

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

In the Matter of)	
)	
O S)	OAH No. 14-1357-MDX
<hr style="width:100%; border: 0.5px solid black;"/>)	Agency No.

DECISION

I. Introduction

K S -- the parent of O S, who is a minor child -- took O to Facility X in Gig Harbor, WA after he developed a strep throat. Ms. S sought to have Medicaid pay for the cost of her son's care at Facility X. However, Medicaid denied her claim.

Ms. S appealed that decision. A hearing in the above-captioned matter initially took place on September 16, 2014. Angela Ybarra represented the Division of Senior and Disabilities Services ("Division"). K S appeared as a self-represented litigant. Both parties appeared telephonically. The Division presented the testimony of the program manager, Sherrie LaRue, for Medicaid Services while Ms. S testified on behalf of her son. The parties agreed to continue the hearing until October 1, 2014 so that Ms. S could provide the Division with a copy of a document in her possession for the Division's review and consideration. At the October 1, 2014 continued hearing, the Division sought to admit into evidence a DVD of recorded phone calls that Ms. S had made regarding O between October 8, 2013 and October 9, 2013. Because Ms. S had not been provided with a copy of that DVD, Ms. S requested a continuance so that she could review a copy of it. The hearing was continued again to October 21, 2014. Ms. Ybarra and Ms. S attended both of the continued hearings telephonically, as did Terri Gagne and Jeri Powers, observers from the Division.

Both the testimony presented at the hearings and the evidence submitted by the Division established that neither Facility X in Gig Harbor, WA nor Dr. G, the doctor who attended O S, were enrolled in the Alaska Medicaid program. Ms. S made a good faith effort to identify such a provider by contacting the Medicaid recipient helpline. However, she did not verify the provider's availability with regard to Alaska Medicaid patients as she had been advised to do by the Alaska Medicaid helpline. Had Ms. S done so, she would have learned that neither Facility X nor Dr. G was participating in the Alaska Medicaid program. The Division's denial of payment of O S' claim is, therefore, affirmed.

II. Facts

K S was in Washington State when her son, O S, became ill.¹ She made an appointment with Facility Y and then called the Medicaid recipient helpline to make sure that Facility Y was enrolled with Alaska Medicaid.² Ms. S described her son as being “really sick” when she called the hotline.³ After learning that Facility Y and Dr. J -- the doctor her son was scheduled to see later that day -- were not enrolled Alaska Medicaid providers, Ms. S asked the helpline to direct her to a webpage that listed covered providers.⁴ The helpline attendant told her that the website was not up and running, but forwarded a list of covered providers to Ms. S’ e-mail address.⁵ This list identified two enrolled Alaska Medicaid providers in Gig Harbor, WA: (1) Facility Z, located at No Name Boulevard, and (2) P N, a physician located at No Name Boulevard.⁶ The e-mail further identified Facility Z as being part of the No Name Health System.⁷ The e-mail Ms. S received from the helpline attendant further stated: “Please remember to contact the provider first to check their availability. They may not be accepting new Alaska Medicaid patients.”⁸

Ms. S took O to Facility X, whose address is No Name Drive, rather than to Facility Z.⁹ The charge for the services rendered to O S was \$278.00.¹⁰ The Department of Health and Social Services for the State of Alaska denied payment for these services because neither Dr. G -- the physician who saw O -- nor Facility X was an enrolled Alaska Medicaid program provider.¹¹

III. Discussion

At the initial hearing, Ms. S testified that Facility X was part of the No Name Health system, so she assumed it was a covered provider when she took her son there in October of 2013.¹² There is evidence in the record to support her contention. First, Ms. S had a previously scheduled appointment with Dr. J at Facility Y for O and specifically called the Medicaid helpline in advance to make sure Facility Y was enrolled in Alaska Medicaid before taking her

¹ Testimony of Ms. S.

² Exh. E.

³ Exh. E.

⁴ Exh. E.

⁵ Exh. E & F.

⁶ Exh. F, at p. 1.

⁷ Exh. F, at p. 1.

⁸ Exh. F, at pp. 1 & 3.

⁹ Testimony of Ms. S; *see also* Exh. G.

¹⁰ Exh. G

¹¹ Testimony of Ms. LaRue; *see also* Exh. C & Exh. A, at p. 2.

¹² Exh. E.

son there.¹³ Upon learning that neither Dr. J nor Facility Y were Alaska Medicaid providers, Ms. S then told the helpline she was looking for any enrolled provider in Gig Harbor.¹⁴ After the helpline attendant sent her an e-mail with the list of providers in Gig Harbor enrolled in Alaska Medicaid, Ms. S told the Medicaid helpline attendant that she was taking O to “an urgent care right now that was on the list of providers you sent.”¹⁵ Ms. S’ conduct thus suggests that she intended to take O to a provider enrolled in the Alaska Medicaid program.

Despite Ms. S’ intention, the reality is that Facility X was not on the list of providers she received.¹⁶ Facility X is part of the No Name Health System just like Facility Z, but these are two different entities at two different locations.¹⁷ While a mother with a “really sick” child could have been confused by the similar names, it does not change the fact that neither Dr. G nor Facility X was an Alaska Medicaid provider. Moreover, the Alaska Medicaid helpline specifically instructed Ms. S to “contact the provider first to check their availability and whether they were accepting new Alaska Medicaid patients.”¹⁸ Ms. S did not introduce any evidence showing that she had contacted Facility X to check their Medicaid status or availability prior to taking O there, despite having been counseled to do so.¹⁹ Had she taken that final step of contacting Facility X about their availability and whether they accepted Alaska Medicaid patients, she presumably would have learned that Facility X was not an enrolled Alaska Medicaid provider and neither was Dr. G.

Alaska Medicaid regulations state that the Department of Health and Human Services may pay an out-of-state provider for a service provided if the provider is: (1) enrolled in Alaska’s Medicaid program, (2) enrolled in the Medicaid program in the jurisdiction where the service is provided, and (3) possesses the appropriate license in the other jurisdiction to provide the required service.²⁰ Because neither Dr. G nor Facility X was enrolled as an Alaska Medicaid provider, the Division acted appropriately in denying payment of this claim.²¹

¹³ Exh. E.

¹⁴ Exh. E.

¹⁵ Exh. F, at p. 2.

¹⁶ Exh. A, at p. 2.

¹⁷ Exh. F, at p. 1 & [www.No Name.org/Doctors-and-Clinics/Clinics/Clinics-by-city](http://www.NoName.org/Doctors-and-Clinics/Clinics/Clinics-by-city).

¹⁸ Exh. E.

¹⁹ Testimony of Ms. S; *see also* Exhibits A through G.

²⁰ 7 AAC 105.120(b).

²¹ *See* Testimony of Ms. LaRue; *see also* Exh. A, at p. 2 & Exh. C.

IV. Conclusion

For the reasons set forth above, the Division's denial of payment for the fees O S incurred at Facility X is affirmed.

Dated this 20th day of November, 2014.

Signed _____
Kathleen A. Frederick
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 2nd day of December, 2014.

By: *Signed* _____
Signature
Kathleen A. Frederick
Name
Administrative Law Judge
Title

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