

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

In the Matter of)	
)	OAH No. 12-0899-MDS
K H)	Agency No.
_____)	

DECISION

I. Introduction

The Division of Senior and Disability Services (division) notified K H that his Personal Care Assistant (PCA) services would be terminated because the division had not received a Verification of Diagnosis (VOD) from him. Mr. H contested that decision and requested a hearing.

II. Procedural Background

A hearing was held on December 17, 2012. During that hearing, it was noted that the division had recently agreed that Mr. H was entitled to continue receiving Home and Community-Based Waiver services based on a recent medical report submitted to the division. Although that report was apparently not on a VOD form, the division asked that the hearing be continued so that it would have time to consider this additional information.

A status conference was held on January 4, 2013. At that time, the division conceded that Mr. H was entitled to continue receiving PCA services with no reduction in hours. Mr. H was unwilling to withdraw his request for a hearing because he has other concerns about the division's actions. Accordingly, a supplemental hearing was held on January 17, 2013. Mr. H was not initially available by phone. While on record, the division, through its representative, again conceded that Mr. H was entitled to receive PCA services in the amount previously authorized before the termination notice was sent.

Mr. H later telephoned the Office of Administrative Hearings (OAH). The agency representative was called, and the hearing continued on the record.

III. Discussion

Mr. H agrees he should receive PCA services. His main concern is that he is not able to actually receive the authorized services because of errors or violations by the division and others. He states that he has had multiple problems in the past with assistants who have stolen from him or abused him, and that Adult Protective Services has ignored those

problems. He also says he has had care coordinators who have mistreated him or dealt with him improperly. In addition, he believes personnel in the division have actively interfered with his services by calling PCA agencies and stating that services will not be paid for.

Mr. H believes his constitutional and statutory rights have been violated in several different ways. Mr. H does have a variety of rights, but those rights are not enforceable in this action. This matter was referred to OAH to resolve one specific dispute: Whether the PCA services should be terminated for failure to provide a VOD. The division agrees that services should not be terminated. The Office of Administrative Hearings has no authority in this matter to take evidence on any other issue, and thus cannot resolve those disputes.

IV. Conclusion

The division agrees that Mr. H's PCA services should not be terminated at this time. Accordingly, the previous determination that his services would end is reversed, and Mr. H remains authorized to receive PCA services in the same amount as was previously authorized.

Dated this 17th day of January, 2013.

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 17th day of February, 2013.

By: *Signed*

Name: Jeffrey A. Friedman
Title: Administrative Law Judge

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