

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

In the Matter of	)	
	)	OAH No. 18-1329-CCA
L T dba        EMPLOYER A	)	Agency No. 10000361
	)	
_____	)	

**DECISION**

**I. Introduction**

L T is the owner of a daycare business called Employer A. She billed the Division of Public Assistance’s Child Care Assistance Program (Division) on December 4, 2018 for child care services which she provided in October 2018. The Division denied payment because the bill was submitted after the mandatory deadline.

Ms. T requested a hearing to challenge the denial. The telephonic hearing was held on January 16, 2019. Ms. T represented herself and testified on her own behalf. Sally Dial, a Fair Hearing Representative employed by the Division, represented it and testified on its behalf.

The evidence shows that Ms. T’s bill for October 2018 child care services was submitted after the November 30, 2018 deadline. As a result, the Division’s denial is affirmed.

**II. Facts**

Ms. T is a childcare provider. On October 29, 2018, she was approved by the Division to provide childcare for L. S. effective September 12, 2018 through February 28, 2019.<sup>1</sup> Ms. T had been providing childcare for L. S. and being paid for that childcare by the Tlingit and Haida childcare program, which is a separate program from the Division’s program. She provided childcare to L. S. in October 2018 and submitted the billing to the Tlingit and Haida childcare program for that childcare. She did not simultaneously bill the Division for that care because she did not want to double bill for the childcare. She found out at the beginning of December 2018 that the Tlingit and Haida childcare program had denied payment. She then submitted her billing for October 2018 on December 4, 2018 to the Division.<sup>2</sup> The Division denied payment for the billing because it was received after the deadline to submit billing for October.<sup>3</sup>

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<sup>1</sup> Ex. 3.  
<sup>2</sup> Ms. T’s testimony; Exs. 4, 6.  
<sup>3</sup> Ex. 5.

### III. Discussion

The Department is required by statute to “implement and administer a program to assist in providing day care for the children of low and moderate income families.”<sup>4</sup> The Division’s childcare program’s regulations require, in addition to other requirements, that a “request for payment must be submitted on or before the last day of the month immediately following the month in which child care services were provided.”<sup>5</sup> This means that the bill for October must have been submitted by the end of November.

Because Ms. T is requesting the payment under the child care assistance program, she bears the burden by preponderance of the evidence that she timely submitted the child care payments.<sup>6</sup> It is undisputed that Ms. T’s October billing was not submitted until December 4, 2018, after the due date of November 30, 2018.

Ms. T argued that the regulation’s deadline should be relaxed because she waited to bill the Division until after she found out that the Tlingit and Haida childcare program had denied payment for October. While Ms. T’s motives were laudable, being that she did not want to bill the two programs simultaneously and possibly commit fraud, her argument is not persuasive because the delay in billing was not caused by the Division. The delay was caused by the Tlingit and Haida childcare program, a separate and distinct program from the Division’s childcare program.

The evidence in this case is clear. Ms. T did not timely submit her billing for October 2018. There are no underlying circumstances which would provide the Division with any discretion or ability to depart from the clear terms of the Division’s childcare payment regulations.

### IV. Conclusion

The Division’s denial of payment for the child care services Ms. T provided in October 2018 is affirmed.

Dated: January 22, 2019

By: Signed  
Signature  
Lawrence A. Pederson  
Name

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<sup>4</sup> AS 47.25.001(a)(1).

<sup>5</sup> 7 AAC 41.250(a). There are some exceptions to this general rule, such as transitioning between different types of child care assistance, or if approval for child care assistance has been issued after child care services have already been provided. 7 AAC 41.250 (a)(1) and (2). There was no evidence or argument presented that either of these exceptions apply.

<sup>6</sup> 7 AAC 49.135.

Administrative Law Judge  
Title

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

### **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 5<sup>th</sup> day of February, 2019.

By: Signed  
Signature  
Kathryn A. Swiderski  
Name  
Administrative Law Judge  
Title

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