

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

In the Matter of )  
 )  
B D ) OAH No. 17-1099-CCA  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

The Division of Public Assistance (Division) denied B D's June 28, 2017 application for Child Care Assistance Program (CCAP) benefits, because her household income exceeded the program eligibility limit. Ms. D appealed.

This decision concludes that the Division correctly determined that Ms. D's income for September 2017 exceeded the applicable CCAP monthly income limit at the time of her application.<sup>1</sup> Therefore, the Division's decision denying Ms. D's child care benefits for September 2017 is affirmed.

**II. Facts**

Ms. D lives in a household of three: herself and her two children, Q D-T and S D.<sup>2</sup> Both children are under 13 years old, and thus, age-eligible for CCAP participation.<sup>3</sup> Ms. D earns income from two jobs: a full-time position at No Name Care, and a part-time position at No Name Foods.<sup>4</sup> She also receives monthly child support for both children.<sup>5</sup>

Ms. D applied for CCAP benefits on June 28, 2017.<sup>6</sup> The Division determines eligibility for benefits based on the family's countable monthly income.<sup>7</sup> For the month of the application, the family's income is calculated using all sources of countable income already received or expected to be received in that month.<sup>8</sup> For subsequent months in the eligibility period, the Division makes a best estimate of the family's prospective average monthly income based on the amount of income and frequency of pay reported by the family and verified by the employer.<sup>9</sup>

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<sup>1</sup> The Division re-determined benefits for August 2017, so the only month of child care assistance that is at issue in this case is September 2017.

<sup>2</sup> Ex. 1.

<sup>3</sup> Ex. 1.

<sup>4</sup> Ex. 4-4.2;

<sup>5</sup> Ex. 4.3-4.6.

<sup>6</sup> Ex. 2.

<sup>7</sup> 7 AAC 41.325(b) (Ex. 7.2). Hearing Recording.

<sup>8</sup> Ex. 10; Hearing Recording; *see also* 7 AAC 41.325(b) (Ex. 7.2).

<sup>9</sup> Ex. 10; Hearing Recording; *see also* 7 AAC 41.325(b) (Ex. 7.2).

The Division processed Ms. D’s application on September 4, 2017 and sent a notice that the application was pending income information.<sup>10</sup> On September 25, 2017, after receiving income verification, the Division estimated Ms. D’s prospective average monthly income and determined that her income exceeded the program limit.<sup>11</sup> The Division denied her application.<sup>12</sup> Before the hearing the Division re-determined and approved benefits for August 2017.<sup>13</sup> But the Division maintains that its denial of benefits for September 2017—which was based on Ms. D’s average income—was correct and asks that that determination be upheld.<sup>14</sup>

Ms. D and her employers provided pay stubs and employment statements showing the following gross income information:

No Name Foods<sup>15</sup>

<u>Pay Date</u>	<u>Gross Pay</u>
8/11/2017	\$327.00
8/25/2017	\$446.00
9/6/2017	\$281.50

No Name Care<sup>16</sup>

<u>Pay Date</u>	<u>Gross Pay</u>
8/10/2017	\$635.52 (for 37.38 hours)
8/24/2017	\$1,312.83 (for 74.5 hours and 1.82 hour overtime)

Because the No Name Care paystub dated August 10, 2017 does not show typical hours and earnings, the Division could not use the No Name Care pay stubs to make a budget

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<sup>10</sup> Ex. 2.  
<sup>11</sup> Ex. 3-3.19; Ex. 5.  
<sup>12</sup> Ex. 3-3.19; Ex. 5.  
<sup>13</sup> Hearing Recording.  
<sup>14</sup> Hearing Recording.  
<sup>15</sup> Ex. 4-4.1.  
<sup>16</sup> Ex. 4.2.

determination.<sup>17</sup> Nevertheless, Ms. D reported and No Name Care verified that she works a consistent schedule of 37.25 hours per week and earns \$17.00 per hour.<sup>18</sup> Based on the records available to the Division when it made its determination, Ms. D's average earnings are \$3,478.71.<sup>19</sup> In addition, Ms. D received an average of \$1,097.20 in child support from her two children's fathers.<sup>20</sup> Ms. D's total average monthly countable income is \$4,575.91.<sup>21</sup>

The hearing took place on November 27, 2017. Ms. D appeared in person, represented herself, and testified on her own behalf. Public Assistance Analyst Sally Dial appeared telephonically and represented the Division. All submitted documents were admitted into the record, and the record closed at the end of the hearing.

