

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

In the Matter of:)
)
S and K S,)
)
Respondents. _____) OAH No. 06-0021-CHC
DHSS Facility No.

MEMORANDUM AND ORDER

A proposed decision in this case was issued on January 29, 2007. Pursuant to 2 AAC 64.340(b), and as provided in the Notice Regarding Proposed Action, a proposal for action must be filed by February 21, 2007.¹ The Office of Children’s Services has requested a 60 day extension of time for filing a proposal for action, to April 21, 2007.

The request must be denied. By regulation, the administrative law judge lacks discretion to extend the time beyond the statutory 30 day limit specified in AS 44.64.060.²

This limitation on the administrative law judge’s discretion reflects the fact that under AS 44.64.060(f), “[i]f a final decision is not timely issued in accordance with [AS 44.64.060(e)], the administrative law judge’s proposed decision is the final agency decision.” In this case, unless the case is returned to the administrative law judge pursuant to AS 44.64.60(e)(2), a final decision must be issued no later than March 15, 2007, or the administrative law judge’s decision will become final by operation of law. To extend the time for filing a proposal for action beyond 45 days would be contrary to AS 44.64.060(f), and beyond 30 days, contrary to AS 44.64.060(e).

In light of the fact that counsel for the Office of Children’s Services will be on leave until February 20, 2007, and counsel’s schedule upon return, there is good cause to extend the time for filing a proposal for action for the maximum permissible period. Accordingly,

IT IS HEREBY ORDERED:

1. The Motion for Extension of Time to File a Proposal For Action is **GRANTED IN PART**.
2. The time for filing a proposal for action is extended to **February 28, 2007**.

DATED: February 8, 2007

Signed

Andrew M. Hemenway
Administrative Law Judge

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

¹ The date set in the notice was calculated as 20 days after the date of service, plus 3 days for mailing. See 2 AAC 64.900.

² 2 AAC 64.910. Note that under this regulation, the administrative law judge’s discretion to shorten or extend deadlines is limited to those established under “this chapter or in an agency regulation,” and the administrative law judge is expressly denied authority to contravene the deadlines established in AS 44.64.060.