

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

In the Matter of)	
)	
H'S M B)	OAH Nos. 19-0630, 0631-CCA
DAY CARE)	Agency Nos.
_____)	

DECISION

I. Introduction

H's M B Day Care (H's M B) operates two locations as certified Child Care Assistance Program childcare providers. The Department of Health and Social Services, Division of Public Assistance (Division) denied payment for billings submitted by H's M B for May 2019 services because the bills were not submitted within the time frame provided by regulation. H's M B appealed. Because it is undisputed that H's M B's May 2019 billing was submitted late, and the Division is bound by the regulations, the Division's decision to deny payment is affirmed.

II. Facts

The facts are undisputed.

Y K and L U are approved childcare providers and operate H's M B at two locations.¹ Y K and L U were trained in billing practices.²

On July 1, 2019, the Division received H's M B's request for May payments.³ The deadline for submitting May 2019 payments was June 30, 2019.⁴ The Division notified H's M B of the payment denial.⁵ Ms. U admitted the requests for both locations were late, but requested an exception be made because it was their first time being late and it was due to a "printer failure."⁶

H's M B requested a hearing.⁷

On August 1, 2019 a hearing began. Mr. Miller appeared telephonically on behalf of the Division and testified. Ms. U also appeared telephonically.⁸ Ms. U testified on behalf of H's M B.⁹ Exhibit 1-12.2 were admitted without objection.¹⁰

¹ Exhibit 1.

² Exhibit 1.3; Exhibits 2-2.1; Mr. Miller testimony.

³ Exhibits 3.1-3.3.

⁴ Exhibit 5; Exhibit 6.

⁵ Exhibit 5; Exhibit 6.

⁶ Ms. U testimony; Mr. Miller testimony; Exhibit 7.1; Exhibit 8.1.

⁷ Exhibit 7-7.1; Exhibit 8- 8.1.

⁸ Ms. U appeared on behalf of Ms. Baez. Ms. Baez did not appear. Ms. U said she was her representative and was the one who submitted the payment requests for both sites.

⁹ Ms. U had an accent, so an inquiry was made as to whether she needed or wanted an interpreter to assist in the proceedings. She declined and the hearing proceeded without one.

¹⁰ The Division submitted exhibits 1-13.4, but only asked that Exhibits 1-12.2 be admitted.

III. Discussion

The Alaska Department of Health and Social Services 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 Child Care Assistance Program is the program established by the Department.¹² Regulations have also been adopted to administer the program.¹³ The childcare program’s regulations require that a provider submit the request for payment “on or before the last day of the month immediately following the month in which child care services were provided.”¹⁴ This means that the bill for May must have been submitted by June 30.

Because H’s M B is requesting the payment under the childcare assistance program, it bears the burden by preponderance of the evidence that the request was timely submitted.¹⁵

H’s M B does not dispute that the request for May payment was submitted on July 1, 2019.¹⁶ It only asks that the Division make an exception for the late filing because it was a first-time error caused by “printer failure.”¹⁷ Ms. U was earnest in relaying her efforts to get the paperwork in on time. But these circumstances do not provide the Division with any discretion or ability to depart from the clear terms of the Division’s childcare payment regulations. Although the result is harsh, the regulations are binding on the Division.¹⁸ The regulation is clear and unambiguous in establishing a deadline for submitting the May billing report no later than June 30.¹⁹

IV. Conclusion

The Division’s denial of payment for the May 2018 childcare services is affirmed.

DATED: August 14, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

¹¹ AS 47.25.001(a)(1).

¹² AS 47.25.001-47.25-095.

¹³ 7 AAC 41.010- 7AAC 41.990.

¹⁴ 7 AAC 41.250(a).

¹⁵ 7 AAC 49.135.

¹⁶ Exhibit 7.1; Exhibit 8.1; Ms. U testimony.

¹⁷ *Id.*

¹⁸ *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.”).

¹⁹ 7 AAC 41.250 (a).

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 28th day of August, 2019.

By: Signed

Name: Hanna Sebold

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.]