

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

In the Matter of)
)
K T) OAH No. 19-0080-CCA
) Agency No.
_____)

DECISION

I. Introduction

K T applied for Child Care Assistance (CCA) for her minor child E. The Division of Public Assistance’s (Division) Child Care Program requested information regarding his citizenship. Ms. T’s response as deemed inadequate. Ms. T’s application was denied.

Ms. T requested a hearing to challenge the denial of her application. Her hearing was held on February 26, 2019. Ms. T represented herself and testified on her own behalf. Sally Dial, a Fair Hearing Representative with the Division, represented the Division and testified on its behalf. Ronda Buckingham, a public assistance analyst with the Child Care Program Office, testified on the Division’s behalf.

The evidence in this case clearly shows that E is the child of a U.S. citizen, which conveys citizenship as a matter of law. As a result, the Division requested information which it did not need, because it already had adequate information to establish E’s citizenship. As a result, the denial of Ms. T’s application for CCA is reversed.

II. Facts

Ms. T’s household consists of herself and three minor children. Ms. T and two of her children, including her youngest - E, all receive federal Social Security payments.¹ E’s payment is received because his father is receiving federal Social Security disability benefits.² Ms. T applied for CCA for her youngest, E N. T, who was born on 00/00/2016.³ The CCA application was processed through thread, which is a private organization which processes the applications for the Division.⁴

On November 21, 2018, thread sent Ms. T notice that she had an interview scheduled for December 10, 2018 and needed to provide, among other information, “[p]roof of age and

¹ Exs. 10.15 – 10.17.
² Ms. T’s testimony.
³ Exs. 2 – 2.5.
⁴ Ms. Dial’s testimony.

citizenship for E” and social security income information for one of her children.⁵ Ms. T participated in her interview on December 10, 2018.⁶ On December 10, 2018, she also submitted copies of correspondence from the Social Security Administration showing she, E, and one of her other children received monthly social security payments, and provided a copy of an informal “certificate” from “St. John’s Medical Center Born in the Tetons” certifying that “E O” was born on 00/00/2016 to “K and Z.”⁷ That certificate is not a formal birth certificate and it does not identify the city/town/state location for St. John’s, nor does it contain the last names of “E O” or his parents.⁸

Thread determined that the information provided was inadequate and provided Ms. T with a new deadline of December 21, 2018 to provide the information.⁹ Thread sent Ms. T notice on December 26, 2018, notifying her that the application was denied because Ms. T did not provide “[p]roof of US citizenship for E.”¹⁰

Ms. T is a U.S. citizen.¹¹ She was not able to timely obtain copy of E’s birth certificate because she had to request it from his birth state, Wyoming, and had yet to receive it.¹²

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.”¹³ 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.¹⁴ Part of the information required for the child for whom assistance is requested is “proof of the child’s .. citizenship or alien status.”¹⁵

It is undisputed that thread, which processes childcare assistance applications for the Division, asked Ms. T for a copy of E’s birth certificate, and that she was not able to provide it.

⁵ Ex. 10.20.

⁶ Ex. 11.5.

⁷ Exs. 10.15 – 10.17.

⁸ Ex. 10.19.

⁹ Ex. 10.21.

¹⁰ Ex. 6.1. Thread also cited other grounds for denial. However, the Division clarified at hearing that the only grounds for denial was failure to provide proof of citizenship for E.

¹¹ A copy of Ms. T’s Louisiana birth certificate was filed with OAH on March 1, 2019.

¹² Ms. T’s testimony.

¹³ AS 47.25.001(a)(1).

¹⁴ 7 AAC 41.320(a) and (b).

¹⁵ 7 AAC 41.315(c)(9).

She was only able to provide a copy of a ceremonial birth certificate, which did not completely identify the parents, the child, or the birth hospital's location.¹⁶ The critical question here is whether thread was justified in requesting the information. If it was, then Ms. T's failure to timely comply supports the denial of her application. If it was not, then Ms. T cannot be faulted for failure to comply and the application should not have been denied.

There is one critical reason why Ms. T need not have been asked for this information. Ms. T is a U.S. citizen. As a matter of law, her son, whether he was born in the U.S., or in another country is a U.S. citizen.¹⁷ Because Ms. T's child, by definition, is a U.S. citizen, thread cannot deny her application for failure to provide it with a birth certificate establishing his birth in the U.S.

IV. Conclusion

The denial of Ms. T's application is reversed.

Dated: April 5, 2019

Signed

Lawrence A. Pederson
Administrative Law Judge

¹⁶ It must be noted that a simple internet search would have shown that there is a St. John's Medical Center located in Wyoming.

¹⁷ 8 USCA § 1401(a), (c), (d), (e).

Non-Adoption Options

D. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(5), rejects, modifies or amends the interpretation or application of a statute or regulation in the decision as follows and for these reasons:

Under 7 AAC 41.315(c)(8), an applicant for Child Care Assistance must provide, inter alia, “proof of the child’s ... citizenship or alien status.” Ms. T’s failure to timely submit sufficient documentary evidence to satisfy this requirement by the stated due date justifies the Division’s rejection of her application. Accordingly, the Division’s decision is upheld.

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 17th day of May, 2019.

By: Signed
Name: Jillian Gellings
Title: Project Analyst
Agency: Office of the Commissioner, DHSS

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