

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

In the Matter of)	
)	
C Q)	OAH No. 17-1053-CCA
_____)	Agency No.

DECISION

I. Introduction

C Q applied for Child Care Assistance Program (CCAP or program) benefits. Although her son Z was living with her for the summer, she listed her daughter N as the only child in her household needing child care. The Division of Public Assistance (the Division)¹ approved benefits for N but did not approve benefits for Z. After Ms. Q’ child care provider submitted bills for child care for Z, Ms. Q requested benefits for Z retroactively. The Division denied the retroactive request because Ms. Q failed to provide information necessary to complete her request for benefits for Z. Ms. Q appeals the Division’s decision, claiming that she should have received benefits for her son Z. She also claims that her family contribution or co-pay was too high.

Based on the record as a whole, the Division’s decision to deny child care assistance benefits for Z and its family contribution determination are affirmed.

II. Facts

On June 2, 2017, Ms. Q applied for Child Care Assistance Program benefits.² Page 3 of the application includes a box for “Child Custody Arrangement,” where Ms. Q disclosed that her son, Z K J IV lives with her in the summers and alternate holidays.³ On page 4 of the application, in the section for “Child’s School Schedule,” Ms. Q reported that her daughter N attends No Name City 1 Head Start and that Z was only there for summer vacation.⁴ Below the child’s school schedule section, the application has a section for reporting when each child of the household will need child care based on “parent activities, custody/visitation and children’s school schedules.”⁵ Ms. Q listed only her daughter, N,

¹ In No Name Alaska, the Child Care Assistance Program is administered by a third-party contractor, Catholic Community Services (CCS). Unless noted otherwise, references to the Division in this decision include CCS.

² Ex. 2-2.4.

³ Ex. 2.2.

⁴ Ex. 2.3.

⁵ Ex. 2.3.

stating that she needed child care during Ms. Q’ work hours at the daycare facility.⁶ Ms. Q did not list Z as a child needing care.⁷ The first page of the application has a checklist of items that need to be submitted with the application.⁸ Among the items required is “[p]roof of age for each child who will be receiving child care.”⁹ Ms. Q provided proof of birth for N but not for Z.¹⁰

Ms. Q’ application was processed by Catholic Community Services (CCS)—the Division’s Child Care Assistance Program administrator for No Name Alaska. On June 30, 2017, a CCS representative, S N interviewed Ms. Q.¹¹ In that interview, Ms. N confirmed that Z was staying with Ms. Q for the summer months but would be leaving mid-August to spend the school year with his father in No Name City 2.¹² Accordingly, Ms. Q’ household size was four during the summer: Ms. Q, her husband B, her daughter N, and her son Z.¹³ Ms. N also verified in the interview that Ms. Q was not seeking child care assistance for Z.¹⁴ If Ms. Q had indicated that she needed child care assistance for Z, the Division would have put the application for Z’s care in pending status until Ms. Q provided proof of Z’s birth.¹⁵

Z, who arrived in No Name City 1 to stay with Ms. Q and her family for the summer on June 5, 2017—was living with Ms. Q in No Name City 1 at the time of her interview with Ms. N.¹⁶ Z returned to No Name City 2 for the school year on August 20, 2017.¹⁷

Based on Ms. Q’ application, interview responses, and income verification, the Division approved benefits for N.¹⁸ The Division determined that Ms. Q’ family contribution, or co-pay—which is based entirely on household size and income—was \$299 per month.¹⁹

On September 1, 2017, after receiving bills from the child care provider for Z, Ms. N contacted Ms. Q to inquire about whether child care assistance was needed for Z.²⁰ Ms. N explained that Ms. Q had indicated on her application and in the interview that Ms. Q did not need child care for Z.²¹

⁶ *Id.*

⁷ *Id.*

⁸ Ex. 26.

⁹ Ex. 26.

¹⁰ Rachel N Testimony.

¹¹ Ex. 3; Ex. 25; N Testimony.

¹² Ex. 3; Ex. 25.3; N Testimony.

¹³ Ex. 3.1; Ex. 25.5; N Testimony.

¹⁴ Ex. 3.1; Ex. 25.5; N Testimony.

¹⁵ N Testimony.

¹⁶ C Q Testimony.

¹⁷ Q Testimony.

¹⁸ Ex. 5; Ex. 6; N Testimony.

¹⁹ Ex. 5; Ex. 6; N Testimony; 7 AAC 41.330(a) (Ex. 21); 7 AAC 41.335(a) (Ex. 22); 7 AAC 41.025(a) (Ex. 23); Ex. 24.

²⁰ Ex. 7; N Testimony.

²¹ Ex. 7, N Testimony.

