

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

In the Matter of)	
)	
K J)	OAH No. 18-1289-CCA
<hr style="width: 80%; margin-left: 0;"/>)	Agency No. 40021716

DECISION

I. Introduction

K J is a Child Care Assistance (CCA) recipient who filed an application to renew those benefits. She did not attend a scheduled interview and did not timely respond to the Division of Public Assistance’s (Division) request for income information. The Division subsequently denied her renewal application.

Ms. J requested a hearing to challenge the denial of her application. That hearing was held on January 11th and 17th, 2018. Ms. J represented herself and testified on her own behalf. Jeff Miller, a fair hearing representative employed with the Division, represented the Division. T Q, an eligibility technician with the CCA program, testified for the Division.

The evidence shows that Ms. J was properly notified of the scheduled interview and the need to provide income information. She did not attend the scheduled interview and she did not provide the requested income information by the deadline. As a result, the denial of her renewal application is upheld.

II. Facts

Ms. J was receiving CCA in October 2018. Her benefits expired at the end of October and she submitted a new application on November 5, 2018.¹ Her application disclosed that her work hours had recently been substantially reduced.² Ms. Q, who is employed with the CCA program, phoned her on November 5, 2018 for an interview. It was not a convenient time for Ms. J to participate in an interview, and the parties agreed to reschedule.³

Ms. J testified that she and Ms. Q did not select a particular time and date for the interview, but instead that they discussed that it should be scheduled for a Tuesday or Thursday, and that Ms. Q would send Ms. J a notice with the specific date and time. Ms. J further testified that they might have, but she cannot specifically recall, discussed that she needed to provide

¹ Exs. 2 – 2.9.
² Ex. 2.4.
³ Ex. 3; Ms. Q’s testimony; Ms. J testimony.

verification of her current employment income. Ms. J testified that she would have informed Ms. Q that she did not receive paper copy pay stubs and that it was very difficult to access her income information due to a lack of computer access and having to interact with only one person at her governmental employer's payroll office, who was never available.⁴

Ms. Q testified that she specifically recalls selecting a date and time for the follow-up interview with Ms. J during the November 5, 2018 phone conversation. She also recalls discussing the need for Ms. J to provide recent pay information due to the change in Ms. J's work hours, and that Ms. J told her that it was difficult for her to obtain the information. Ms. Q telephoned Ms. J's governmental employer's payroll office. She was told that Ms. J could obtain her pay stubs there by completing a same day release and that there were multiple people staffing the office who could provide her with those pay stubs.⁵

On November 5, 2018, Ms. Q sent Ms. J a notice that her interview was scheduled for November 15, 2018, and that she needed to provide verification of her earned income for September and October, which could be furnished by pay stub copies or written statement from her employer, no later than November 16, 2018.⁶ That notice was mailed to Ms. J at her correct mailing address.⁷

Ms. Q tried to call Ms. J for her November 15, 2018 interview. Ms. J was not available to take the call. Ms. J also did not submit the required income information by the deadline.⁸ On December 7, 2018, Ms. J was sent a written notice that her CCA application was denied for failure to participate in the interview and to provide the requested income information.⁹

Ms. J testified that she did not receive the November 5, 2018 notice of the interview and the need to supply her income information. Although the notice was sent to the correct address, she is not the only person who receives mail there and she sometimes does not receive her mail. She also testified that her life and family circumstances have been quite difficult lately.¹⁰

Ms. J received the mailed denial notice on December 10, 2018. She contacted the CCA program on December 10, 2018 where she explained that she did not get the mailed notice, did

⁴ Ms. J's testimony.

⁵ Ms. Q's testimony.

⁶ Ex. 4.

⁷ Ms. J's testimony.

⁸ Ex. 5.

⁹ Exs. 5.1 – 5.2

¹⁰ Ms. J's testimony. Also see Ms. J's written statements contained in the record.

not get a November 15, 2018 voicemail regarding the interview, and asked to have her case reopened.¹¹

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.”¹² The Division’s childcare program’s regulations require, in addition to other requirements, that an applicant is required (“shall participate”) to take part in an interview, and if requested by the Division, must provide documentation in support of the information contained in the application.¹³

The evidence shows that Ms. J was sent notice of her interview at the correct address. The testimony of Ms. Q regarding whether Ms. J was informed of the actual hearing date during the parties’ November 5, 2018 telephone conversation and of the need to provide verification of her income during that conversation is more credible than Ms. J’s testimony. This is because Ms. Q’s recollection was clear, concise, and consistent with the notes in Ms. J’s agency file. Ms. J’s testimony was also somewhat equivocal on whether she was asked to provide income information, stating that she could not recall, but that if she had been, she would have told Ms. Q about her difficulties in obtaining it. In contrast, Ms. Q specifically recalled that discussion. In addition, it is unlikely that Ms. J and Ms. Q would have discussed an interview on Tuesdays or Thursdays without selecting a specific time. The evidence therefore shows that it is more likely true than not true that Ms. J was not only sent written notice of her interview appointment and the need to provide income verification but was also verbally informed of both during the November 5, 2018 telephone call.

Ms. J testified she has difficulty receiving her mail. However, she was not able to show that the November 5, 2018 notice was not delivered to her. Given that the Division sent it to the correct address, it is presumed to have been delivered.¹⁴ Ms. J testified at length that she had recently experienced a number of difficult events, both health and otherwise, which impacted her day to day life. However, these difficulties do not provide an allowance to dispense with the scheduled mandatory interview. Ms. J’s testimony regarding the necessary income verification, highlighted the difficulty in obtaining it. It, however, was not wholly credible. It is unlikely that

¹¹ Ms. J’s testimony; Ex. 6.

¹² AS 47.25.001(a)(1).

¹³ 7 AAC 41.320(a) and (b).

¹⁴ Service by mail is complete upon mailing. *Jefferson v. Spenard Builder’s Supply, Inc.*, 366 P.2d 714, 717 (Alaska 1961)

the payroll office for a governmental entity would only have one person, who is never there, who could provide an employee with his or her pay information. Ms. Q's testimony supports this finding.

Ms. J had the burden of proof in this case. She did not meet it. She was notified, verbally and in writing, of her scheduled interview and the need to submit verification of her employment income. She did not complete the interview and did not provide the verification in a timely manner. As a result, the Division was justified in denying her application.

V. Conclusion

The denial of Ms. J's November 5, 2018 application for CCA benefits is upheld.

Dated: January 23, 2019

By: Signed
Signature
Lawrence A. Pederson
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 7th day of February, 2019.

By: Signed
Signature
Lawrence A. Pederson
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.]