

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

In the Matter of )  
 )  
J T ) OAH No. 18-1154-APA  
 ) Agency No. 05948324  
\_\_\_\_\_ )

**FINAL DECISION<sup>1</sup>**

**I. Introduction**

The Division of Public Assistance denied J T’s application for Adult Public Assistance benefits because she was unable to verify that she had applied for and was pursuing Supplemental Security Income (SSI) benefits from the Social Security Administration. She appealed the denial, and a fair hearing was held in late November 2018. Because Ms. T demonstrated at the hearing that she was pursuing SSI benefits to the best of her ability and that verification was not available only because the Social Security Administration apparently had lost one of her documents, the Division’s decision is reversed.

**II. Facts**

The Division of Public Assistance (Division) administers the Adult Public Assistance (APA) benefits program. Applicants for and recipients of APA benefits are required to “apply for and diligently pursue” other benefits for which they may be eligible.<sup>2</sup> This requirement specifically includes the requirement to concurrently pursue SSI benefits.<sup>3</sup>

Ms. T is a 47-year-old resident of Anchorage who suffers from severe mental and emotional disorders. She applied for APA benefits on July 31, 2018.<sup>4</sup> Pursuant to instructions she received from Division staff, on the same date she applied for SSI benefits via an online application to the Social Security Administration (SSA).<sup>5</sup> Ms. T subsequently received a notice from the SSA telling her that she needed to submit a medical release form. She testified, credibly, that she filled out the form and turned it in via a drop box at the SSA office at some point in August.<sup>6</sup> Unbeknownst to her, however, SSA

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<sup>1</sup> The office of the Commissioner of Health & Social Services declined to adopt the proposed decision issued by the administrative law judge who conducted the hearing in this matter, and is instead issuing this final decision with a revised rationale for reversal of the Division’s determination to deny Ms. T’s APA application, in accordance with AS 44.64.060(e)(5).

<sup>2</sup> 7 AAC 40.360(d).

<sup>3</sup> 7 AAC 40.030, .060.

<sup>4</sup> Division Exh. 2.

<sup>5</sup> T testimony; Dial testimony.

<sup>6</sup> T testimony.

staff did not complete the processing of her SSI application because they did not receive the medical release form. Ms. T didn't learn that there was any problem with her SSI application until she was informed by the Division in mid-October.<sup>7</sup> At that time Ms. T went to the SSA office and submitted another medical release form; SSA staff told her at that time that her previous form had not been received and may have been lost.<sup>8</sup> The SSA then considered her SSI application to be complete, effective as of July 31, 2018.<sup>9</sup> In essence; the SSA backdated her application to the date she had originally applied. Ms. T also submitted a new application to the Division for APA benefits on October 29, 2018.<sup>10</sup>

The Division first "pended" Ms. T's application in order to obtain more information, then denied her application on October 17, 2018, citing her failure to provide verification that she was applying for and pursuing SSI benefits.<sup>11</sup> Ms. T requested an administrative hearing to contest the denial. The hearing was held on November 27 and 29, 2018. Ms. T represented herself and testified on her own behalf, and the Division was represented by Sally Dial. After the record was closed on November 29, the matter was taken under advisement.

### III. Discussion

APA benefits are only available to individuals who meet both the eligibility requirements of the SSI program and the eligibility requirements of the APA regulations themselves.<sup>12</sup> Because the APA program is administered concurrently with SSI, an applicant for APA *must* apply for SSI within 30 days of applying for APA.<sup>13</sup> In order to enforce this requirement, verification is required that APA applicants have applied for and are pursuing SSI benefits.<sup>14</sup> Verification is typically provided in the form of a printout from the SSA office or a copy of an appointment letter that SSA typically sends to an applicant when their application has been processed.<sup>15</sup> However, there is no specific type of verification required.<sup>16</sup> Ms. Dial explained that the Division has access to an SSA database that displays, by social security number, an applicant's status with the SSA. Division staff can use this access for verification of

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Dial testimony.

<sup>10</sup> *Id.*

<sup>11</sup> Division Exh. 6. Because the Division based its decision the threshold determination that Ms. T had not provided verification of her application for SSI benefits, it never addressed other key aspects of her potential eligibility for APA benefits, such as whether she is likely be found disabled by SSA.

<sup>12</sup> AS 47.25.430(f); 7 AAC 40.030(a).

<sup>13</sup> 7 AAC 40.060(a).

<sup>14</sup> Dial testimony; *see* Adult Public Assistance Manual 420-1 (Division Exh. 12.2).

<sup>15</sup> *See* Division Exh. 4.

