay was provided well after a 30 day extension would have expired. Further, her testimony appears to contradict her August 13, 2013 statement, which does not mention any difficulty in obtaining a medical appointment. Given the failure to submit the Preliminary Examination form, Ms. K’ August 13, 2013 statement, and the failure to inform DPA that she was having difficulty obtaining a medical appointment, Ms. K failed to meet her burden of proof and demonstrate that her application should not have been denied.¹⁹ DPA was therefore correct to deny Ms. K’ application.

¹⁴ 7 AAC 40.170(a) and (b); AS 47.25.455.

¹⁵ 7 AAC 40.050(c); 7 AAC 40.180(a).

¹⁶ Ex. 6.1.

¹⁷ 7 AAC 40.070(b).

¹⁸ 7 AAC 40.070(b).

¹⁹ An applicant for public assistance benefits has the burden of proof by a preponderance of the evidence. 7 AAC 49.135.

IV. Conclusion

DPA's decision to deny Ms. K' application for Interim Assistance benefits is affirmed.

DATED this 18th day of December, 2013.

Signed

Lawrence A. Pederson
Administrative Law Judge

Adoption

The undersigned, by delegation from 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 2nd day of January, 2014.

By: *Signed*

Name: Lawrence A. Pederson
Title/Agency: Admin. Law Judge, DOA/OAH

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