

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

In the Matter of)
)
EMPLOYER A) OAH No. 18-1240-CCA
) Agency No. 10003713
_____)

DECISION

I. Introduction

Employer A is an authorized child care assistance provider. It billed the Child Care Assistance Program (Program) on October 22, 2018 for child care services which it provided in May 2018. The Division of Public Assistance (Division) denied payment because the bill was submitted after the mandatory deadline.

Employer A requested a hearing to challenge the denial. The telephonic hearing was held on January 8, 2018. L X, a Childcare Billing Specialist with Employer A, represented Employer A and testified on its behalf. Jeff Miller represented the Division.

The evidence shows that Employer A’s bill for May 2018 child care services was submitted well after the June 30, 2018 deadline. As a result, the Division’s denial is affirmed.

II. Facts

Employer A is an approved child care provider located in Anchorage, Alaska.¹ It provides full-time and part-time care to school age children from five years of age through 12 years of age.² As a child care provider for the Child Care Assistance Program (Program), Employer A is responsible for complying with the Program’s rules and regulations. On September 18, 2017, Employer A’s authorized employee signed the Program’s “Child Care Provider Rates and Responsibilities” form, which outlines billing deadlines.³ That form states that request for payment forms “must be submitted by the last day of the month, following the month care services were provided and charges were incurred.”⁴ This form also states that payment “may be denied if submitted outside these time frames.”⁵

On April 18, 2018, Employer A’s authorized employee signed a licensed child care assistance application which stated that Employer A understood the Program’s rules and regulations and would

¹ Ex. 1.
² Ex. 1.1.
³ Ex. 1.2.
⁴ Ex. 1.2.
⁵ Ex. 1.2.

comply with them.⁶ The application also authorized L X, a child care billing specialist with Employer A, to complete and sign all Program forms other than the application.⁷ Ms. X received Child Care Assistance Provider billing training from the Division on April 24, 2018.⁸

Employer A provided child care in May 2018. On Friday, June 29, 2018 at 6:13 p.m., Employer A billing department emailed the Program office with its May billing forms. However, that email did not contain the May billing for Employer A. Instead, it contained a Child Care Grant report for Employer A and a payment request for another Employer A location (Location A).⁹

Employer A submitted its billing for May 2018 on October 22, 2018.¹⁰ The Division denied this request for payment, noting that request for payment forms “must be received by the last day of the month following the month of service.”¹¹

At the hearing, Ms. X testified that it was the first time she had submitted a billing report on Employer A’s behalf and that the Division had never brought to Employer A’s attention that the wrong form had been submitted.¹²

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.”¹³ The 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.”¹⁴ This means that the bill for May must have been submitted by the end of June.

Because Employer A is requesting the payment under the child care assistance program, it bears the burden of proving by a preponderance of the evidence that it timely submitted the child care

⁶ Ex. 1.6-1.7. The Division received the application on May 1, 2018.

⁷ Ex. 1.6.

⁸ Ex. 1.4-1.5.

⁹ Exs.2 – 2.1; 3 – 3.5; 4 – 4.10.

¹⁰ Ex. 5-5.4.

¹¹ Ex. 6.

¹² Testimony of Ms. X.

¹³ AS 47.25.001(a)(1).

¹⁴ 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.

payments.¹⁵ It is undisputed that Employer A's May 2018 bill was not submitted until the October 22, 2018, well after the due date. Employer A makes two arguments in support of its position that the regulation's time limits should not apply. First, it pleads inexperience on the part of the biller. This is not persuasive. Ms. X had just received training in the Program's requirements. In addition, the applicable regulation does not provide an exception for inexperienced billing providers. Employer A's second argument is that the Division should have told Employer A that it submitted the wrong paperwork, when it filed grant paperwork for Employer A instead of the billing. This argument is also not persuasive. The Division would have had no way of knowing that Employer A inadvertently attached the wrong form to its Friday June 29, 2018 6:13 p.m. (after work hours) email, especially since that email contained two attachments, one of which was the billing for a different Employer A's location.

The evidence in this case is clear. Employer A failed to timely submit its billing for May 2018. There are no underlying circumstances which would provide the Division with any discretion or ability to depart from the clear terms of the Program's payment regulations.

IV. Conclusion

The Division's denial of payment for the child care services Employer A provided in May 2018 is affirmed.

Dated: January 11, 2019

By: Signed
Signature
Kathleen A. Frederick
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.]

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.

¹⁵ 7 AAC 49.135.

DATED this 29th day of January, 2019.

By: Signed
Signature
Kathleen A. Frederick
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.]