Nevertheless, Ms. Q informed Ms. N that Z did attend child care from June through August when he was residing with the family and that she needed benefits for that care.²² Later that day, Ms. N called Ms. Q again and explained that because Ms. Q did not initially request care for Z, the Division did not have Z's proof of birth on file.²³ Ms. Q said that she would look for proof of Z's birth.²⁴ On September 6, 2017, the Division sent Ms. Q notice that the request for benefits for Z was pending proof of birth or age verification.²⁵ The Division informed Ms. Q that she would not be eligible for benefits for Z if she did not submit the requested information by September 18, 2017.²⁶ Ms. Q did not provide proof of Z's birth before September 18, and the Division denied benefits for Z.²⁷

On September 25, 2017, Ms. Q appealed the decision to deny benefits for Z.²⁸ She also asked the Division to recalculate her household income.²⁹ Ms. Q submitted Z's vaccination records as proof of his birth with her request for appeal.³⁰

On September 27, 2017, the Division held a prehearing conference with Ms. Q.³¹ After that conference, the Division concluded that Ms. Q had not requested care for Z in her application and thus, the denial of benefits for Z was correct.³² The Division corrected Ms. Q's household income for June and recalculated Ms. Q's benefit for that month.³³ Specifically, the Division reduced the family contribution for June from \$289.03 to \$242.65.³⁴

Ms. Q appeals the amount of her family contribution and the decision to deny benefits for her son, Z. A telephonic hearing was held on October 30, 2017. Ms. Q participated in the hearing by telephone, represented herself, and testified on her own behalf. Jeff Miller participated by telephone and represented the Division. All testimony and exhibits offered by the parties were admitted. At the end of the hearing, the record closed, and the case became ripe for decision.

22 Ex. 7; N Testimony.
23 Ex. 8; N Testimony.
24 Ex. 8; N Testimony.
25 Ex. 9; Ex. 10; N Testimony.
26 Ex. 10; N Testimony.
27 Ex. 11; N Testimony.
28 Ex. 12.
29 *Id.*
30 Ex. 12.2.
31 Ex. 14.
32 Ex. 14.1.
33 Ex. 14.1; Ex. 15.
34 Ex. 6; Ex. 15.

IV. Discussion

A. *The Child Care Assistance Program—Relevant Statutes and Regulations*

The Child Care Assistance Program is authorized under AS 47.25 for the purpose of “providing day care for the children of low and moderate income families.”³⁵ In general, the program is designed to help parents who need child care while they are working, seeking work, or attending school.³⁶ The regulations governing the program are set forth in the Alaska Administrative Code (AAC) at 7 AAC 41.010 – 7 AAC 41.990.

Under the program, parents or guardians select a day care facility for the care of their children, and then the Division pays benefits.³⁷ A family’s eligibility for child care benefits is determined based on (1) the income of the family; (2) the number of children in the family; and (3) whether there is one parent or guardian solely responsible for the care of the family.³⁸ The program’s maximum monthly income limits vary based on the size of the family.³⁹ Under the program, participating families must pay a family contribution—a percentage of the family’s income—toward child care costs (the child care co-pay) as set forth in a Family Income and Contribution Schedule.⁴⁰ The amount of the family contribution is determined on a sliding fee scale based on family size and income level.⁴¹

A family seeking child care assistance must submit a completed application—on a form prescribed by the Division.⁴² In that application, the family must identify each child of the family for which child care assistance is requested and proof of the child’s age.⁴³ A family applying for child care assistance must provide complete, accurate, and current information concerning the children at issue, family income, hours of employment or training, work activities, and other factors that would affect the family’s eligibility for program benefits.⁴⁴ The applicant family must also provide documentation to support the information provided on the application, or on the “Family Responsibilities” form, if requested by the Division.⁴⁵ The Division provides a Child Care Assistance Application Checklist of documentation needed.⁴⁶

³⁵ AS 47.25.001(a)(1).

³⁶ 7 AAC 41.310.

³⁷ A.S. 47.25.051.

³⁸ See A.S. 47.25.031 1 (“Eligibility of Families for Benefits”).

³⁹ 7 AAC 41.335.

⁴⁰ AS 47.25.041; 7 AAC 41.330(a) (Ex. 21); 7 AAC 41.335 (Ex. 22); Ex. 24.

⁴¹ 7 AAC 41.335(a) (Ex. 22); Ex. 24.

⁴² 7 AAC 41.315 (Ex. 18).

⁴³ 7 AAC 41.315(c)(8) (Ex. 18); Ex. 2.3; Ex. 26, 26.5.

⁴⁴ 7 AAC 41.320(a) (“Family Responsibilities”).

⁴⁵ 7 AAC 41.320(b) (“Family Responsibilities”).

