

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

In the Ner of)
)
N H) OAH No. 17-0946-ATP
) Agency No.
_____)

DECISION

I. Introduction

N H requested an extension of the 60-month lifetime limit for the Alaska Temporary Assistance Program (ATAP or the program) benefits, claiming that she is physically unable to work. The Department of Health and Social Services, Division of Public Assistance (the Division) denied Ms. H’s extension request because Ms. H failed to provide timely medical evidence to substantiate a claim of inability to work due to physical disability. Ms. H appeals that decision.

The applicable regulations require medical evidence of continuing disability to support an extension, and Ms. H failed to provide timely medical evidence. Accordingly, the Division’s decision denying an ATAP extension is affirmed.¹

II. Facts

The material facts are undisputed. Ms. H was a recipient of ATAP benefits.² ATAP benefits are limited to a total of 60 months in a lifetime.³ However, a family may get an extension 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.⁴ The Division granted an extension to the 60-month life-time limit—through August 2017—so that Ms. H could care for a disabled child who has Down Syndrome.⁵ Ms. H has received 68 months of ATAP benefits from July 1997 through August 2017.⁶

On July 7, 2017, the Division sent Ms. H notice that her extension would end and that her case would be closed on August 31, 2017.⁷ The Division informed Ms. H that it did not have

¹ Ms. H may reapply for an extension at any time.

² Ex. 1.

³ Ex. 11, 12, 13, 14; Testimony of Tara Crosslan.

⁴ AS 47.27.015(a)(1)(A) – (C) (Ex. 25); 7 AAC 45.610(d) – (f) (Ex. 23); Crosslan Testimony.

⁵ Ex. 1.5-1.6; Crosslan Testimony.

⁶ Ex. 22-22.1.

⁷ Ex. 2.

enough information to determine whether she could get an additional extension and that if she wanted to be considered for another extension, she would need to request it.⁸

On August 2, 2017, Ms. H signed a Family Self-Sufficiency Plan (FSSP).⁹ Ms. H's Case manager, Doug McQueen worked with Ms. H to develop goals towards self-sufficiency.¹⁰ One of the requirements of this plan was to provide a completed Health Status Report (TA-10 form) signed by a medical professional that addresses her health issues by August 18, 2017; another requirement was to follow through with her appeal to the Social Security Administration (SSA) for Supplemental Security Income (SSI).¹¹ The FSSP reminded Ms. H that her exemption from ATAP work readiness activities expired on August 31, 2017.¹² Ms. H's earlier FSSPs—her February 21 and May 24, 2017 plans—also required her to discuss the need for a TA-10 form with her primary care provider and to bring an updated form to her next appointments, if applicable.¹³ On all three FSSPs, Ms. H signed the following statement: “I understand that my family may lose some or all of our temporary assistance benefits if I fail to follow through with this plan and complete work activities or other activities related to my family’s self-sufficiency or my ability to work.”¹⁴

On August 10, 2017, Ms. H asked for another extension to her 60-month lifetime limit of ATAP benefits.¹⁵ And Mr. McQueen scheduled a meeting before the “Extension Review Staffing” team (known as an “extension staffing meeting”) for August 28, 2017 to determine whether to grant Ms. H's request for another ATAP extension.¹⁶ On August 28, 2017, Mr. McQueen and his supervisor, Tara Crosslan, held Ms. H's extension staffing meeting as scheduled.¹⁷ Ms. H reported that her disabled child was attending middle school full time and that she was doing well with a teacher's aide.¹⁸ Ms. Crosslan noted that Ms. H reported that she had been working on getting SSI benefits through the appeal process.¹⁹ Ms. H did not provide a current TA-10, and the most recent TA-10 on file—dated December 24, 2015—stated that Ms. H

⁸ Ex. 2.
⁹ Ex. 3-3.3.
¹⁰ Ex. 3-3.3; Crosslan Testimony.
¹¹ Ex. 3.2.
¹² Ex. 3.3.
¹³ Ex. 1.9, 1.11.
¹⁴ Ex. 1.10, 1.12, 3.3.
¹⁵ Ex. 3; Ex. 5; Ex. 7, 7.1.
¹⁶ Ex. 4.
¹⁷ Ex. 5-5.2.
¹⁸ Ex. 5.1.
¹⁹ Ex. 5.1; Crosslan Testimony.

