

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

In the Matter of	)	
	)	
AARON ASSISTED LIVING LLC D/B/A	)	OAH No. 25-1932-MPC
<u>AARON ASSISTED LIVING 1 AND 2</u>	)	

DECISION

I. Introduction

Aaron Assisted Living LLC, (AAL) d/b/a Aaron Assisted Living 1 and 2, is an enrolled Medicaid provider. It no longer operates Aaron Assisted Living 2 (AAL2). It appeals the denial of its recertification application to provide Home and Community Based Waiver (HCBW) Medicaid funded services at Aaron Assisted Living 1 (AAL1). At the hearing, the Division of Senior and Disability Services (Division) demonstrated that AAL’s application to recertify its remaining location was meaningfully incomplete, despite significant efforts by the Division to allow AAL to complete its application. AAL showed no evidence to the contrary. Therefore, the Division’s denial of AAL’s recertification application is AFFIRMED.

II. Facts and Procedural History

The HCBW program is a state program administered by the Division. It is intended for persons who would otherwise need an institutional level of care to receive care at home or in the community.¹ To provide HCBW services of the sort AAL seeks to provide, a facility must be certified. Department of Health regulations set out the standards for certification.² The regulations list the grounds for denial of certification. Pertinent here is the applicant’s failure to submit a complete application and their unwillingness or inability to meet certification requirements identified in DOH’s regulations.³

AAL had two locations, AAL1 and AAL2 certified, under the HCBW program. As noted above, it has since closed AAL2 and does not appeal the denial of certification for that location. AAL1 provides respite, day habilitation, supported employment, and group home services under the HCBW program.⁴ It has provided these services at least since before 2023.⁵ Ms. Dana Thomas is the Administrator of AAL. She was its spokesperson at the hearing and testified on its

¹ Wheeler testimony. *See, also* “Home and Community Based Services (HCBS) Waivers” (<https://health.alaska.gov/en/services/hcbs-waivers/>) (accessed March 17, 2026).

² 7 AAC 130.220.

³ 7 AAC 130.220(f)(1) & (f)(4).

⁴ R. 000247.

⁵ The record contains documents going back to 2023. There was no testimony or evidence in the record of AAL’s exact age, but the testimony suggested it has been in business many years. According to records maintained by the Division of Corporations, Business and Professional Licensing, AAL was formed as an LLC in 2017.

behalf. All communications in the record between the Division and AAL were sent by or to Ms. Thomas.

On May 7, 2024, the Division notified AAL that the certifications for both AAL1 and AAL2 were set to expire on August 31, 2024.⁶ On July 16, 2024, the Division received an application for AAL1 that it deemed complete for purposes of review.⁷ A likewise complete-for-review purposes application was received for AAL2 on August 30, 2024.⁸ The Division extended the certifications for both facilities until February 28, 2025.⁹

On January 10, 2025, the Division sent a letter to Ms. Thomas requesting additional documentation for both facilities, including certificates of insurance, organization charts at New Alaska Background Check System (NABCS) roster, training certificates, operations manuals, and numerous provider certification documents, with a due date of January 27, 2025.¹⁰ AAL did not provide the required information. Nevertheless, on February 4, 2025, the Division extended the AAL1 and AAL2 certifications until February 11, 2025.¹¹

On February 11, 2025, the Divisions received two emails from Ms. Thomas. The first questioned the Division regarding required training; the second attached an unsigned certificate of insurance.¹² The second email also represented that it included additional requested documentation, but there were no additional attachments to the email beyond the unsigned certificate.¹³ The next day the Division informed Ms. Thomas of the deficiencies of the prior day's communications. Ms. Thomas did not respond.