⁴⁶ Ex. 26.

This case raises two questions. The first question is whether the Division erred in denying benefits for Ms. Q’ son, Z. The second question is whether the Division correctly determined Ms. Q’ family contribution or co-pay. Because Ms. Q is seeking new benefits, she bears the burden of proving her claims by a preponderance of the evidence.⁴⁷

B. Was the Division Correct to Deny Child Care Benefits for Z?

Ms. Q argues that it was error for the Division to deny child care assistance for Z. The Division asserts that the decision to deny benefits for Z was correct because Ms. Q failed to apply for benefits for Z, and when she did request benefits retroactively, she failed to provide timely proof of birth or age verification.⁴⁸ This is a purely factual issue for which the burden of proof can be dispositive. Under Alaska “Fair Hearing” regulation 7 AAC 49.135, the applicant bears the *burden of proof* in cases involving applications for new or additional benefits. Accordingly, Ms. Q bears the burden of proving that the Division erred in denying child care assistance benefits for Z. The applicable *standard of proof* is the “preponderance of the evidence” standard.⁴⁹ Under this standard, Ms. Q must prove that it is more probable than not that (1) she applied for benefits for Z; and (2) she provided the information requested within the time specified by the Division.

Ms. Q asserts that she listed Z on the application as a member of her household, but she admits that she did not list Z as needing child care because he was not yet living with her when she completed the application.⁵⁰ She claims that her child care provider instructed her not to include Z.⁵¹ The problem with Ms. Q’ claim is that even if she did not initially list Z as a child needing care on the application because he was not yet living with her, she never updated her application to include Z once he started living with her in No Name City 1.⁵² And although Z was living with Ms. Q at the time of her eligibility interview with Ms. N, Ms. Q did not request assistance for Z’s care at that interview.⁵³ Indeed, Ms. Q did not inform the Division that she needed assistance for Z’s care until after Z had already returned to No Name City 2 to live with his father—and then, only after Ms. N contacted Ms. Q to inquire about bills from the day care provider for Z’s care.⁵⁴ Ms. Q argues that she listed Z on the fax cover sheet and

⁴⁷ 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 the evidence.”).

⁴⁸ Ex. 15.

⁴⁹ 7 AAC 49.135.

⁵⁰ Q Testimony.

⁵¹ Q Testimony; N Testimony.

⁵² Q Testimony.

⁵³ N Testimony.

⁵⁴ Q Testimony; N Testimony; Ex. 7.

the first page of the application and suggests that the Division should have known that she needed care for Z.⁵⁵ But just because Ms. Q identified Z as a member of the household does not mean that she applied for assistance for his care or that the Division should have known that she needed child care assistance for Z's care—Ms. Q was required to list Z as a member of the household. In short, the preponderance of the evidence indicates that Ms. Q failed to apply for benefits for Z's care.⁵⁶

Even if Ms. Q asked for assistance for Z's care, there is no dispute that she failed to submit the documentation at issue within the time specified in the Division's notice. Ms. Q admits that she was late in providing Z's proof of birth and immunization records.⁵⁷ Accordingly, the Division was correct, under its regulations, to deny child care assistance benefits for Z.

C. Family Contribution/Co-Pay

Ms. Q claims that her family contribution is too high. She does not dispute family size or the Division's income calculations. She, instead, argues that her children received child care for only three to four hours per day, and only three to four days per week, and she questions the amount of the co-pay because of the number of hours her children received care. But the family contribution is calculated according to the Divisions' Family Income and Contribution Schedule.⁵⁸ The amount of the family contribution is determined on a sliding fee scale based on family size and income level.⁵⁹ It is not based on the number of hours of care the children receive. And Ms. Q has not met her burden of proving that the Division erred in calculating her family contribution. Rather the preponderance of the evidence indicates that the Division complied with its regulations. Accordingly, the Division's family contribution determination is affirmed.

V. Conclusion

The Division was correct, under its regulations, to deny child care assistance benefits for Z. In addition, the Division properly applied its regulations in determining Ms. Q's family contribution for child care. Accordingly, the Division's decision is affirmed.⁶⁰

Dated: December 1, 2017

Signed _____
Jessica Leeah
Administrative Law Judge

⁵⁵ Q Testimony.

⁵⁶ Q Testimony.

⁵⁷ Q Testimony.

⁵⁸ 7 AAC 41.330 (Ex. 21); 7 AAC 41.335 (Ex. 22); Ex. 24.

⁵⁹ 7 AAC 41.335(a) (Ex. 22); Ex. 24.

⁶⁰ Ms. Q may reapply for Child Care Assistance Program benefits at any time.

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 19th 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.]