could work part time, and she could function effectively in a work or training environment with accommodations.²⁰ Ms. H stated that she would find a job if Social Security denied her appeal.²¹ And she reported that she believed she could do office assistance type work.²² Ms. H stated that she was having trouble finding a doctor in City A for her pain management and was told that surgery was not an option due to complications.²³ Ms. H stated that the one doctor she saw in City A wanted to take her off the pain medications she is taking, and she stated that she cannot live without her pain medications.²⁴ Ms. H reported that she had an appointment scheduled with a pain management doctor in City B on September 6, 2017 and that she would try to get a TA-10 completed.²⁵

Although Ms. H claims that she is appealing the denial of Social Security benefits, Ms. H does not have a current application for SSI or SS disability.²⁶ The Division's computer interface with Social Security shows that Ms. H's SSI application was dated November 15, 2005, and the Social Security Administration denied her application on January 6, 2006.²⁷ Ms. H did not appeal the denial.²⁸

The Extension Review Staffing team concluded that Ms. H had failed to provide the necessary medical documentation.²⁹ And she did not meet any of the extension criteria.³⁰ Accordingly, the Extension Review Staffing team recommended denying Ms. H's request for an additional extension.³¹

Ms. H requested a Fair Hearing on August 20, 2017.³² Ms. H reported that she was going to City B on September 7, 2017 to see her doctor to determine what capacity she could return to work.³³ On August 30, 2017, the Division sent notice to Ms. H that her request for an extension was denied.³⁴

²⁰ Crosslan Testimony; Ex. 5.3.

²¹ Ex. 5.

²² Ex. 5.1; Crosslan Testimony.

²³ Ex. 5.

²⁴ Ex. 5.

²⁵ Ex. 5.

²⁶ Ex. 5.9-5.10; *compare* N H Testimony.

²⁷ Ex. 5.9-5.10.

²⁸ Ex. 5.9-5.10.

²⁹ Ex. 5.1.

³⁰ Ex. 5.1.

³¹ Ex. 5.

³² Ex. 7-7.1.

Ms. H's hearing was originally scheduled for October 2, 2017. At Ms. H's request and over the Division's objections, the hearing was rescheduled to October 30, 2017. The hearing was recorded. Ms. H participated in the hearing by telephone, represented herself, and testified on her own behalf. Ms. H's daughter, D J, also testified on Ms. H's behalf. Jeff Miller, a Public Assistance Analyst, participated in the hearing by telephone and represented the Division. Tara Crosslan, an Employment Services Technician for the Division testified by telephone on behalf of the Division. All testimony and exhibits offered by the parties were admitted into evidence. Among the evidence in the record, Ms. H submitted a TA-10 from City A Physical Therapist, N Q dated October 5, 2017, stating that she is unable to work.³⁵ The record was left open until November 6, 2017 to allow Ms. H to supplement with Social Security appeal information. Ms. H did not provide any further evidence.

III. Discussion

The issue in this case is whether the Division was correct to deny Ms. H's request for an extension of her ATAP benefits (beyond the 60-month lifetime limit). Ms. H has the burden of proving by a preponderance of the evidence that she meets the eligibility requirements for an extension.³⁶ Under this standard, Ms. H must prove that it is more probable than not that she provided medical evidence of disability to support an extension.³⁷

ATAP is a program created by the Alaska Statutes to implement the federal program for Temporary Aid to Needy Families, or TANF.³⁸ ATAP is designed to help financially eligible families with minor children.³⁹

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.⁴⁰ However, the ATAP regulations provide an exception to the 60-month lifetime limit when domestic violence, a

³³ Ex. 7-7.1.

³⁴ Ex. 9.

³⁵ Ex. 29.

³⁶ 7 AAC 49.135 ("For a request for new or additional benefits, the burden of proof is on the applicant or recipient requesting the service, and is by a preponderance of evidence.").

³⁷ Preponderance of the evidence is defined as: "Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. *Black's Law Dictionary* 1064 (5th Ed. 1979).

³⁸ 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.

³⁹ AS 47.27.010.

⁴⁰ AS 47.27.015(a)(1) (Ex. 25).

