

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

In the Matter of: )  
 )  
K L ) OAH No. 12-0398-CMB  
 ) Agency Fair Hearing No.  
\_\_\_\_\_ )

**DECISION**

K A L requested a Fair Hearing on September 10, 2012 regarding the denial of her June 2012 application for Adult Public Assistance and Medicaid. In response to her request, a hearing was scheduled for October 4, 2012. The Office of Administrative Hearings (OAH) sent notice of this hearing to Ms. L. Ms. L certainly received a copy of the notice, because on September 24, 2012, she faxed a copy of the notice back to OAH with a cover sheet saying (among other things), “Re: Your requested hearing 10/04/2012”.

Ms. L was reached by telephone at the appointed time for the hearing, but she stated that “this is not a hearing for determining my disability” and terminated the connection. After that, there was no answer at her phone number of record (907-XXX-XXXX). Messages were left urging her to call immediately, but she did not call. The same day, the administrative law judge issued an order giving Ms. L until October 15, 2012 to show cause for failing to appear. The order permitted Ms. L to attempt to show good cause in writing or, alternatively, to contact the OAH Clerk to “request an oral conference to discuss good cause.”

Ms. L did not request an oral conference. She did make four written submissions following the October 4 order:

1. On October 10, she faxed back to OAH a copy of OAH’s order of October 4, with a cover note saying “Jessica- Did you mail me any additional info?”
2. On October 15, she faxed 15 pages consisting of copies of various documents relating to a Social Security disability application. Their connection to this case is not clear.
3. Also on October 15, she faxed a two-page written statement, together with additional documents that do not have any apparent connection to showing why she failed to participate on October 4.
4. On October 17, three additional pages were received by mail: duplicates of the first and ninth pages of item 3, and a copy of a notice of appeal to U.S. District Court relating to a Social Security matter.

Among these items, the only one that addresses the failure to appear is a two-sentence portion of the statement at the beginning of item 3, in which Ms. L says:

I answered your telephonic call @ 11:01 am 10/04/2012. A disability hearing was not scheduled, as were not food stamp issues that you previously discussed on the phone.

The rules applicable to Ms. L's hearing request provide that a case may be dismissed if the requesting party (in this case, Ms. L) fails to appear, without good cause, for the scheduled hearing.<sup>1</sup> Ms. L failed to appear for her scheduled hearing; indeed, she appeared to make a deliberate choice not to appear, terminating the connection when she was called. While she has submitted a great deal of material in response to the order to show cause, none of it explains her failure to appear. The two sentences devoted to her nonappearance deny that a disability hearing was scheduled, whereas the record is clear that a hearing was scheduled and that Ms. L received—and was aware of—the notice of the hearing. Ms. L also alludes to “food stamp issues that you previously discussed on the phone.” There was no previous discussion on the phone.

These statements do not establish good cause for Ms. L's failure to appear.<sup>2</sup> Accordingly, this case should be dismissed.

***Dismissal:*** Mr. L failed, without good cause, to appear at her October 4, 2012 hearing and for this reason the matter is dismissed.

Dated this 31<sup>st</sup> day of October, 2012.

Signed  
\_\_\_\_\_  
Christopher Kennedy  
Administrative Law Judge

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<sup>1</sup> See 7 AAC 49.100(4); 2 AAC 64.320(a).

<sup>2</sup> It is possible that Ms. L is simply not capable of prosecuting an appeal, or articulating a response to a show-cause order, on her own. However, this office cannot act as her advocate, nor appoint one to help her. She would need to find assistance from another source.

## 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 15<sup>th</sup> day of November, 2012.

By: Signed  
Name: Ree Sailors  
Title: Deputy Commissioner, DHSS

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