

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

In the Matter of	)	
	)	
Q M LLC	)	OAH No. 21-0438-CCA
_____	)	Agency No.

**DECISION**

**I. Introduction**

Q M, LLC (Q) is a childcare business, which is licensed as a childcare provider with the Alaska Child Care Assistance (CCA) program. Q submitted a payment request to the CCA program on March 5, 2021 for childcare services that it supplied during the month of January 2021. The Division of Public Assistance (Division), which administers the CCA program, denied that request for payment as untimely.

Q requested a hearing to challenge the denial of its payment request. The hearing was held telephonically on April 13, 2021. K C, Q’s managing member and the childcare’s administrator, represented Q and testified on its behalf. Jessica Hartley, a Division Fair Hearing representative, represented the Division.

The facts of this case show that Q’s deadline for filing its childcare billing for January 2021 with the CCA program was February 28, 2021. However, due to a technical computer error on Q’s part, that childcare billing was not submitted to the CCA program until March 5, 2021. As a result, the Division’s denial of Q’s payment request for childcare services provided in January 2021 as untimely is AFFIRMED.

**II. Facts**

Q is a licensed childcare provider with the State of Alaska.<sup>1</sup> K C, its administrator, completed the CCA program’s online billing training on September 29, 2017.<sup>2</sup> On June 25, 2019, she signed a *Child Care Provider Rates and Responsibilities* form acknowledging that she had read it and understood it.<sup>3</sup> That form contains a section that reads, in pertinent part:

I assume the responsibility for remaining in compliance with the Child Care Assistance Program regulations 7 AAC 41, including but not limited to:

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<sup>1</sup> Ex. 1.  
<sup>2</sup> Ex. 3.  
<sup>3</sup> Exs. 2 – 2.1.

3. Submitting a *Request for Payment* CC78 form by the last day of the month, following the month care services were provided and charges were incurred.<sup>4</sup>

Q supplied childcare services in January 2021. It did not submit its January 2021 billing to the CCA program until March 5, 2021.<sup>5</sup> Its payment request was denied as untimely because it was received after the February 28, 2021 deadline.<sup>6</sup>

Ms. C testified that she prepared the January 2021 payment request in a timely manner and that she emailed it to the CCA program. However, for some unknown technical reason, the computer that she emailed it from did not complete the email process and she did not realize the email had not been sent until Q did not receive payment for January 2021. Ms. C then found the payment request was in her email “outbox.” She immediately emailed the billing to the CCA program. Ms. C further testified that she had been in the childcare business for over ten years and never missed a billing deadline in that time. She described a busy and stressful February 2021, which interfered with her management of the business. Those stresses included having an adverse reaction to the Covid vaccine that lasted over a week, a work associate being out of work due to Covid for two weeks, and volunteering with hosting the 2021 high school state cross-country ski meet.<sup>7</sup>

### 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.”<sup>8</sup> The Division’s childcare program’s regulations require, in addition to other requirements, that 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.”<sup>9</sup> This billing deadline has been in place since January 5, 2017.<sup>10</sup> This means that the bill for January must have been submitted by February 28, 2021.

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<sup>4</sup> Ex. 2,1 (emphasis in original).

<sup>5</sup> Ex. 4.

<sup>6</sup> Exs. 6 – 6.1.

<sup>7</sup> Ms. C’s testimony. *Also see* Exs. 7.1 – 7.2, 9.

<sup>8</sup> AS 47.25.001(a)(1).

<sup>9</sup> 7 AAC 41.250(a). There are some exceptions to this general rule, such as transitioning between different types of childcare assistance, or if approval for childcare assistance has been issued after childcare services have already been provided. 7 AAC 41.250 (a)(1) and (2). There was no evidence or argument presented that either of these exceptions apply.

<sup>10</sup> The version of the billing regulation, 7 AAC 41.250, that was in effect from 2006 through January 4, 2017, gave childcare providers a longer period to submit their billings to the CCA program. However, the current version

Because Q is requesting the payment under the CCA program, it bears the burden by preponderance of the evidence that it timely submitted the childcare payment request.<sup>11</sup> It is undisputed that Q’s billing was not received until March 5, 2021, after the due date of February 28, 2021.

Q argued that the regulation’s deadline should be relaxed due to the underlying circumstances. However, those circumstances were not created by any act on the CCA program’s part. The evidence in this case is clear. Q did not timely submit her billing for January 2021. The regulations do not provide any discretion in this case, either for a technical error or the interruptions to the business’s normal operation. “Administrative agencies are bound by their regulations just as the public is bound by them.”<sup>12</sup> Consequently, the Division was required, by the CCA program’s regulations, to deny Q’s payment request.

#### **IV. Conclusion**

The Division’s denial of payment for the childcare services Q provided in January 2021 is affirmed.

Dated: April 21, 2021

Signed  
Lawrence A. Pederson  
Administrative Law Judge

### **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 11<sup>th</sup> day of May, 2021.

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.]

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of the regulation, which went into effect on January 5, 2017, changed the deadline for submitting billings to “on or before the last day of the month immediately following the month in which child care services were provided.” 7 AAC 41.250(a) (Effective January 5, 2017, Register 221).

<sup>11</sup> 7 AAC 49.135.

<sup>12</sup> *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).