### III. Discussion

The Child Care Assistance Program is established by statute and implemented pursuant to CCAP regulations.<sup>22</sup> The program is intended to assist in providing day care for the children of low and moderate income families.<sup>23</sup> Qualifying parents or guardians select a participating day care facility for their children, and the program pays benefits to the care provider.<sup>24</sup>

The Division determines a family's eligibility for CCAP benefits 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.<sup>25</sup> The Division publishes a Family Income and Contribution Schedule that outlines the maximum monthly income a household may receive and still qualify for CCAP benefits.<sup>26</sup> For a household of three, the gross income limit is \$4,524 per month.<sup>27</sup>

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<sup>17</sup> Hearing Recording;

<sup>18</sup> Ex. 4.2. *See also* Ex. 3.5 & 3.10

<sup>19</sup> No Name Foods:  $\$327.00 + \$446.00 + \$281.50 = \$1,054.50 / 3 = \$351.50 \times 2.15$  (conversion for bi-weekly pay) = \$755.73. Ex. 4-4.1. No Name Care:  $\$17.00 \times 37.25 = \$633.25$  per week. Monthly Average:  $\$633.50 \times 4.3$  (conversion for bi-weekly pay) = \$2,722.98. Ex. 4.2.  $\$755.73 + \$2,722.98 = \$3,478.71$ .

<sup>20</sup> Child Support for Runa:  $\$365.97 \times 2 = \$731.94$ . Ex. 4.3-4.4. Child Support for Pema: \$365.26. Ex. 4.6.

<sup>21</sup>  $\$755.73 + \$2,722.98 + \$731.94 + \$365.26 = \$4,575.91$ .

<sup>22</sup> *See* AS 47.25.001 – 47.25.095; 7 AAC 41.010 – 7 AAC 41.990.

<sup>23</sup> AS 47.25.001(a)(1).

<sup>24</sup> AS 47.25.051.

<sup>25</sup> AS 47.25.031.

<sup>26</sup> The Family Income and Contribution Schedule is adopted into regulation at 7 AAC 41.335. It is in the record at Ex. 9.

<sup>27</sup> Ex. 9.

The Division determines a family's monthly income by totaling the monthly gross earned and unearned income of each parent.<sup>28</sup> Earned income includes wages from employment and self-employment.<sup>29</sup> Unearned income includes child support.<sup>30</sup>

When the Division processes a CCAP application, it must estimate the average monthly income that a family receives or is expected to receive during each month for which eligibility is being determined.<sup>31</sup> For the month of the application, the family's income is calculated using all sources of countable income already received or expected to be received in that month.<sup>32</sup> The Division determines prospective average monthly income by looking at relevant information, including evidence of the applicant's recent monthly income.<sup>33</sup> The Division makes a best estimate of the family's prospective average monthly income based on the amount of income and frequency of pay reported by the family and verified by the employer.<sup>34</sup>

At the time she applied for CCAP benefits on June 28, 2017, Ms. D acknowledged that she worked a consistent schedule at No Name Care, working 37 hours and 15 minutes per week at \$17 per hour.<sup>35</sup> She submitted paystubs for August 2017 from No Name Care, which confirm her hourly wage.<sup>36</sup> However, because the No Name Care paystubs do not show typical hours and earnings, the Division could not use them to make a budget determination.<sup>37</sup> The Division, instead, relied on Ms. D's statement and the employer's verification that she consistently works 37 hours and 15 minutes per week.<sup>38</sup> Although Ms. D submitted new paystubs for September at the hearing, those paystubs were not available to the Division at the time of the Division's determination, and the Division followed its regulations, policies, and procedures when it determined Ms. D's prospective income. Based on the information provided by Ms. D and her

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<sup>28</sup> See 7 AAC 41.325.

<sup>29</sup> *Id.*

<sup>30</sup> 7 AAC 41.325(a)(1)(C)(iii).

<sup>31</sup> 7 AAC 41.325(b) (Ex. 7.2). Hearing Recording.

<sup>32</sup> Ex. 10; Hearing Recording; *see also* 7 AAC 41.325(b) (Ex. 7.2).

<sup>33</sup> 7 AAC 41.325(b) (Ex. 7.2). Hearing Recording.

<sup>34</sup> Ex. 10; Hearing Recording; *see also* 7 AAC 41.325(b) (Ex. 7.2).

<sup>35</sup> Ex. 3.3 & 3.5.

<sup>36</sup> Ex. 4.2.

<sup>37</sup> *See* Ex. 3.5-3.6; Hearing Recording.

