

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

In the Matter of)
)
G. K. M.) OAH No. 18-1233-SAN
_____)

DECISION AND ORDER OF DISMISSAL

G. K. M. requested a hearing to contest a substantiated finding of child neglect issued against her on October 23, 2018 by the Office of Children’s Services (OCS). She appeared at the case planning conference (CPC) held on January 2, 2019. At that time, the parties agreed to postpone the CPC since there was a related CINA case and agreed that a status conference would be held on March 4, 2019.

The notice for the March 4, 2019 status conference was sent by mail on Ms. M. on January 3, 2019 at her address of record. However, a protective order sent to Ms. M.’s mailing address of record on or about December 18, 2018 was returned to OAH on January 23, 2019 with the post office notation “attempted – not know; unable to forward.” Thus, it is unknown whether Ms. M. received the notice of the March 2019 status conference mailed to her on January 3, 2019, although this notice has not been returned to OAH by the post office. On March 4, 2019, Ms. M. was contacted at her phone number of record for the status conference. There was a message on the phone stating that the number had been changed or was no longer a working number. Ms. M. then was called at an alternative phone number, supplied by OCS’s counsel, but nobody answered. A voice mail message was left advising Ms. M. to contact OAH in order to take part in the status conference. However, Ms. M. did not respond to this voice mail message nor contact OAH at a later date to explain her failure to appear.

The status conference was rescheduled for April 1, 2019. Ms. M. was sent notice of the rescheduled status conference by e-mail, since her mailing address of record was no longer valid. In this notice, Ms. M. was advised that it was her responsibility to update her contact information, including her mailing address, phone number, and e-mail, by calling OAH. However, Ms. M. did not contact OAH with her updated information. Ms. M. also was *expressly* warned in this notice that her continued failure to participate could result in dismissal of her appeal.

On April 1, 2019, Ms. M. was contacted for the rescheduled status conference at her alternative number, but nobody answered the phone. A voice mail message was left advising Ms. M. that this was the time scheduled for the status conference regarding her appeal and that she

needed to call OAH to be placed into the status conference. Ms. M. did not call OAH in response to this voice mail message; she also never contacted OAH to explain her failure to appear at the rescheduled status conference.

When a party who requested a hearing fails to participate in a proceeding, the administrative law judge may dismiss the case or affirm the decision being contested.¹ Because Ms. M. has not participated in this matter or communicated with OAH to explain her unavailability at either of the scheduled status conferences, even after written notice that her failure to appear could lead to dismissal of her appeal, she is deemed to have abandoned the hearing request. As a result, this matter is **DISMISSED**, and OCS's October 23, 2018 substantiated finding of maltreatment remains in effect.

If Ms. M. disagrees with this decision, she should submit a proposal for action to the Office of Administrative Hearings on or before **April 22, 2019**. The proposal for action process is Ms. M.'s **final** opportunity to be heard in connection with this appeal.

DATED: April 5, 2019.

Signed

Kathleen A. Frederick
Administrative Law Judge

Adoption

The undersigned, by delegation from of 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 24th day of April 2019.

By: *Signed*

Signature

Kathleen A. Frederick

Name

Administrative Law Judge

Title

¹ 2 AAC 64.320(a).
OAH No. 18-1233-SAN

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