On February 18, 2025, the Division again requested additional information, including signed certificates of insurance for worker's compensation and comprehensive general liability, an organizational chart and New Alaska Background Check System (NABCS) Roster, training

⁶ Ex. A at 2. The parties stipulated to the relevancy and authenticity of the Division's exhibits. Ms. Thomas did not dispute the chronology contained in Exhibit A. Ms. Melissa Mosier, Health Program Manager 2 for SDS, also testified as the person who interacted with Ms. Thomas and testified in support of the chronology of events set out in Exhibit A. *See, also* R. 000186-187. However, the undersigned has spent hours combing the record for the actual communications and not just the denial letter's chronology. The undersigned found that merely pointing to the denial letter as a record of all communications was not sufficient as the actual written communications contained context and depth that was critical to understanding this matter. There was at least one instance discussed below where, despite a thorough review, the communication could not be found. That deficiency, however, does not change the outcome of this decision.

⁷ R. 000218.

⁸ R. 000181.

⁹ R. 000183. Although AAL has withdrawn its appeal for its second location AAL2, the application history for AAL2 is included for completeness of the record.

¹⁰ R. 000217-221.

¹¹ R. 000231.

¹² *Id.*

¹³ *Id.*

certificates, an operations manual, and other items.¹⁴ Despite application deficiencies, it still extended both certifications through March 4, 2025.¹⁵ This time, however, it warned AAL that AAL1 and AAL2 were at risk of decertification if the requested information was not provided.¹⁶

The only communication the Division received in response to the February 18, 2025, email from Ms. Thomas saying she was sick and thanking the Division for the additional time.¹⁷ On February 28, 2025, the Division sent Ms. Thomas an email stating “Your renewal certification applications have been received by SDS. We have extended the certification periods on your current certified services while your renewal applications are being evaluated. Your current extensions are valid through February 28, 2025[.]”¹⁸

On March 6, 2025, the Division sent Ms. Thomas an email that the applications to remain certified were still under review and that additional information would be required to evaluate the applications.¹⁹ The email identified missing information, and went on to state, “[p]lease review the attached letter and submit the required documentation as soon as possible but **no later than close of business on March 20, 2025.**”²⁰ This communication again advised AAL that its failure to provide required information could result in decertification and to let division staff “know if you have any questions regarding the information that is being requested.”²¹

On March 20, 2025, the due date, SDS received multiple emails from Ms. Thomas.²² At least two of those emails contained unopenable attachments.²³ Ms. Thomas said she sent identical information by hardcopy mail, but when the envelope arrived, it was empty.²⁴

On April 21, 2025, the Division sent AAL notice that its renewal certification application was denied, the basis for the denial, and advising AAL of its appeal rights.²⁵ On May 15, 2025, Ms. Thomas sent the Division extensive documentation in an effort to cure the deficiencies of her application.²⁶ In that communication she stated, “I want to begin by sincerely apologizing for the

¹⁴ R. 000227-230.

¹⁵ R. 000226.

¹⁶ *Id.*

¹⁷ R. 000232.

¹⁸ R. 000183.

¹⁹ R. 000240.

²⁰ *Id.* (emphasis in original).

²¹ R. 000240.

²² In the Division’s Exhibit B, it states Ms. Thomas sent 10 emails on March 20, 2025. This tribunal could only find two in the record at pages 000259-260.

²³ R. 000258 & 260.

²⁴ R. 000273-274.

²⁵ R. 000278-284.

²⁶ Aaron Assisted Living Home Appeal referral package, parts 1-3.

confusion and complications surround my recent recertification process [and] I acknowledge that I did not submit the recertification packet 60 days prior to expiration as required.”²⁷ Her email included numerous attachments that she asserted cured deficiencies in the application. The Division responded that “we considered your emails a formal request to appeal the certification actions taken on Aaron’s Assisted Living Home 1 & 2”²⁸ and referred the matter to the Office of Administrative Hearings. This appeal followed.

