

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

In the Matter of:	)	
	)	
L C	)	OAH No. 12-0607-ATP
	)	Former OHA Case No.
_____	)	DPA Case No.

**DECISION**

**I. Introduction**

The issue in this case is whether L C is entitled to an extension of the 60 month lifetime limit for receipt of Alaska Temporary Assistance Program (ATAP) benefits on the ground that she is physically unable to work.

The Department of Health and Social Services, Division of Public Assistance (DPA or Division) granted Ms. C two one-month extensions, but denied Ms. C's most recent extension request on the basis that Ms. C failed to provide the Division with a health status report form, signed by a health care provider, documenting Ms. C's alleged inability to work.<sup>1</sup> Ms. C's position is basically that she is disabled, that she cannot currently work, and that she has previously provided evidence of this to the Division.<sup>2</sup>

This decision concludes that the applicable regulations require medical evidence of continuing disability to support an extension, and none was provided. For this reason, the Division's decision denying ATAP extensions for the months of March 2012 and April 2012 is affirmed.

**II. Facts**

Ms. C is 32 years old.<sup>3</sup> Her household consists of two adults and one child.<sup>4</sup> She first applied for ATAP benefits during the period of 2004 - 2006.<sup>5</sup> During the period that she received ATAP benefits, the Division sent her periodic notices, as required by its regulations,

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<sup>1</sup> Ex. 10.0.  
<sup>2</sup> Ex. 11.0, C hearing testimony.  
<sup>3</sup> Ex. 1.  
<sup>4</sup> Ex. 1.  
<sup>5</sup> Exs. 1, 11.2.

reminding her how many months of benefits she had used and how many months of benefits she had left.<sup>6</sup>

On December 30, 2011 the Division held a meeting (known as an "extension staffing") to determine whether to grant Ms. C an ATAP extension (*i.e.*, ATAP eligibility beyond the normal five year lifetime limit).<sup>7</sup> Ms. C reported that her doctor was on vacation and was unable to complete a health status report form (TA-10) at that time.<sup>8</sup> The Division granted a one month extension based on Ms. C's prior TA-10s.<sup>9</sup> Later that day Ms. C submitted a TA-10 from her chiropractor stating that she would be unable to work for a period of one to two months.<sup>10</sup> Based on this documentation the Division granted Ms. C a two month ATAP extension lasting through February 29, 2012.<sup>11</sup> On January 6, 2012 the Division notified Ms. C that her request for an ATAP extension had been approved through the month of January 2012; on February 1, 2012 the Division notified Ms. C that her request for an ATAP extension had been approved through the month of February 2012.<sup>12</sup>

On February 16, 2012 Ms. C signed a Family Self-Sufficiency Plan (FSSP).<sup>13</sup> One of the requirements of this plan was to attend medical appointments as scheduled and submit medical documentation to the Division as necessary; another requirement was to apply to the Social Security Administration (SSA) for Supplemental Security Income (SSI).<sup>14</sup> The plan document required that these actions be taken by February 29, 2012, and reminded Ms. C that her exemption from ATAP work requirements expired on February 29, 2012.<sup>15</sup>

On February 29, 2012 the Division held another extension staffing to determine whether to grant Ms. C another ATAP extension.<sup>16</sup> Ms. C asserted that she needed another extension

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<sup>6</sup> On April 1, 2008 the Division notified Ms. C that she had used 24 months of ATAP benefits and had 36 months of benefits left (Ex. 11.2). On March 31, 2009 the Division notified Ms. C that she had used 36 months of ATAP benefits and had 24 months of benefits remaining (Ex. 11.5). On March 31, 2010 the Division notified Ms. C that she had used 48 months of ATAP benefits and had 12 months of benefits remaining (Ex. 11.9). On January 3, 2011 the Division notified Ms. C that she had used 57 months of ATAP benefits and had 3 months of benefits remaining (Ex. 11.12).

<sup>7</sup> Ex. 2.1.

<sup>8</sup> Ex. 2.1.

<sup>9</sup> Ex. 2.1.

<sup>10</sup> Exs. 2.2 - 2.9.

<sup>11</sup> Exs. 2.2 - 2.9.

<sup>12</sup> Exs. 2.0, 3.0.

<sup>13</sup> Exs. 20.1-20.2.

<sup>14</sup> Ex. 20.1.

<sup>15</sup> Ex. 20.2.

<sup>16</sup> Exs. 4.0, 4.1, 5.0.

because she was still unable to work due to her back and neck pain.<sup>17</sup> However, she did not provide an updated TA-10.<sup>18</sup> In addition, she had not applied for SSI as required by her FSSP.<sup>19</sup> The Division concluded that Ms. C had been given sufficient time and resources to obtain the necessary medical documentation but had failed to do so.<sup>20</sup> Accordingly, the Division denied Ms. C's request for an additional extension.<sup>21</sup>

Ms. C re-applied for another extension on or about March 15, 2012.<sup>22</sup> On March 21, 2012 the Division received an uncompleted TA-10 from No Name Center.<sup>23</sup> The fax cover sheet from No Name Center indicated that the form could not be completed because Ms. C had refused to be examined.<sup>24</sup>

Another extension staffing was held on April 3, 2012; Ms. C was given until April 10, 2012 to submit a new TA-10, but she failed to do so.<sup>25</sup> The Division denied Ms. C's extension request on April 11, 2012 and provided written notice of the denial on April 16, 2012.<sup>26</sup> The Division issued a revised, more detailed denial notice on April 30, 2012.<sup>27</sup>

Ms. C requested a Fair Hearing on April 25, 2012.<sup>28</sup> At the time of her hearing request, and later at hearing, Ms. C complained that although she had submitted TA-10s in the past, No Name kept requesting that she submit new TA-10 reports.<sup>29</sup>

Ms. C's hearing was held as scheduled on May 17, 2012. The hearing was recorded. Ms. C participated in the hearing by telephone, represented herself, and testified on her own behalf. Terri Gagne, a Public Assistance Analyst employed by the Division, attended the hearing in person and represented and testified on behalf of the Division. M W, Work Services Director for Division contractor No Name Education and Employment Services, testified by telephone on behalf of the Division. All testimony and exhibits offered by the parties were admitted into evidence.

