

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

In the Matter of:)	
)	
ANCHORAGE SCHOOL)	OAH No. 22-0826-CCA
<hr style="width: 40%; margin-left: 0;"/>)	Agency No. 10016650

DECISION

I. Introduction

Anchorage School is a licensed childcare provider that receives benefits from the Child Care Assistance Program (“CCAP”). There are deadlines to submit payment requests and to correct incomplete or incorrect information on a payment request. Anchorage School timely submitted a payment request for May 2022 services, but the Division of Public Assistance Child Care Program Office (“Division”) determined the request was incorrect or incomplete because the administrator who signed it had not completed an agency training on billing. Anchorage School then missed the deadline to correct its payment request.

As discussed below, the Division is correct that these deadlines are prescribed by regulation and Anchorage School did not meet the deadline for submitting corrected information. But the signature on its initial payment request was not itself incorrect or incomplete information. The Division may impose a billing training requirement, but the fact that a person has not completed that requirement does not make their signature incorrect or incomplete. Accordingly, the Division’s decision is reversed.

II. Background

Anchorage School is a licensed childcare provider.¹ The CCAP provides day care assistance to children of low and moderate income families by paying benefits directly to child care providers.² To receive benefits for a given month, a provider must submit a payment request by the end of the following month.³ Thus to receive payment for child services provided in May 2022, Anchorage School needed to submit a payment request by June 30, 2022.

¹ Ex. 5.
² AS 47.25.001(a)(1); 7 AAC 41.
³ 7 AAC 41.250.

The administrator who had been submitting payment requests for Anchorage School was let go in May 2022.⁴ Another administrator, U.C., took over responsibility for submitting payment requests and submitted a request for May services on June 14, 2022.⁵ The Division sent notice on June 23 that it was rejecting the payment request because U.C. had not completed billing training.⁶ The notice further stated that the Division would process the payment request if Anchorage School provided a signature, by July 31, 2022, from a representative who had completed the billing training.⁷

U.C. left her position with Anchorage School on July 31 without completing the training or resubmitting the May 2022 payment request with the signature of a person who had completed the training.⁸

S.Q. took over as administrator on August 1, 2022 and only then learned of the Division's rejection of Anchorage School's payment request.⁹ To address future billings, Anchorage School appointed a new business manager who completed the billing training by August 31, 2022.¹⁰ Anchorage School also re-submitted its May payment request with the new administrator's signature on September 27, 2022.¹¹ The Division rejected the re-submission because it had not been made by the July 31 deadline it set when it first rejected the May payment request.¹² That rejection is on appeal here.

A hearing was held on October 24, 2022. At the hearing, the Division's representative was unable to cite authority for its position that a payment request must be signed by a person who has completed billing training. The Division was asked to provide supplemental authority and Anchorage School had an opportunity to respond.

III. Discussion

By regulation, a CCAP payment request must be timely submitted on a department form.¹³ If the Division determines that the request "includes information that is incorrect or

⁴ S.Q. testimony.
⁵ Ex. 6.1.
⁶ Ex. 7.
⁷ *Id.*
⁸ S.Q. testimony.
⁹ *Id.*
¹⁰ *Id.*
¹¹ Ex. 10.1-2.
¹² Ex. 11.
¹³ 7 AAC 41.250(a).

incomplete,” the Division can return the request and the provider will then have until the end of the following month to correct its request.¹⁴

There is no dispute that Anchorage School submitted its May 2022 payment request on the department form and well before the deadline. The Division then notified Anchorage School on June 23, 2022 that it had incorrect or incomplete information. Per regulation and the Division’s notice, Anchorage School had until July 31, 2022 to provide correct or missing information. There is no dispute that Anchorage School’s September re-submission of the payment request failed to meet that July 31 deadline. The regulations do not give the Division discretion to waive these deadlines and accept a late filing except under very narrow exception which are not at issue here.¹⁵

But the deadline at issue here —to correct incorrect or incomplete information— only applies if there is in fact incorrect or incomplete information. Thus, a threshold issue is whether the signature Anchorage School provided on its May 2022 payment request constitutes “information that is incorrect or incomplete.”

The payment request form includes a line for “Signature of Individual with Signatory Authority.”¹⁶ Anchorage School’s May 2022 payment request included a signature by U.C..¹⁷ Thus the signature itself is not “incomplete” or missing information.

