

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

In the Matter of)	
)	
F K)	OAH No. 18-1239 CCA
)	Agency No.

DECISION

I. Introduction

F K applied for assistance under the Child Care Assistance Program (CCAP). The application was denied on the grounds that Mr. K did not timely submit information requested from Alaska Family Services (AFS), who administers the CCAP program for the Department of Health and Social Services, Division of Public Assistance (Division), to complete his application. Mr. K requested a fair hearing, which took place on January 8, 2019.¹ Because Mr. K did not submit all the information requested by the Division within the required time frame, the Division’s denial is affirmed.

II. Facts

On November 1, 2018, Mr. K, a widower, applied to the CCAP for assistance with the care of his son, C.² Mr. K had previously received assistance from the CCAP from August 2017 to February 2018.³

On November 5, 2018, following the submission of his CCAP application, Mr. K had an interview with AFS.⁴ That same day, Mr. K was given written notice from AFS that his application was received, but additional information needed to be submitted by November 16, 2018.⁵ The letter requested verification of C’s age, certification of C’s citizenship, verification of Mr. K’s enrollment at Business A, verification of Mr. K’s tuition and fees at Business A, and verification of SSI/SSA benefits received “for the most recent 60 days” by the family.⁶

Mr. K did not provide the requested documents, so, on November 27, 2018, a denial notice was sent to Mr. K.⁷ The denial letter included a list of the missing information: the requested verification of age for C, certification of citizenship for C, verification of Mr. K’s

¹ Mr. K testified telephonically on his own behalf. Sally Dial, Public Assistance Analyst for the Division also testified telephonically. Exhibits 1-12.4 were admitted into evidence.

² Exhibit 3.6-3.11.

³ Mr. K testimony.

⁴ Exhibit 3.

⁵ Exhibit 2.

⁶ Id.

⁷ Exhibit 5-5.2

enrollment at Business A, verification of Mr. K's tuition and fees at Business A, and verification of SSI/SSA benefits received by the family.⁸ However, also on November 27, 2018, AFS received from Mr. K, C's birth certificate and documentation of Mr. K's Business A tuition and fees.⁹ Mr. K had emailed them that the delay with the birth certificate was because he had lost it when he moved and had financial issues that had impeded him ordering a new one.¹⁰

On November 28, 2018, Mr. K requested a hearing.¹¹ AFS conducted a pre-hearing and the new information provided on November 27, 2018 was reviewed and considered.¹² However, on December 5, 2018, Mr. K was advised the denial would stand because Mr. K did not provide AFS with verification of SSI/SSA benefits.¹³ Mr. K appealed the decision.

III. Discussion

Under the CCAP, parents or guardians apply for coverage of a particular daycare through an administrator of the program, in this case, AFS.¹⁴ On November 1, 2018, Mr. K applied to receive CCAP for his son, C.¹⁵ The only issue here is whether Mr. K's CCAP application was submitted timely and completely.¹⁶

A family applying for child care assistance "shall provide complete, accurate, and current information" concerning the children at issue, family income, hours of employment or training, work activities, and other factors that would affect the family's eligibility for CCAP benefits.¹⁷ The applicant family must also provide documentation to support the information provided on the application, or on the "Family Responsibilities" form, if requested by the Division.¹⁸

On November 5, 2018, Mr. K interviewed with AFS and was notified in writing that AFS needed verification of C's age, certification of C's citizenship, verification of Mr. K's enrollment at Business A, verification of Mr. K's tuition and fees at Business A, and verification of SSI/SSA benefits received by the family.¹⁹ In accordance with the Family Responsibilities, set forth in 7 AAC 41.320, Mr. K needed to provide this information to qualify for the CCAP.

⁸ Exhibit 2.

⁹ Exhibit 6-6.6

¹⁰ Mr. K testimony; Exhibit 8; Exhibit 7.1.

¹¹ Exhibit 7.

¹² Exhibit 8-8.1.

¹³ Exhibit 9.

¹⁴ A.S. § 47.25.051; A.S. § 47.25.001.

¹⁵ Exhibit 3.6-3.11.

¹⁶ Parties agreed this was the only issue.

¹⁷ 7 AAC 41.320(a) ("Family Responsibilities").

¹⁸ 7 AAC 41.320(b) ("Family Responsibilities").

¹⁹ Exhibit 2.

In AFS's November 5, 2018 letter, it advised Mr. K that he had until November 16, 2018, to provide all the documentation or the application would be denied.²⁰ While the notice gave Mr. K until November 16, 2018 to submit the paperwork, under the regulation, a "complete application must be received by the department or a designee within 30 days after the application submission."²¹ Since Mr. K submitted his application on November 1, 2018, he had until December 1, 2018 to provide all the documentation requested by the AFS.²²

On November 27, 2018, AFS sent a denial letter because Mr. K failed to provide any of the information requested by AFS to determine eligibility.²³ However, also on November 27, 2018, AFS received C's birth certificate, which evidenced C's age and citizenship, and documents from Business A regarding Mr. K's tuition and fees. AFS put Mr. K back into received status and considered the information provided on November 27, 2018.²⁴ Had this been all the information AFS requested, Mr. K would have been eligible for CCAP. However, Mr. K did not submit the SSI/SSA information requested by AFS.²⁵

On December 5, 2018, AFS advised Mr. K his application "will remain denied and a new application is needed" because Mr. K failed to provide all the information requested by AFS within 30 days, specifically verification of SSI/SSA benefits for the most recent 60 days.²⁶

When Mr. K requested a hearing, the sole reason he wrote for his incomplete application was that he was "[u]nemployed currently & a full time student, didn't have funds until recent to purchase birth certificate. Sent as soon as I was able to purchase."²⁷ He was silent as to an explanation for the SSI/SSA documents.

