

**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. 18-1272-CCA
) Agency No. 10016659
_____)

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 September 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 September 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.¹ In September 2018, Employer A provided part-time childcare for four children, who are eligible for the assistance program.² The deadline for submitting billings to the Child Care Assistance Program for September was October 31.³

Employer A experienced a turnover in staff, including its Administrator, on October 2, 2018.⁴ Employer A's Executive Director, K N did not know the billing procedures for the Child Care Assistance Program and was forced to learn them in a short period of time.⁵ The Division requires any individuals with signatory authority for Child Care Assistance Program billings to complete the Child Care Assistance Provider Billing Training before they may sign and submit any requests for payment under the program.⁶ Mr. N attended and received a certificate of completion for the required training on October 10, 2018.⁷

Mr. N submitted the request for payment for child care services provided in September 2018 on November 2, 2018.⁸ Because the request for payment was submitted within 30 days of authorization for

¹ Ex. 1.
² Ex. 4.
³ Ex. 7.
⁴ Testimony of K N; Ex. 6.
⁵ N Testimony; Ex. 6.
⁶ Ex. 4.
⁷ N Testimony; Ex. 2.
⁸ Ex. 4.

services for two of the four children, the Division paid Employer A for those services. Employer A does not dispute that the request for payment for services for the other two children was sent two days late.⁹

On November 13, 2018, the Division denied payment for services for two of the children because the request for services was received after the deadline.¹⁰ Employer A appealed the Division's decision to deny payment.

A telephonic hearing was held on January 10, 2019. Employer A's Executive Director, K N 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.”¹¹ The Department has adopted regulations under which the program is administered.¹² Those regulations are set forth in the Alaska Administrative Code (AAC) at 7 AAC 41.010 – 7 AAC 41.990.¹³

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 payment request for September no later than October 31. Nor does Employer A dispute that its report was late. Employer A, instead, asks that the Department excuse the late filing because Employer A had experienced a turnover in staff and its Executive Director acted diligently to learn how to properly bill the Child Care Assistance Program. Mr. N submitted the payment request as quickly as he could.

⁹ N Testimony; Ex. 4; Ex. 6.

¹⁰ Ex. 5.

¹¹ AS 47.25.001(a)(1).

¹² 7 AAC 41.010 – 7 AAC 41.990.

¹³ 7 AAC 41.010 – 7 AAC 41.990.

Although the result is harsh, the regulations of the Department of Health and Social Services are binding on the Division and on this hearing.¹⁴ The regulation is clear and unambiguous in establishing a deadline for submitting the September billing report no later than the last day of the month immediately following September, or October 31.¹⁵ Therefore, the Division's denial of payment for Employer A's September 2018 services is affirmed.

IV. Conclusion

The Division's denial of payment for Employer A's September 2018 childcare services is affirmed.

Dated: January 11, 2019

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 5th day of February, 2019.

By: Signed
Signature
Kathryn A. Swiderski
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.]

¹⁴ 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.")

¹⁵ 7 AAC 41.250(a).