

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

In the Matter of)

H F)

OAH No. 15-1446-CCA

DECISION

I. Introduction

H F is a child care assistance provider, who is paid by the Division of Public Assistance (Division) for those child care services. The Division reviewed Ms. F's daily child care attendance logs and determined that she had billed, and been paid for children, for whom she had not provided child care. As a result, the Division required that she reimburse it \$6,150 for those payments. Ms. F disagreed and requested a hearing.

Ms. F's hearing was held on January 5, 2016. Ms. F represented herself. Sally Dial represented the Division. The evidence shows that Ms. F billed the Division and was paid for child care that was not supported by her daily child care attendance logs. Ms. F was paid \$6,150 for those unsupported billings. Consequently, Ms. F is required to reimburse the Division for \$6,150. The Division's repayment requirement is AFFIRMED.

II. Facts

The following facts were established by a preponderance of the evidence.

Ms. F is a childcare provider, who participates in the Child Care Assistance program. The Division requested that Ms. F provide it with the daily attendance logs for her childcare facility for the months of July 2014 through March 2015. After its review, the Division determined that Ms. F billed the Division, and was paid by it, for childcare provided to the following eight children:

<u>Child</u>	<u>Month</u>	<u>Amount</u>
A	July 2014	\$518
	August 2014	\$518
B	August 2014	\$650
C	August 2014	\$360
D	August 2014	\$360
E	August 2014	\$360

F	August 2014	\$396
G	August 2014	\$468
H	November 2014	\$630
	December 2014	\$630
	January 2015	\$630
	February 2015	<u>\$630</u>
	TOTAL	\$6,150 ¹

Ms. F's daily attendance logs, while showing attendance of other children, do not show any attendance by any of the above-listed children during the identified months.² However, A is listed in the attendance logs for September 2014 through February 2015;³ B is listed in the attendance logs for September and October 2014.⁴ Five of the remaining six children, C, D, E, F, and G, are each listed in the attendance logs for September 2014 through January 2015.⁵ The remaining child, H, is not listed in the attendance logs at all.⁶

Based upon its review of Ms. F's attendance logs, the Division required that Ms. F repay it the \$6,150 it had paid her for the care of the above-listed children during the time when they were not listed in those logs.⁷ Ms. F requested an administrative review. After conducting the review, the Division again required that Ms. F repay it \$6,150.⁸

Ms. F testified that she provided childcare to all the children for whom she billed. She attributed any errors in her back up documentation to her difficulty in understanding the rules governing child care assistance, which were only provided to her in English. English is Ms. F's second language. She received training as a child care assistance provider in May 2012.⁹ While that training was in English, she did not request the services of an interpreter.¹⁰

Ms. F submitted unsigned typed letters stating they were respectively from the mothers of B and A stating that Ms. F had supplied childcare assistance for those children during the disputed months. Ms. F also submitted a handwritten signed letter from D S stating that he knew

¹ Exs. 4 – 4.8.
² Exs. 3 – 3.17.
³ Exs. 3.4 – 3.16.
⁴ Exs. 3.4 – 3.7.
⁵ Exs. 3.5 – 3.13.
⁶ Exs. 3 – 3.17.
⁷ Ex. 5.
⁸ Ex. 7.
⁹ Ex. 7.2.
¹⁰ Ms. F's testimony.

that Ms. F provided childcare for “Z’s” children, because he frequently gave those children rides to and from daycare at their mother’s request. By reference to other evidence in the record, being Ms. F’s testimony, her attendance records, and billing, Z’s children are the other six children listed above, identified by the Division as being billed for and not having received services.

III. Discussion

The Child Care Assistance program provides financial assistance to individuals who require daycare services for their minor children. Persons who wish to provide child care assistance, for which they are paid by the Division, are required to be approved by the Division, and must also maintain daily attendance records for the children in their care.¹¹ The Division is allowed to inspect a child care provider’s attendance and billing records and determine if that provider has been overpaid.¹² The Child Care Assistance program regulations allow the Division to recover overpaid benefits, *i.e.*, payments to which the provider was not entitled.¹³

The daily attendance records for Ms. F’s child care facility do not support her billings for child care assistance. Ms. F billed, and was paid \$6,150 for eight children without the required daily attendance records showing those children attended her child care facility during the billed periods. The typed letters from two of the children’s mothers have no probative value – they are unsigned and unsworn and contain no information regarding specific dates and times child care assistance was provided. The letter from Mr. S regarding the other children has very little probative value. It is not sworn, does not contain the names of the children, and contains no information regarding the specific dates and times child care assistance was provided.

Ms. F’s testimony that she provided the child care and that she did not understand the rules due to a language difficulty is not persuasive. She was required to maintain daily attendance logs. She was able to complete the attendance logs for other children. Her logs show attendance for seven of the eight children in months for which their billing is not in dispute. It is also notable that H is completely absent from the attendance logs, when his five siblings are listed for three (November 2014 – January 2015) out of the four months (November 2014 – February 2015) for which Ms. F billed for his care. It is unlikely that Ms. F managed to record attendance for his five siblings and completely failed to record his attendance when he purportedly attended

¹¹ 7 AAC 41.200; 7 AAC 41.255.

¹² 7 AAC 41.415.

¹³ 7 AAC 41.420.

child care during the same time period. Consequently, the attendance logs are the most persuasive evidence showing the actual child care provided by Ms. F. They do not show attendance to support the \$6,150 in billings identified by the Division. As a result, the Division has met its burden of proof and demonstrated that it is more likely true than not true that Ms. F billed and was paid for \$6,150 in child care services which she did not provide.

IV. Conclusion

The Division's decision requiring Ms. F to repay \$6,150 in overpaid child care assistance payments is AFFIRMED.

DATED this 8th day of January, 2016.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

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 22nd day of January, 2016.

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

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