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.⁴¹

In this case, Ms. H asserts that she is physically unable to work due to back pain and medications.⁴² Under 7 AAC 45.235(a)(2), a person is considered to be physically or mentally unable to work if the individual “is eligible for disability benefits under the supplemental security income program (42 U.S.C. 1381 – 1383f), the social security disability insurance program (42 U.S.C. 401 – 403) or the adult public assistance program (AS 47.25.430 – 47.25.615) because of blindness or disability” or “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.”⁴³ Under 7 AAC 45.235(b), a person seeking an extension must provide “medical evidence from a licensed medical or health care practitioner as to the nature, extent, and expected duration of the condition” to substantiate a claim of inability to work due to physical disability. This evidence must “be submitted on a form provided or in a format specified by the department.”⁴⁴ An “Extension Review Staffing” team, composed of a family’s case manager, caseworkers, and other individuals involved with the case, then reviews the family’s situation and determines whether the family qualifies for an extension of benefits.⁴⁵ The extension review team must fully document its decisions, explaining what decisions were made at the staffing, what information was relied on to make the decisions, and how the information was applied in reaching the decisions.⁴⁶

The Division denied the extension request at issue here because—although reminded for several months to do so—Ms. H did not provide timely medical evidence or a recent Health Status Report (TA-10 form) signed by a medical professional confirming her alleged inability to work.⁴⁷ Based on the information Ms. H provided, the Extension Review Staffing team concluded that she did not meet any of the criteria for an extension.⁴⁸ In particular, her most

⁴¹ See AS 47.27.015(a)(1)(A) – (C) (Ex. 25); 7 AAC 45.610(d) – (f) (Ex. 23). 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.

⁴² Testimony of N H; Testimony of D J.

⁴³ 7 AAC 45.235(a)(2) (Ex. 24); *see also* Ex. 17.

⁴⁴ 7 AAC 45.235(b) (Ex. 24).

⁴⁵ 7 AAC 45.610(c) (Ex. 23); Ex. 15.

⁴⁶ 7 AAC 45.610(c) (Ex. 23); Ex. 15.1.

⁴⁷ Testimony Tara Crosslan; Ex. 5.

⁴⁸ Testimony Tara Crosslan; Ex. 5.1.

recent health status report—which was expired—stated that Ms. H could work part time, and she could function effectively in a work or training environment with accommodations.⁴⁹ Moreover, Ms. H reported to her caseworker that she thought she could do office assistant type work.⁵⁰ Although Ms. H eventually provided a Health Status Report Form from a physical therapist—which was dated October 5, 2017—that form was not timely, and Ms. H failed to show that the Division should have allowed her more time to provide medical evidence.⁵¹ The Division’s determination—based on the medical evidence the Extension Review Staffing team had before it—was consistent with the ATAP regulations. Accordingly, Ms. H’s application to extend benefits beyond that time was not supported by “competent medical evidence” as required, and the extension may not be granted.⁵² The Division’s decision is affirmed.

IV. Conclusion

Applicable ATAP regulations require medical evidence of disability to support the granting of an extension of the 60-month lifetime eligibility limit. Accordingly, the Division's decision denying ATAP extension is AFFIRMED.

Dated: December 5, 2017

Signed _____

Jessica Leeah

Administrative Law Judge

⁴⁹ Testimony Tara Crosslan; Ex. 5.3.

⁵⁰ Testimony Tara Crosslan; Ex. 5.1.

⁵¹ Ex. 2; *See also* Ex. 3.2; 7 AAC 45.235(b) (allowing *up to two months* to provide medical evidence (1) *if* the individual resides in a remote area of Alaska; (2) *if* because of the remote residence, the individual has been unable to gain access to a licensed medical or health care practitioner within three months preceding the date of application or the three months since the onset of the inability to perform gainful activity, whichever period is shorter; (3) *if* the individual demonstrates to the Division’s satisfaction that the individual is unable to gain access to a licensed medical or health care practitioner within 30 days after receipt of the application; *and* (4) *if* the individual provides a statement on the individual’s condition from a village health aide or other health care provider who is familiar with the individual’s condition.).

⁵² Ms. H may reapply for an extension.

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 21st day of December, 2017.

By: *Signed* _____
Name: Jessica Leeah
Title: Administrative Law Judge

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