

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

In the Matter of	)	
	)	
C T	)	OAH No. 18-0655-CCA
_____	)	Agency No. 40025838

**DECISION**

**I. Introduction**

C T requested a hearing regarding the denial by the Division of Public Assistance (Division) of his family’s eligibility to receive Child Care Assistance program benefits. Mr. T’s hearing was held on July 11, 2018. Mr. T represented himself and testified on his own behalf. The Division was represented by Sally Dial. Based on a careful review of the evidence and arguments presented, this Decision finds that the Division established that its denial of the family’s application for benefits was correct. The denial, therefore, is affirmed.

**II. Facts**

C T and his wife reside in No Name, Alaska, with their four-year old daughter. They applied for benefits under the Child Care Assistance program (CCAP) on May 18, 2018. Mr. T’s wife works at a full-time job. Mr. T was recently injured at work and has been required to go to numerous medical appointments as part of the treatment for his injury, including two surgeries over the year prior to the hearing. Some of his medical appointments have involved extended travel to Anchorage or the lower-48.<sup>1</sup>

As part of the application process, Mr. T’s wife attended an interview with Division staff; they informed her that additional information was needed to process the application, including “documentation of eligible activity” for Mr. T.<sup>2</sup> During the interview it was explained to her that eligible activities are “working and attending school or a training program.”<sup>3</sup> When no additional information was provided to show that Mr. T was engaged in an eligible activity, the application was denied.<sup>4</sup> Mr. T then appealed the denial and requested an administrative hearing.

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**III. Discussion**

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<sup>1</sup> T testimony.  
<sup>2</sup> Exh. 2.7.  
<sup>3</sup> *Id.*  
<sup>4</sup> Exhs. 4-4.1; *see* 7 AAC 41.310.

As a general matter, a family can receive CCAP benefits if they meet CCAP income criteria and the parents are engaged in “eligible activities.”<sup>5</sup> The Division’s denial of Mr. T’s family’s CCAP application was based on its determination that he was not engaging in eligible activities. The Division’s regulations provide a relatively short list of activities that can qualify as eligible activities: a parent must either be working, attending school, or engaging in school-related training or activities.<sup>6</sup> In addition, the Division’s Child Care Assistance Manual elaborates on these requirements, including a provision that states that in a two-parent family, if one of the parents is “incapacitated” they will be considered to be in an eligible activity.<sup>7</sup> Under this provision, a parent is considered to be incapacitated “when he or she is incapable of caring for children in the family by reason of hospitalization, or being physically or mentally unable to care for a child, as determined by a health care or mental health care professional.”<sup>8</sup> In order to be found to be incapacitated, the parent must submit a “health status report,” completed by the health care or mental health care professional, that states that “the parent is not capable of caring for the children in the family.”<sup>9</sup>

Mr. T explained in his testimony that he provided the Division with a copy of a document generated by his physician indicating that he is disabled from being able to work in his prior occupation. He did not suggest that his work-related disability should be considered equivalent to incapacity as discussed above, nor did he deny that he is able to care for his child when he is home with her. He argued, instead, that he is incapable of caring for her when he is required to leave home for medical appointments and procedures, and that this is functionally equivalent to being “incapacitated” as that term is defined by the Division’s manual. Mr. T explained that it is very difficult and at times impossible to take his daughter along to his medical appointments.

Obviously, Mr. T is correct in his observation that he is unable to care for his young daughter at home, if he has to be away from the home for medical appointments. In addition, the Division did not dispute that the family’s present circumstances may pose a hardship, when Mr. T cannot work and has to obtain child care coverage when he is attending medical appointments. The language of the Division’s regulations and the program manual, however, is clear. To receive CCAP benefits, the parent must be working, attending school or school-related activities, or be physically or mentally unable to care for the child, “as determined by a health care or mental health

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<sup>5</sup> 7 AAC 41.300(a).

<sup>6</sup> 7 AAC 41.310(a).

<sup>7</sup> Child Care Assistance Manual 4050-3 E (6) (submitted by the Division at exhs. 8.3-8.4). The Manual also provides that job training or job search activities are included in eligible activities. *Id.* at 8.1-8.2

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

care professional.” The Division is required to follow these requirements of its regulations and its manual, and the Division has no discretion to make exceptions to accommodate the possible hardship posed by a family’s circumstances. Having to be away from home as the result of an injury and related medical treatment does not meet the “eligible activity” requirements of the regulations and the manual, where Mr. T is physically and mentally able to care for his daughter when he is home with her.<sup>10</sup> Therefore, the Division correctly denied Mr. T’s family’s application for CCAP benefits.

**V. Conclusion**

The Division established that Mr. T was not incapacitated from caring for his daughter and was not otherwise engaged in an eligible activity. Accordingly, the Division’s denial of the family’s CCAP application is affirmed.<sup>11</sup>

Dated: September 13, 2018

By: Signed  
Name: Andrew M. Lebo  
Title: Administrative Law Judge

[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 27<sup>th</sup> day of September, 2018.

By: Signed  
Name: Andrew M. Lebo  
Title: Administrative Law Judge

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<sup>10</sup> The absence of the required report from a health care professional attesting to Mr. T’s incapacity is a separate ground on which the Division could base its denial of the CCAP application.

<sup>11</sup> Mr. T’s family may be eligible for CCAP benefits if he undergoes training for a new occupation or engages in job search activities.