

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

In the Matter of)	
)	
J X)	OAH No. 18-0637-CCA
)	Agency No. 40025731

DECISION

I. Introduction

J X has two children. She receives child care assistance to pay for her children’s tuition at No Name Child Development Center. Alaska Family Services recalculated the amount of Ms. X’s copay, the amount she is required to pay to the child care provider, to \$311 a month. It allocated the copay to Ms. X’s youngest child. Ms. X requested a hearing, arguing that application of the copay to the youngest child was unfair.

The copay was calculated based on Ms. X’s income, and allocated to her youngest child based on division policy. The division’s decision to allocate the copay to Ms. X’s youngest child is affirmed.

II. Facts

J X lives with her two children. The older child is three years old, the younger child is ten months old.¹ Ms. X receives child care assistance to pay for her children’s tuition at No Name Child Development Center through Alaska Family Services. Alaska Family Services administers the child care assistance program in the central region for the Division of Public Assistance (division). Alaska Family Services audited Ms. X’s child care assistance case, and noted that Ms. X’s income had been incorrectly calculated. It recalculated her income, which in turn increased the amount Ms. X is required to contribute towards the cost of her children’s care (her “copay”).² On May 30, 2018 notified Ms. X that the monthly copay would increase from \$51 to \$311.³ It applied the \$311 copay to Ms. X’s younger child’s child care expenses.⁴ Ms. X requested a hearing.

A telephonic hearing was held on July 16, 2018. Ms. X represented herself. Sally Dial, Fair Hearing Representative with the Division of Public Assistance, represented the division.

¹ Ex. 1.
² See AS 47.25.041.
³ Ex. 2, 3 - 3.1.
⁴ Ex. 8.

III. Discussion

Ms. X does not dispute the recalculation of her monthly income or the amount of her family's monthly child care copay. Rather, she argues that it is unfair to apply the copay to her younger child's child care expenses, rather than her older child's child care expenses. She seeks to have the copay applied to the older child's child care expenses.⁵

The child care assistance program looks at family size and income to determine a family's child care copay.⁶ Ms. X's copay was calculated using her income and a family size of three (Ms. X and her two children).⁷

According to Ms. X, she pays the child care expenses for her younger child that are not paid by the child care assistance program, and her older child's father pays those expenses for the older child. Tuition for the older child is \$875 a month; tuition for the younger child is \$925 a month. The older child's father earns more than Ms. X earns.⁸ The child care program pays \$589 a month for the younger child, and \$700 a month for the older child.⁹ The out-of-pocket payment required for Ms. X's older child, subtracting the child care assistance payment of \$700 from the tuition of \$875 is \$175. The out-of-pocket amount for Ms. X's younger child, subtracting the program payment of \$589 from tuition of \$925, is \$336, which includes the \$311 copay.

Ms. X argues that the \$311 copay should be assigned to her older child, not her younger child, because the older child's father earns more than Ms. X and is better able to afford the copay. However, the child care assistance program has a policy addressing assignment of child care copays, and the division in this case followed that policy when it assigned the copay to Ms. X's younger child.¹⁰ According to the division representative, the practice of the care assistance program has always been to assign the copay to the youngest child.¹¹

Ms. X argues that because of the particular circumstances of her family, assignment of the copay to her younger child rather than her older child is unfair. However, Ms. X's child care

⁵ Ex. 4.

⁶ 7 AAC 41.335.

⁷ Ex. 1.

⁸ Testimony of X.

⁹ Ex. 8.

¹⁰ Child Care Program Office, Division of Public Assistance, Department of Health and Social Services Child Care Assistance Program Policies and Procedures Manual sec. 4090-3 A 6. The policy states "[t]ypically the family's co-pay is assigned to the youngest child, however, if this child's unit of care does not exceed the co-pay, it should be assigned to the child whose unit of care is higher or split among the children." The policy goes on to explain "[t]he family's co-pay for PASS II and PASS III Child Care Assistance (CCA), is to be assigned to the approved provider, if any, starting with the youngest child and then the next youngest until the co-pay is satisfied." Exhibit 7.

¹¹ Testimony of Dial.

copayment was calculated based on her income and family size. Ms. X receives the benefit of the program's payment to No Name Development Center, and Ms. X is responsible for paying the \$311 copay. Because her older daughter's father was not included in the family of three used by the division to calculate the family's income and child care copay, Ms. X's older child's father's income is not relevant to Ms. X's copay.

Ms. X's argument is understandable, given her arrangement with her older child's father requiring him to pay the difference between the child care assistance program payment for that child's care and the charges billed by No Name Development Center. It would be preferable from her perspective if the copay were assigned to the older child rather than the younger child. However, the division has reasons for assigning the copay as it does. The division representative testified that the copay is assigned to the youngest child because the youngest child's care is generally the most expensive.¹²

The division should not be required to deviate from its general policy of assigning the copay to the youngest child to accommodate the specific circumstances of Ms. X's family.

IV. Conclusion

The division's assignment of Ms. X's child care copay to her youngest child is affirmed.

DATED: July 19, 2018.

By: Signed

Name: Kathryn L. Kurtz

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 6th day of August, 2018.

By: Signed

Name: Kathryn L. Kurtz

Title: Administrative Law Judge

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¹² Testimony of Dial.