

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

In the Matter of)	
)	OAH No. 18-0400-CCA
B W)	Division No. 40018819
_____)	

DECISION

I. Introduction

Ms. W receives Child Care Assistance (CCA) for her two daughters. When she applied to renew those benefits, her application was approved, however, the CCA program determined that both of her children received part-time child care and that her family contribution toward the total child care costs was \$568 per month. Ms. W disagreed with the amount of childcare hours for which her children were approved, and with the CCA program’s determination of her monthly family contribution.

The evidence in this case shows that the CCA program’s allocation of child care hours for the children was less than should have been approved. However, the increased care still results in the daughters receiving part-time childcare. Because the daughters receive only part-time care and because the CCA program correctly calculated the total family income, the family contribution share is \$568 monthly. Accordingly, the CCA program’s determination regarding childcare authorized hours is increased as discussed in detail below, and the determination regarding the monthly family contribution is upheld.

II. Facts

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

Ms. W and her husband have two children. Ms. W works fulltime Monday through Friday from 9 a.m. to 5 p.m.¹ Based upon a forty-hour work week, she earns an average of \$2,494 in gross income per month.² Her husband works Monday, Thursday, and Friday from 12:45 p.m. to 8:45 p.m., and on Sundays. He earns an average \$3,104 in gross income per month plus an additional \$83 in average monthly bonuses.³ This brings their average gross monthly

¹ Ex. 2.1.
² Exs. 4.2, 6.
³ Ex. 4.3.

income to a total of \$5,681. The husband does not drive and has to take public transportation wherever he goes.⁴

B is the oldest daughter. She attends grade school and needs childcare after school during the weekdays when her father works. B was not old enough for school at the time the CCA program made its decision and needs day care during the weekdays when her father works. B will begin kindergarten in the fall of 2018. Both daughters require childcare during the school summer break and other school holidays.⁵

Ms. W was receiving CCA in 2017 as a single-parent family.⁶ When she applied to renew her CCA benefits, her husband was living with her and she applied as a two-parent family. Based upon Ms. W's and her husband's work schedules, the CCA program determined that the two daughters only required child care three days per week, on Monday, Thursday, and Friday. Because B goes to school, the CCA program determined that she needs child care assistance from 3:30 to 5:30 on those days. Because B does not attend school, the CCA program determined that she needed child care assistance from 12:15 p.m., one-half hour before the husband reports to work, until 5:30 p.m. This comes to three part-time days of day care per week per child, or 9 to 14 part-time days of day care per child per month, depending upon the month.⁷

Based upon Ms. W's and her husband's joint monthly income of \$5,681, and the part-time child care for the two daughters, the CCA program determined that she was responsible for paying \$568 per month as the family contribution towards the daughters' monthly child care costs.⁸

Ms. W testified that her husband sends most of his pay to support relatives and that it should not be counted as part of the household income. She additionally testified that he does not interact with the children and could not be counted upon to take B, the youngest, to day care. B has some socialization/behavioral needs and has an individualized education program through the Anchorage School District.⁹ Because of B's needs, transportation issues, and the home

⁴ Ms. W's testimony; Ex. 8.2.

⁵ Exs. 2.3 - 2.4.

⁶ Exs. 3.4 - 3.5.

⁷ Exs. 19 - 19.1.

⁸ Exs. 7 - 7.2.

⁹ Ms. W's testimony; Exs. 8.2 - 8.3.

environment, Ms. W testified that B needed to be in daycare fulltime, even on days when her husband did not work.

III. Discussion

A. Daycare Hours

The CCA regulations provide that CCA is available when a parent is engaged in an “eligible activity.” Eligible activities include items such as the time a parent is at work and associated travel time. For a parent who uses public transportation, the travel time is allowed up to 1.5 hours before and after work. For a parent who does not use public transportation, the travel time is allowed at either .5 hour or 1 hour before and after work. The regulation does not contain an exception to the eligible activity requirement.¹⁰ This means that even though Ms. W argued that the younger daughter’s needs were better met through childcare rather than at home care, the regulation requires that CCA be limited to when she or her husband are both unavailable for childcare, meaning when they are both at work or traveling to and from work.