<sup>16</sup> *See* Adult Public Assistance Manual 420-1 (Division Exh. 12.2).

a person's application for SSI.<sup>17</sup> When an applicant states that she has applied, but does not provide documentary evidence, it is the duty of the case worker to try to obtain verification. While the database can be used for reference, it is only one method of verification available to case workers with the Division.<sup>18</sup>

In an appeal hearing such as this one, applicants for new benefits, such as Ms. T, have the burden of proving their eligibility by a preponderance of the evidence.<sup>19</sup> Here, Ms. T was required to apply for SSI benefits in order to be potentially eligible for APA benefits. Nowhere has it been shown that "apply" means anything other than "to promptly and diligently pursue a claim and to accept the full amount of any benefits provided."<sup>20</sup>

The Social Security Administration dated Ms. T's application complete as of July 31, 2018. This indicates that her SSI application was promptly and diligently pursued.

On August 2, 2018, a case note reads: "J submitted her beginning stages of her social security application."<sup>21</sup> There are no notes indicating further follow-up with the agency, outside of the database check.

On August 8, 2018, Ms. T reported that she had applied for SSI. While the case note states that the database was checked, there is no suggestion that the case worker attempted any other method of verification (such as direct contact with the agency).<sup>22</sup> In fact, the case worker "explained that sometimes the interfaces we have access to do not reflect the application" and told Ms. T that *when* she received her appointment letter she could turn that in as proof.<sup>23</sup> It does not appear that she was given a date by which she must receive and provide that appointment letter.

On or about August 9, 2018, the Division provided notice that her application was being held pending additional information.<sup>24</sup> It gave Ms. T a deadline of 9/10/2018 to provide 3 enumerated items: (1) the preliminary exam for interim assistance form; (2) an authorization for release of protected health information; and (3) the disability and vocational report. In a subsequent unnumbered paragraph, the notice stated "*In addition to* these forms we will also

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<sup>17</sup> Dial testimony.

<sup>18</sup> Adult Public Assistance Manual 420-1 (Division Exh. 12.2).

<sup>19</sup> 7 AAC 49.135.

<sup>20</sup> 7 AAC 40.360(d).

<sup>21</sup> Division Exh. 5.

<sup>22</sup> Division Exh. 3.

<sup>23</sup> Division Exh. 3.

<sup>24</sup> Division Exh. 4.

need proof of your application with social security for supplemental security income (SSI) benefits.” (Emphasis added.)<sup>25</sup> This section did not provide a clear deadline for this “additional” item. Ms. T did submit the three numbered items before their due date of 9/10/2018.<sup>26</sup>

The Division’s regulations require that an APA applicant “apply for and diligently pursue” other benefits for which they may be eligible, including SSI benefits.<sup>27</sup> The evidence shows that Ms. T diligently pursued her SSI application. She applied for SSI online on July 31 (the same day she applied for APA). She dropped off the medical release form at the SSA office in August. On August 2, the Division noted that she had submitted “beginning stages” of the SSI application. Ms. T again notified the Division on August 8 that she had applied for SSI, and the Division told her that it might not be showing up in the electronic system even if it had been submitted. She diligently provided additional documentation to the Division prior to the due date that was clearly provided. The Division’s August 9 request for proof of SSI application was, at best, ambiguous in regards to any due date. It is unclear, given the regulations and policy provided, if the Division could even impose such a due date for Ms. T without also showing diligent effort to verify as it is unequivocally required to do (as outlined in the Adult Public Assistance Manual).

Viewing all the circumstances in their entirety, this decision finds that Ms. T met her burden of establishing that she applied for and diligently pursued her SSI application as of July 31, 2018.

Because the Division did not address the other components of her eligibility prior to issuing its October 17, 2018 denial, this decision does not mean that Ms. T will receive APA benefits. The net effect of this ruling is to make July 31, 2018 the effective start date for her APA benefits, assuming she is otherwise found eligible by the Division. As previously mentioned, Ms. T filed a new application for APA benefits on October 29, 2018. If she is found eligible, the Division should award benefits dating back to July 31, 2018.

#### **IV. Conclusion**

Because Ms. T met her burden of establishing that she applied for and diligently pursued her application for SSI benefits, the Division’s decision to deny her APA application is reversed. To the extent that the Division finds her to be otherwise eligible for APA benefits, the start date for those benefits shall be the date of her initial application, July 31, 2018.

Dated: February 11, 2019

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<sup>25</sup> Division Exh. 4.

<sup>26</sup> Division Exh. 5.

<sup>27</sup> 7 AAC 40.360(d).

By: Signed  
Signature  
Laura Russell  
Name  
Policy Advisor, DHSS  
Title

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]