<sup>38</sup> *See* Ex. 3.5-3.6; Ex. 4.2; Hearing Recording. At hearing, the Division incorrectly based its calculation on a schedule of 37.5 hours per week. Fair Hearing Position Statement at 2.

employer, the Division correctly calculated her average gross monthly income from No Name Care as \$2,722.98.<sup>39</sup>

Ms. D also submitted copies of paystubs from No Name Foods.<sup>40</sup> Based on her August 9, 2017 earnings of \$327.00, her August 23, 2017 earnings of \$446.00, and her September 6, 2017 earnings of \$281.50, the Division correctly determined that her average gross monthly income from No Name Foods totaled \$755.73.<sup>41</sup>

The sum of Ms. D's two sources of earned income is \$3,478.71.<sup>42</sup> The Division then added child support for S in the average amount of \$731.94 per month and child support for Q in the average amount of \$365.26 per month.<sup>43</sup> The Division concluded that Ms. D's countable monthly income from all sources totaled \$4,575.91.<sup>44</sup> This is \$51.91 more than the \$4,524 CCAP maximum monthly income limit for a three-person family.<sup>45</sup>

The statute is clear that families become eligible for CCAP benefits based on their household income, and limited other considerations.<sup>46</sup> CCAP regulations are also clear that, among other requirements, a family can only become eligible for the program if its monthly income is "at or below the maximum allowed" under the Family Income and Contribution Schedule.<sup>47</sup>

Ms. D did not meet her burden to show that, at the time the Division processed her CCAP application, her prospective average monthly income was at or below the eligibility threshold. At the hearing, Ms. D indicated that she works fewer hours than she originally anticipated.<sup>48</sup> However, Ms. D did not submit any additional income verification to the Division.<sup>49</sup> Nor did she notify the Division that

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<sup>39</sup> See Ex. 3.5. Because Ms. D is paid bi-weekly, the Division took Ms. D's average weekly earnings of \$633.35 ( $\$17.00 * 37.25 = \$633.25$ ), and then multiplied that amount by 4.3, for a monthly average of \$2,722.98 ( $\$633.25 * 4.3 = \$2,722.98$ ). Child Care Assistance Program Policies and Procedures Manual (CCAP Manual), § 4060-5 B 4, p. 137 (convert weekly income to a monthly amount by multiplying average income by 4.3). The Manual can be found online at: <http://dhss.alaska.gov/dpa/Documents/dpa/programs/ccare/Documents/Manuals-Brochures/Child-Care-Assistance-Program-Policies-and-Procedures.pdf>.

<sup>40</sup> Ex. 4.

<sup>41</sup> Ex. 3.6. The Division took the average of her August 9, August 23, and September 9 paychecks, \$351.50 ( $\$281.50 + \$327.00 + \$446.00 = \$1,054.50 / 3 = \$351.50$ ), and then multiplied that amount by 2.15, for a monthly average of \$755.73 ( $\$351.50 * 2.15 = \$755.73$ ). CCAP Manual § 4060-5 B 3, p. 137 (convert bi-weekly income to a monthly amount by multiplying average income by 2.15).

<sup>42</sup> Ex. 4-4.2.  $\$2,722.98$  (No Name Care) +  $\$755.73$  (No Name Foods) =  $\$3,478.71$ .

<sup>43</sup> Ex. 4.3-4.6.

<sup>44</sup> Ex. 4-4.6; Ex. 3.8-3.9.  $\$3,478.71 + \$731.94 + \$365.26 = \$4,575.91$

<sup>45</sup> Ex. 9.

<sup>46</sup> See AS 47.25.031.

<sup>47</sup> 7 AAC 41.300(a). See also CCAP Manual § 4060-8 B, p. 151-52.

<sup>48</sup> Hearing Recording.

<sup>49</sup> Hearing Recording.

her hours were adjusted.<sup>50</sup> When it assessed her program eligibility on September 25, 2017, the Division appropriately relied on the information provided by Ms. D and her employers to calculate her expected monthly income, for purposes of her June 28, 2017 CCAP application.<sup>51</sup> The Division's determination was consistent with its regulations, policies, and procedures. Accordingly, the Division's decision to deny Ms. D's application for child care benefits for September 2017 is affirmed.

#### **IV. Conclusion**

The monthly income limit for CCAP participation is clear. Based on the evidence in the record, the Division correctly determined that Ms. D's average monthly income exceeded the applicable income limit for a household of three. Although Ms. D was only over that limit by \$51.91, this nonetheless made her ineligible for the program. The Division's decision denying Ms. D benefits for September 2017 is affirmed.

Dated: December 13, 2017

*Signed*  
\_\_\_\_\_  
Jessica Leeah  
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 29<sup>th</sup> 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.]

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<sup>50</sup> Hearing Recording.

<sup>51</sup> Ms. D can re-apply and provide verification of her adjusted work hours and average monthly income.