

**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. 18-1123-CCA
<hr style="width: 100%;"/>	)	Agency No. 10015027

**DECISION**

**I. Introduction**

Employer A is a certified Child Care Assistance Program child care provider. The Division of Public Assistance denied payment for billings submitted for August 2018 because the billing was not submitted within the time provided by regulation. Employer A appealed the denial.

Because there is no dispute that Employer A’s August 2018 billings were submitted after the deadline, the Division’s decision is affirmed.

**II. Facts**

Employer A is a licensed child care provider approved to provide care for children who are eligible for Child Care Assistance.<sup>1</sup> In August 2018, Employer A provided full-time childcare for three children, K, T, and B F, who are eligible for the assistance program.<sup>2</sup> The deadline for submitting billings to the Child Care Assistance Program for August was September 30.<sup>3</sup>

Employer A’s receptionist typically sends faxes for the office.<sup>4</sup> Employer A’s August 2018 billing sheet, requesting payment for the child care services provided for the three F children, was placed on Employer A’s fax machine on September 28, 2018 for the receptionist to send to the Thread Child Care Assistance, a Child Care Assistance regional office.<sup>5</sup> Unfortunately, the receptionist did not send the billing sheet, and it sat on the fax machine until Monday, October 1, 2018.<sup>6</sup> On October 1, 2018, Employer A’s representative N B discovered that the payment request had not been sent as planned and sent the request herself.<sup>7</sup> Employer A does not dispute that the request was sent one day late.<sup>8</sup>

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<sup>1</sup> Ex. 1.  
<sup>2</sup> Ex. 2.  
<sup>3</sup> Ex. 2.  
<sup>4</sup> Testimony of N B; Ex. 5.  
<sup>5</sup> B Testimony; Ex. 5; *see also* Ex. 2.  
<sup>6</sup> B Testimony.  
<sup>7</sup> Ex. 2.  
<sup>8</sup> B Testimony; Ex. 5.

On October 5, 2018, the Division denied payment because the request was received after the deadline.<sup>9</sup> Employer A appealed the Division’s decision to deny payment.

A telephonic hearing was held on November 21, 2018. N B represented and testified on behalf of Employer A. Fair Hearing representative, Sally Dial represented the Division.

### III. Discussion

The Child Care Assistance Program is a program of the Alaska Department of Health and Social Services established under Alaska Statutes 47.25.001 – 47.25.095. The Department is required to “implement and administer a program to assist in providing day care for the children of low and moderate income families.”<sup>10</sup> The Department has adopted regulations under which the program is administered.<sup>11</sup> Those regulations are set forth in the Alaska Administrative Code (AAC) at 7 AAC 41.010 – 7 AAC 41.990.<sup>12</sup>

The applicable regulation, 7 AAC 41.250(a), establishes a firm deadline:

A participating provider shall submit a request for payment and any corrections to that request to the department or to the designee, on a form prescribed by the department. 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. . . .

Employer A does not dispute that the law required it to submit its billing report for August no later than September 30. Nor does Employer A dispute that its report was a day late. Employer A, instead, asks that the Department excuse the late filing because it was only one day late due to an administrative error or oversight.

Although the result is harsh, the regulations of the Department of Health and Social Services are binding on the Division and on this hearing.<sup>13</sup> The regulation is clear and unambiguous in establishing a deadline for submitting the August billing report no later than September 30.<sup>14</sup> Therefore, the Division’s denial of payment for Employer A’s August 2018 services is affirmed.

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<sup>9</sup> Ex. 3; Ex. 4.

<sup>10</sup> AS 47.25.001(a)(1).

<sup>11</sup> 7 AAC 41.010 – 7 AAC 41.990.

<sup>12</sup> 7 AAC 41.010 – 7 AAC 41.990.

<sup>13</sup> See, e.g., *United States v. RCA Alaska Commc'ns, Inc.*, 597 P.2d 489, 498 (Alaska 1978) (“In general, an administrative agency must comply with its own regulations.”).

<sup>14</sup> 7 AAC 41.250(a).

**IV. Conclusion**

The Division’s denial of payment for Employer A’s August 2018 childcare services is affirmed.

Dated: November 27, 2018

By: Signed  
Signature  
Jessica L. Leeah  
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.

DATED this 3<sup>rd</sup> day of January, 20 19.  
changed to protect privacy.]

By: Signed  
Signature  
Stephen C. Slotnick for Jessica L. Leeah  
Name  
Administrative Law Judge  
Title