Was the signature somehow “incorrect” information? There is no evidence the signature was a forgery, so it is not an incorrect representation of U.C.’s signature. Nor does the signature incorrectly identify U.C. as having authority to sign on Anchorage School’s behalf. The form generically calls for a signature from a person with “signatory authority.” This form does not specify that the signatory must be authorized by a regulator, compliant with any particular laws or regulations, or have completed any particular training. U.C. signed the form on behalf of Anchorage School.¹⁸ Anchorage School had previously — back in August 2021 — submitted a change of administrator designating U.C. as having signature authority on its behalf.¹⁹ In a supplemental submission, Anchorage School explained that U.C. had been designated as

¹⁴ *Id.*

¹⁵ 7 AAC 41.250(a). The two exceptions are for 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), (2). There was no evidence or argument that either of these exceptions apply.

¹⁶ *Id.*

¹⁷ Ex. 7.1.

¹⁸ *Id.*

¹⁹ Ex. 7.3-7.5.

Anchorage School’s facility administrator through the Municipality of Anchorage.²⁰ The signature on Anchorage School’s form was thus from a person who had been designated by that provider as a person with signatory authority. It stretches credulity to call such a signature “incorrect.”

The Division contends that it cannot make payment on a form signed by a person who has not completed billing training. But when asked to provide legal authority for this position, the Division cited regulatory provisions related to the application process to *become* a licensed provider.²¹ Those provisions would apply if Anchorage School was a prospective provider or newly authorized provider making its very first payment request. But Anchorage School is an established provider who has been submitting payment requests for many years. The regulations the Division cites do not address existing providers or a change of administrator.

For existing providers like Anchorage School, there is a requirement to “remain in compliance with the applicable requirements” of the regulations set forth in 7 AAC 41.²² But none of these regulations specify that a signatory must complete a billing training. The Division’s billing training requirement appears on two forms — its provider application form and a rates and responsibilities form.²³ Requirements set forth on an agency form do not have the force and effect of regulations.²⁴ Because the billing training requirement is not regulatory, a provider’s obligation to remain in compliance with regulations would not extend to billing training.

The Division can certainly require billing training. It can memorialize that requirement on a form.²⁵ And it can use the tools it has available to enforce that requirement. But rejecting a payment request as incorrect or incomplete — and enforcing the deadline to provide complete and correct information — is not one of those tools. The deadline at issue here applies only if a

²⁰ November 14, 2022 email from S.Q.; Division’s Supplemental Authority.

²¹ 7 AAC 41.201(a), (c)(3); 7 AAC 41.210(5).

²² 7 AAC 41.210(2).

²³ Division’s Supplemental Authority; Ex. 5.2.

²⁴ See AS 44.62.640(3) (definition of “regulation” does not include a form prescribed by a state agency or instructions relating to the use of the form, but this provision is not a limitation on a requirement that a regulation be adopted under this chapter when one is needed to implement the law under which the form is issued”); *Squires v. Alaska Bd. of Architects, Engineers & Land Surveyors*, 205 P.3d 326, 335 (Alaska 2009) (requirement on agency form to provide third party verification of employment was not a regulation and did not need to be promulgated under the Administrative Procedures Act).

²⁵ If the Division wants to apply and enforce this requirement as a regulation, however, it should adopt the requirement through the APA rulemaking process. Nothing in the record indicates that the agency adopted the forms here through rulemaking.

payment request includes “incorrect or incomplete” information. A signature is neither incorrect nor incomplete when it appears on the payment request form, is from a person who the provider has designated as a signatory, appears above a line asking only for the signature of a person with “signatory authority,” and with no accompanying legal or regulatory requirement limiting signatory authority to a person who has completed billing training. Because the signature itself is not incorrect or incomplete information, the regulatory deadline for completing or correcting information on a payment request form does not apply.

IV. Conclusion

The Division’s rejection of Anchorage School’s September re-submission of its payment request for May 2022 services as untimely is reversed and the Division is instructed to proceed with its process concerning the payment request.

Dated: November 17, 2022

Signed _____
Rebecca Kruse
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health, 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 5th day of December, 2022.

By: *Signed* _____
Name: Rebecca Kruse
Title: Administrative Law Judge

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