The evidence shows that Ms. W works Monday through Friday until 5:00 p.m. Her husband works on Monday, Thursday, and Friday, beginning at 12:45 p.m. This means that there are three afternoons per week, Monday, Thursday, and Friday, when both parents are engaged in eligible activities. As a result, CCA is only available for the daughters on Monday, Thursday, and Friday. The oldest daughter is in school. She would only be eligible for after school daycare during the school year: which would be starting at 3:30 Monday, Thursday, and Friday. The youngest does not start kindergarten until late August 2018. When she starts school, she would similarly need after school day care starting at 3:30 Monday, Thursday, and Friday. Prior to the starting school, the youngest would need daycare when her father is at work on Monday, Thursday, and Fridays. The eldest would also need daycare during that same time during the summer school vacation. Because Ms. W’s husband has to use public transportation, and his work day begins at 12:45 p.m., the authorized child care start time on Monday, Thursday, and Friday for the youngest during the 2017 - 2018 school year would be 11:15 a.m. That same start time would also apply to both children during the summer months. Because Ms. W’s work day ends at 5:00, she would then pick up the children by 5:30.

This is a slight change from the time provided by the CCA program:

B (eldest): School year (both 2017 - 2018 and 2018 - 2019): MThF 3:30 p.m. - 5:30 p.m.

¹⁰ 7 AAC 41.310.

Summer vacation and school break days: MThF 11:15 a.m. - 5:30 p.m.

B (youngest): School year 2017 - 2018, summer 2018, and school break days during
school year 2018 - 2019: MThF 11:15 a.m. - 5:30 p.m.
School year 2018 - 2019 MThF 3:30 p.m. - 5:30 p.m.

Regardless of the slightly increased time, this still results in the two daughters each receiving part-time childcare three days per week. When allowances are made for the fact that some months have slightly more than four weeks, for holidays, and for school breaks, the part-time days of care for each daughter varies from 9 days per month to 14 days per month.¹¹

B. Family Income and Monthly Contribution

A family's financial contribution, the portion of the childcare costs that the family is required to pay, is based upon the family's gross monthly income and whether the children attend childcare part-time or fulltime.¹² Ms. W and her husband jointly earn an average of \$5,681 per month in gross monthly income. Ms. W argued that her husband's income should not be counted because he sends most of it to support members of his family. However, the CCA regulations explicitly require that the gross monthly earned income of both parents, who reside together as a family, be counted.¹³ The regulation excludes legally required child support payments but does not allow an exclusion for payments made to help support other family members.¹⁴ As a result, the husband's earnings are required to be counted as part of the family income.

As found above, the two daughters have from 9 to 14 days of child care per month, depending upon the month. This places them in the category of part-time child care.¹⁵ By regulation, a four-person family with \$5,681 in gross monthly income with two children in part-time care is required to contribute \$568 to the cost of the children's daycare.¹⁶

IV. Conclusion

Ms. W's daughters, as discussed above, are entitled to receive slightly more childcare hours than previously authorized by the Division. However, despite this slight increase, they are

¹¹ See Exs. 19 – 19.1.

¹² 7 AAC 41.025(a) and (b)(2); 7 AAC 41.330 – 335.

¹³ 7 AAC 41.325(a)(1).

¹⁴ 7 AAC 41.325((a)(2).

¹⁵ 7 AAC 41.025(b)(2)(A).

¹⁶ Ex. 5.

still only eligible for part-time care. Consequently, based upon the total family income, the monthly family contribution remains at \$568, the amount calculated by the Division.

DATED this 13th day of June, 2018

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 27th day of June, 2018.

By: *Signed*

Name: Lawrence A. Pederson
Title: Administrative Law Judge/OAH

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]