However, at the January 8, 2019 hearing, Mr. K argued that AFS should have considered SSI/SSA information he provided with a prior CCAP application from August 2017. This argument is unpersuasive because Mr. K made no affirmative efforts prior to the deadline to have the 2017 SSI/SSA documents considered.

²⁰ Exhibit 2.

²¹ 7AAC 41.315 (b).

²² At the prehearing, it was explained to Mr. K that "a denied notice is mailed if the documents are not received by the due date in the notice. However, the designee has up to 30 days to process the application and can ask for the case to be put back into received status as long as all the information is turned in within 30 days." (Exhibit 8)

²³ Exhibit 5.

²⁴ Exhibit 8-8.1.

²⁵ Ms. Dial testified Mr. K reapplied for CCAS, and on December 17, 2018, he submitted SSI/SSA benefit information. The SSI/SSA paperwork was not filed as part of this case.

²⁶ Exhibit 9.

²⁷ Exhibit 7.

“The Child Care Assistance Program regulations require families that are applying for benefits to cooperate with the program to determine the family’s eligibility.”²⁸ For the November 1, 2018 application, Mr. K did not cooperate with AFS in its efforts to obtain SSI/SSA documents prior to the submission deadline. Mr. K received written notice of what he needed to submit. Mr. K underwent an interview, where he was reminded of what he needed to submit. Yet, he provided no SSI/SSA documents nor any explanation for not submitting the requested documents.

Mr. K only argued that the previously submitted records from 2017 should be part of the new application at the January hearing, after the deadline for submitting documents had passed. Had Mr. K made such an argument prior to the documents being due, this may have been persuasive because, historically, AFS is flexible when the applicant is providing information and making efforts to comply with the requested information.²⁹ But, as the prior cases have shown, AFS is only flexible when the applicant has met his or her burden of cooperating and communicating about issues prior to the denial.³⁰

Mr. K saw such flexibility first-hand when the Division reopened his case after the initial denial, once Mr. K explained why he was delayed in providing C’s birth certificate.³¹ But unlike the delay in providing C’s birth certificate, Ms. K was silent to the SSI/SSA information. Mr. K either needed to provide responsive documentation or make a timely explanation regarding the SSI/SSA paperwork; he failed to do so.³² His failure to provide anything responsive to AFS’s request for the SSI/SSA information by the deadline is the grounds for the denial.

²⁸ Id at 3.

²⁹ *In re N.S.D.*, OAH No. 12-0215-CCA, (Department of Health and Social Services, 2012), available at <https://aws.state.ak.us/OAH/Decision/Display?rec=391>, (The Division made an exception to information being provided after the deadline because the delay was due to the applicant being unable to secure an appointment prior to the deadline and the applicant was proactive in keeping the Division informed of her ongoing attempts to secure an appointment prior to the deadline.); *In re U.T.*; OAH No. 12-1039-CCA (Department of Health and Social Services, 2012) available at <https://aws.state.ak.us/OAH/Decision/Display?rec=394>. (The Division upheld denial of child care assistance for the remaining hours because it did not have the proper documentation to establish the applicant was engaged in an eligible activity for the remaining time period and the applicant had failed to communicate with the Division with changes in employment.); *In re E.S.* OAH 15-0644-CCA, (Department of Health and Social Services, 2015) available at <https://aws.state.ak.us/OAH/Decision/Display?rec=407>, *In re CQ*, 17-1053 CCA, (Department of Health and Social Services, 2017) available at <https://aws.state.ak.us/OAH/Decision/Display?rec=422> (The Division’s denial upheld because applicant did not provide proof of birth prior to the deadline.)

³⁰ (The Division’s decision was overturned because, even though the applicant was not timely in her submission of requested information, she was able to show the efforts she made to attempt to comply with the request.)

³¹ Exhibit 7.1

³² 7 AAC 41.320; *In re N.S.D.*, OAH No. 12-0215-CCA; *In re U.T.*; OAH No. 12-1039-CCA; *In re E.S.* OAH 15-0644-CCA; *In re CQ*, 17-1053 CCA.

IV. Conclusion

Mr. K made no effort to contact AFS regarding his interpretation of the SSI/SSA status nor did he provide AFS with any responsive documents to the SSI/SSA information requested, before December 1, 2018. As such, the Division’s decision denial of CCAP is affirmed.

This does not affect Mr. K’s ability to apply again, and from the testimony, he already has.

DATED: January 28, 2019.

Signed _____
Hanna Sebold
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 22nd day of February, 2019.

By: *Signed* _____
Name: Andrew M. Lebo
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.]