

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

In the Matter of)
)
 B B N)
_____)

OAH No. 13-1267-CCA
Agency No.

DECISION

I. INTRODUCTION

B B N requests retroactive certification of eligibility to participate in the Division of Public Assistance’s Child Care Assistance Program (CCAP) so that there is no gap in child care assistance benefits. The division denied her request, finding that she did not timely renew her participation in the CCAP. Because it is the family’s responsibility to timely renew eligibility so as to avoid any gap in assistance, the division’s decision is affirmed.

II. FACTS

There is no genuine issue of material fact. Ms. N received child care assistance through the CCAP in prior years. Until this renewal, the division received Ms. N’s renewals prior to the end of the certification period so she was found eligible for assistance in successive six month periods and there was no gap in coverage.¹

The application notifies participants of their rights and responsibilities, including that it is the family’s responsibility to renew their child care authorization “in a manner timely enough to ensure continued coverage with their selected provider.”² Also, the approval notice not only informs the family that they are eligible to participate in the CCAP, but also provides the eligibility period and a reminder that the family’s eligibility will terminate if not renewed. This information was contained in Ms. N’s approval notice. It informed Ms. N that she was approved to participate in the program from February 1, 2013 through July 31, 2013.³

The division has an internal policy requiring it to send a renewal notice with an application 45 days prior to the end of the authorization period.⁴ It sent the required notice to Ms. N on June 14, 2013, but she never received the notice or application. Because she did not

¹ Exhibits 3, 10.
² *See e.g.*, Exhibit 4i.
³ Exhibit 10.
⁴ Exhibit 47h.

receive the notice, Ms. N was unaware that her approval period and eligibility ended until she received the notice of child care assistance closure dated August 6, 2013.⁵ Ms. N submitted a CCAP application on August 19, 2013.⁶ Her August application was reviewed, and after it was deemed complete, Ms. N received notice that she was eligible to receive child care assistance from August 19, 2013 through January 31, 2014.⁷ She appealed the division's decision that she was not eligible for child care assistance from August 1, 2013 through August 18, 2013.

III. DISCUSSION

The division may not authorize CCAP benefits for more than six months at a time.⁸ Even if circumstances require new authorization during the six month eligibility period, the division may not extend the eligibility period.⁹ Other than the written notice of approval designating the eligibility period, the division is only required to provide written notice of an action to reduce or terminate program benefits before the period expires.¹⁰ It is the family's responsibility to renew eligibility in a "manner timely enough to provide for continuity of care. . . ."¹¹

Ms. N does not dispute that she received the notice of approval informing her that she was eligible to receive child care assistance up through July 31, 2013. She does not dispute that the division, in compliance with internal regulations, mailed Ms. N the required paperwork 45 days prior to the end of the certification period. Ms. N testified convincingly that she did not receive the renewal notice, and that if she had received the renewal notice, she would have timely renewed her eligibility. After July 31, 2013, the family was no longer eligible to participate in the CCAP.

If the division granted Ms. N's request for eligibility from August 1, 2013 through August 18, 2013, it would be faced with either 1) extending her eligibility beyond six months in violation of regulation, or 2) finding her eligible prior to an application. Either option would

⁵ Exhibit 32a.

⁶ Exhibit 34.

⁷ Exhibit 40a.

⁸ 7 AAC 41.305(a) Once someone is eligible to receive assistance through the CCAP, the person must reapply at least every six months.

⁹ 7 AAC 41.430(b)(6).

¹⁰ 7 AAC 41.305(a); 7 AAC 41.340; 7 AAC 41.405(a).

¹¹ 7 AAC 41.320(c)(5).

disregard the regulations governing this program, something neither the division nor this tribunal has the discretion to do.¹²

IV. CONCLUSION

It is the family's responsibility to renew eligibility at the end of each eligibility period. Ms. N did not timely renew eligibility, and as a result there was a break in her family's ability to participate in the CCAP. Neither the division nor this tribunal may disregard the program's regulations. The division's decision is affirmed.

DATED this 13th day of November, 2013.

Signed _____
Rebecca L. Pauli
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 27th day of November, 2013.

By: *Signed* _____
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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

¹² Cf: 7 AAC 100.072 (Medicaid regulation specifically providing that an applicant may request retroactive recovery).