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<sup>17</sup> Ex. 4.0.  
<sup>18</sup> Ex. 4.0.  
<sup>19</sup> Ex. 4.1.  
<sup>20</sup> Ex. 4.1.  
<sup>21</sup> Exs. 4.0, 4.1, 5.0. At this time Ms. C had been receiving ATAP benefits for 69 months (Ex. 9.0).  
<sup>22</sup> C and Gagne hearing testimony; Ex. 9.1.  
<sup>23</sup> Exs. 5.1, 6.0.  
<sup>24</sup> Ex. 6.0.  
<sup>25</sup> Exs. 7, 8.0.  
<sup>26</sup> Exs. 8.0, 8.1, 10.1.  
<sup>27</sup> Ex. 10.0.  
<sup>28</sup> Ex. 11.0.  
<sup>29</sup> Exs. 11.0, 11.1.

### III. Discussion

The issue in this case is whether the Division was correct to deny Ms. C's request for an extension of her Temporary Assistance benefits (beyond the Temporary Assistance Program's 60 month lifetime limit), for the months of March 2012 and April 2012.<sup>30</sup>

The Alaska Temporary Assistance Program (ATAP) is a program created by the Alaska Statutes to implement the federal program for Temporary Aid to Needy Families, or TANF.<sup>31</sup> ATAP is designed to help financially eligible families with minor children.<sup>32</sup>

A family may not normally receive ATAP benefits from the state (or parallel TANF programs in other states) for a total period of more than 60 months.<sup>33</sup> However, the ATAP regulations provide an exception to the 60 month lifetime limit when domestic violence, a physical or mental inability to work, or the need to care for a disabled child or relative, interfere with a recipient's ability to work.<sup>34</sup>

In this case, Ms. C asserts that she was physically unable to work during the months of March 2012 and April 2012 due to neck and back pain.<sup>35</sup> Under 7 AAC 45.235(a)(2), a person is considered to be physically or mentally unable to work if the individual "has a physical or mental condition that, on the basis of competent medical evidence submitted in accordance with (b) of this section, the department reasonably expects will last at least 30 days, and that is severe enough . . . to prevent the individual from working at full-time employment."

The Division did not dispute that Ms. C might have been physically unable to work, due to her neck and back pain, during March 2012 and/or April 2012; the Division had granted Ms. C prior extensions based on temporary physical inability to work. Rather, the Division denied the extension requests at issue here because Ms. C did not provide a TA-10 form signed by a medical professional confirming her alleged continuing inability to work.<sup>36</sup> According to 7 AAC 45.235(b), "[t]o substantiate a claim of inability [to work due to physical disability], medical

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<sup>30</sup> Following the extension denial at issue here, Ms. C applied for another extension and was granted an extension effective May 2012 (C and Gagne hearing testimony).

<sup>31</sup> See A.S.47.05.010(1); A.S.47.27.005 – A.S.47.27.990; 42 U.S.C. § 601 *et. seq.* ATAP's governing regulations are found in the Alaska Administrative Code at 7 AAC 45.149 – 7 AAC 45.990.

<sup>32</sup> AS 47.27.010.

<sup>33</sup> AS 47.27.015(a)(1).

<sup>34</sup> See AS 47.27.015(a)(1)(A)-(C); 7 AAC 45.610(d) – (f). The ATAP regulations also allow an exception to the 60 month lifetime limit for family hardship. AS 47.27.015(a)(1)(D); 7 AAC 45.610(g). However, this exception is not at issue here.

<sup>35</sup> C hearing testimony.

<sup>36</sup> See Ex. 10.0.

evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition is required." The regulation also requires that this evidence "be submitted on a form provided or in a format specified by the department."

Ms. C emphasizes that she had previously provided TA-10 forms to the Division, and questions the fact that the Division required her to submit a new, updated TA-10 form to support the extension request at issue here. However, the TA-10 form on which the Division relied to grant Ms. C an extension for January 2012 and February 2012 indicated that Ms. C's inability to work was expected to last for one or two months beginning December 31, 2011.<sup>37</sup> The two month period specified by Ms. C's chiropractor expired on February 29, 2012. Accordingly, her application to extend benefits beyond that time was not supported by "competent medical evidence" as required, and the extension may not be granted.

#### **IV. Conclusion**

Applicable ATAP regulations require medical evidence of continuing disability to support the granting of an extension of the 60 month lifetime eligibility limit. Accordingly, the Division's decision denying ATAP extensions for the months of March 2012 and April 2012 is **AFFIRMED**.

DATED this 24<sup>th</sup> day of July, 2012.

*Signed*  
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Jay Durych  
Administrative Law Judge

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<sup>37</sup> Exs. 2.5, 2.6.

## 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 2<sup>nd</sup> day of August, 2012.

By: Jay D. Durych

Title/Agency: ALJ, OAH, DOA

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