III. Discussion

Because AAL requested the hearing, the burden is on it to prove, by a preponderance of the evidence, that the Division incorrectly denied recertification.²⁹ Alaska Medicaid HCBW services regulations lay out several requirements for certification, and in particular adopt by reference the “Provider Conditions of Participation for Home and Community-Based Waiver Services and Community First Choice Chore Services” or “COP” for “Conditions of Participation.”³⁰ The COP set forth two types of criteria for approval of certification. The first are “absolute requirements that must be in the application for certification.”³¹ If an application is missing one of these requirements, it must be denied.³² The second requirement to determine is whether an applicant “demonstrate[s] readiness to provide services and comprehension of applicable Medicaid regulations and pertinent service Conditions of Participation[.]”³³ In determining whether the applicant has demonstrated readiness, OAH does not require perfection.³⁴ Rather, the application must show understanding of the requirements for waiver services.³⁵ The submittal will be considered as a whole, with an application containing numerous errors evidencing “that the applicant does not have readiness or sufficient understanding of waiver services.”³⁶ The application must demonstrate attention to detail.³⁷ “[A]n application that is too

²⁷ *Id.* at part 1, at p. 1.

²⁸ *Id.* at part 4.

²⁹ 2 AAC 64.290(e). However, even if the burden of proof were on the Division as the party seeking to change the status quo, this decision finds that the Division has met its burden and the application was correctly denied. *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985) (“Ordinarily the party seeking a change in the status quo has the burden of proof.”)

³⁰ 7 AAC 130.220(b)(1)(A).

³¹ *ITMO Treasures Angels Inc.*, OAH Case No. 24-0534-MPC at 5.

³² *Id.*

³³ COP at 1 (available online at <https://health.alaska.gov/media/hylb3ibb/provider-cop-for-waiver-and-chore-corrected-10422.pdf>) (last visited April 24, 2026).

³⁴ *Treasures Angels* at 5.

³⁵ *Id.* at 6.

³⁶ *Id.*

³⁷ *Id.*

sloppy, or otherwise seriously unprofessional, will support a conclusion that the applicant will not be able to meet the requirements of the Medicaid program.”³⁸

Turning to the “absolute requirements” to have its license renewed, the Division introduced uncontradicted evidence that AAL incorrectly completed its Cert-12 form (Service Declaration: Residential Habilitation Services Group Home Habitation Site Information/Change of Status Report),³⁹ Cert-37 (Provider Certification Application Policy Assurances),⁴⁰ did not provide a copy of its business license,⁴¹ improperly completed its Quality Improvement Report,⁴² submitted an unsigned general liability insurance certificate,⁴³ and submitted organization charts that were inconsistent with employee rosters and background checks.⁴⁴ Ms. Thomas acknowledged all of these deficiencies at the hearing and in her May 15, 2025 email. The forms are each substantive items demonstrating ability to meet program requirements. For example, failure to provide a business license is not just a technical requirement. Business licenses are readily obtained, and copies may be downloaded online. The inability to produce such a basic document speaks to a lack of professionalism. Moreover, an unsigned insurance certificate is no insurance at all, which places AAL, its residents, and others at risk of an uncovered loss.⁴⁵ Further, submitting an unsigned certificate of insurance also speaks at least to a lack of understanding of what it means to have insurance in place.⁴⁶ Each of these items, as well as timely submittal, are absolute requirements, and each of these failures separately required rejection of the renewal application.⁴⁷

In addition to reviewing compliance with the absolute program requirements, the tribunal next considers whether the provider has demonstrated readiness to participate in the HCBW program. Here, the record is clear that AAL did not demonstrate its readiness to participate in this

³⁸ *Id.*

³⁹ Ex. B at 7.

⁴⁰ *Id.* at 8.

⁴¹ *Id.* at 9.

⁴²⁴² *Id.* at 10-16.

⁴³ *Id.* at 17.

⁴⁴ *C.f.* Exhibit B at 18-19 and Exhibit B at 20-21.

⁴⁵ See *ITMO Abdoulie Lowe, d/b/a APAPA Assisted Living Home*, OAH No. 22-0965-MPC at 17 (“Based solely on his failure to maintain general liability and workers’ compensation insurance, the Division has shown that Mr. Lowe violated the regulatory requirement that he adhere to State and Federal requirements regarding the administration of the Medicaid program.”).

⁴⁶ Providing an unsigned insurance certificate could also demonstrate an intent to deceive. Determining whether Ms. Thomas acted deceptively when she provided an unsigned insurance certificate is not necessary. But, taken with her mailing an empty envelope by certified mail, is at least extreme lack of care and suggests there may have been two instances of intentional deception.

⁴⁷ *Treasures Angels* at 5.

program. Its submittals were frequently incomplete and submitted at the last minute, if at all. The Division unilaterally extended AAL's submission deadline three times, and AAL still could not meet it. AAL frequently emailed attachments that would not open, a basic skill for essentially any business. And, when the last extended deadline finally came, Ms. Thomas said she mailed hard copies of documents but submitted only an empty envelope by certified mail. That is, at a minimum, evidence of extraordinary lack of care. In the face of losing AAL's certification, it could also be interpreted as a deliberate attempt to deceive or delay the Division in hopes of yet another deadline extension.

AAL has been recertified at least once prior to the denial being appealed here. It may be that AAL was operating more efficiently in prior years. But the record makes clear that, in this recertification period, AAL fell far short of demonstrating its ability to participate in this highly regulated Medicaid program.⁴⁸

During the hearing, AAL did not contest that its application was untimely. Because the standard of proof for denying recertification was preponderance of the evidence, a more than 50% chance of something being true,⁴⁹ AAL's primary argument was that her application for AAL1's recertification should not be denied because it was more than 50% complete.

AAL is confusing burden of proof at a hearing with the fundamental requirements for Medicaid provider certification. A Medicaid provider does not get to pick and choose 51% of Medicaid regulations with which to comply. Were that even plausibly the case, the Division would lack all meaningful authority to regulate Medicaid providers and protect the integrity of the HCBW programs.

AAL raises two remaining arguments to defend its continued certification. First, AAL asserts the Division should be lenient towards it because of the steps Ms. Thomas took after the April 21, 2025, denial letter. The Division's decision was rendered on April 21, 2025. That decision is what AAL has appealed. Any accommodation the Division might have considered after that date was within its discretion. Nowhere in the COP or in other regulations is the Division required to consider materials submitted after a denial. As such, the Division was not required to do so here.⁵⁰

⁴⁸ See *id.* at 6

⁴⁹ Alaska Pattern Jury Instruction 2.04.

⁵⁰ This case did go to mediation. The undersigned knows nothing about what happened at the mediation, but it is an indication that there was at least some effort after the April 21, 2025, denial to bring AAL into compliance.

Second, AAL requests the Division and this tribunal to be lenient towards it because AAL provides excellent care to its patients. There was no evidence presented that quality of patient care played a role in the Division's decision, or whether AAL provided excellent care or not. "This case is not about whether [Aaron Assisted Living] provides its residents with good care or whether the residents are happy and healthy."⁵¹ This case turns on whether AAL's application was meaningfully incomplete. AAL concedes it was not. The Division gave AAL ample time, including three extensions, to submit a complete application. The record further shows Division staff routinely offered to assist AAL with understanding the application requirements. The Division was quite lenient with AAL. Lenience after the denial is not required. Like all other HCBW program participants, AAL is required to timely meet the standards set out in regulations and the COP. It did not do so.⁵²

IV. Conclusion

The undisputed evidence in this matter shows that AAL's application for the recertification of AAL1 was meaningfully incomplete. The evidence also showed a clear lack of readiness to participate in this highly regulated program. Therefore, the Division's denials of recertification based on incompleteness under 7 AAC 130.220(f)(1) is AFFIRMED.

DATED: April 28, 2026.

By: Signed
Robert H. Schmidt
Administrative Law Judge

⁵¹ *In re Living Stone Home Care, LLC*, OAH No. 25-1360-MPC at 4.

⁵² Division representatives did note that AAL is free to reapply and that any lapse of certification is not a derogatory remark on any future certification application.

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 3rd day of June, 2026.

By: Signed

Name: Daniel R. Phelps II

Title: Process Improvement Manager

Office of the Commissioner

Alaska Department of Health

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