

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

In the Matter of)
)
E.D) OAH No. 26-0388-SNA
_____)

NOTICE TRANSMITTING FINAL DECISION

Attached is the final decision of the Commissioner of Health.

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: August 3, 2026.

By: Signed
Office of Administrative Hearings

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E.D	)	OAH No. 26-0388-SNA
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DECISION

I. Introduction

E.D applied for Supplemental Nutrition Assistance Program (“SNAP”) benefits in July 2025. Nine months later he requested a hearing on that application. The Division of Public Assistance (“DPA”) contends it sent Mr. D notice of an eligibility interview, notice that he missed that interview, and a notice of denial and that the time to challenge that denial has passed. Mr. D contends he never received these notices and thus was unaware he had missed any interview or had been denied benefits. As discussed below, the preponderance of the evidence shows Mr. D did not receive these notices. Accordingly, his hearing request was not untimely and his missed interview was not a refusal to be interviewed. The Division’s denial is reversed.

II. Facts

E.D has a traumatic brain injury and struggles to focus in order to complete tasks. He is dependent on his local foodbank to eat. Mr. D applied for SNAP benefits on July 10, 2025. Jacob Taug with Alaska Legal Services Corporation (“ALSC”) helped Mr. D understand and fill out his application. Without Mr. Taug’s assistance, Mr. D does not think he would have been able to complete the application or pursue this case before OAH.¹

On his application, Mr. D listed his mailing address with a zip code of 00000.² Mr. D also appointed ALSC as his authorized representative.³

DPA does not have copies of any notices that it sent Mr. D concerning his application. Instead, DPA has print outs from its system indicating the date, address, and content of notices. DPA has also provided some redacted copies of similar notices for other applicants that were returned to DPA, as examples of how its notices appear when printed.⁴

¹ E.D testimony.

² Ex. A at 1.

³ *Id.* at 17.

⁴ Ex. 9-9.3.

DPA's records indicate it mailed Mr. D a notice on July 16, 2025 informing him that he was scheduled for an eligibility interview less than a week later, on July 22, 2025.⁵ DPA mailed this notice to the address on Mr. D's application, but instead of the zip code of 00000 Mr. D listed, DPA mailed the notice to 00000.⁶ Mr. D does not recall receiving this notice.⁷ DPA did not contact his legal representative at ALSC.⁸

DPA's records indicate it mailed another notice on July 24, 2025, stating that Mr. D had missed his interview and advising him to call to schedule another one. DPA also mailed this notice to a different zip code than the one Mr. D listed on his application. Mr. D does not recall receiving this notice.⁹ DPA did not contact his legal representative at ALSC.¹⁰

DPA's records indicate it mailed yet another notice on August 12, 2025, also to a different zip code than the one on Mr. D's application. This notice stated that DPA was denying his SNAP application because he did not attend an interview.¹¹ Mr. D does not recall receiving this notice.¹² DPA did not contact his legal representative at ALSC.¹³

On April 10, 2026, Mr. D requested a fair hearing, stating that DPA had delayed processing his application.¹⁴ DPA denied the hearing request as untimely and told him he could appeal that denial to OAH.¹⁵ Mr. D appealed.

III. Discussion

1. DPA's Denial of Mr. D's Hearing Request is Procedurally Improper.

As a threshold matter, DPA's denial of Mr. D's hearing request fails to comply with the OAH statute on granting or denying hearing requests within OAH jurisdiction, such as a SNAP fair hearing request.

For public assistance matters like SNAP, applicants and recipients are entitled to a hearing when a request for benefits "is denied or is not acted upon with reasonable promptness" or when benefits have been suspended, terminated, or reduced.¹⁶ DOH's regulation states that an *administrative law judge*

⁵ Ex. 7.

⁶ *Id.*

⁷ E.D testimony.

⁸ Claimant's Additional Position Statement at 2; statement by Jacob Taug, ALSC at hearing.

⁹ E.D testimony.

¹⁰ Claimant's Additional Position Statement at 2; statement by Jacob Taug, ALSC at hearing.

¹¹ Ex. 3.

¹² E.D testimony.

¹³ Claimant's Additional Position Statement at 2; statement by Jacob Taug, ALSC at hearing.

¹⁴ Ex. 1.1.

¹⁵ Ex. 2.

¹⁶ 7 AAC 49.020.

(“ALJ”) will deny or dismiss hearing requests that do not meet this criteria for seeking a hearing.¹⁷

Therefore, DOH is to refer any questions of denying a hearing request to OAH.

By statute, however, a hearing request only comes before OAH if the agency *grants* the hearing request. When an agency subject to OAH jurisdiction receives a hearing request, it may either: (1) grant the hearing request and refer the case to OAH; or (2) if there is a basis “provided by law” to deny the request, the agency may deny — *i.e.*, non-refer — and give the applicant notice that “the denial may be appealed to the superior court as provided by other law.”¹⁸ If an agency denies a hearing request, the requester’s recourse is with the superior court, not OAH.¹⁹

Regarding Mr. D’s case, DPA denied his hearing request, but instruct him he could appeal that denial to OAH. An appeal to OAH from a hearing request denial contradicts OAH’s statute, which specifies that appeals go to superior court.²⁰ Thus if an agency is denying a hearing request, it needs give notice of the party’s appeal right to superior court.²¹

OAH interprets regulations in a manner that is consistent with statute. Here we have a statute stating that hearing denials are appealable to superior court, and a regulation stating that an ALJ will consider denials. To reconcile the regulation with the statute, DPA’s process here should have been to grant the hearing request, refer the matter to OAH, and then — if appropriate — request the ALJ to dismiss the case. By instructing Mr. D to appeal the hearing denial to OAH, DPA has essentially done the same thing: sent this matter to OAH to determine whether Mr. D has a right to a hearing. The hearing Mr. D received is the same hearing he would have received had DPA granted his hearing request, then asked the ALJ to dismiss it. This decision will thus proceed as if DPA had granted the hearing request, but requested it be dismissed for being untimely.

2. The Evidence Does Not Show Mr. D Received DPA’s Denial Notice.

A SNAP applicant may not request a hearing more than 90 days after a denial.²² But for that deadline to apply, an applicant must receive notice of the denial.

¹⁷ 7 AAC 49.100. Notably, this regulation also provides for an ALJ to dismiss untimely hearing requests. The superior court has interpreted this and other DOH regulations as giving the ALJ discretion to determine whether to allow untimely hearing requests. *C C v. Dep’t of Health & Soc. Servs.*, 3AN-15-00000CI at 17, *available at* <https://aws.state.ak.us/OAH/Decision/Display?rec=2167> (decision on ALJ’s discretion to allow untimely hearing requests).

¹⁸ AS 44.64.060(b).

¹⁹ AS 44.64.060(b).

²⁰ *Id.*

²¹ For example, Department of Health’s Program Integrity unit notifies parties of a right to appeal to superior court when it denies a hearing request.

²² 7 C.F.R. § 273.15(g).

There is no question Mr. D's hearing request is outside the 90-day window. DPA denied his application in August 2025 and he did not request a hearing until eight months later, in April 2026.

There is a question about whether Mr. D *received* notice of the denial. DPA's records indicate it mailed a notice — but not to the address Mr. D listed on his application. DPA's records list a different zip code than the one Mr. D included on his application. Mr. D does not recall receiving the denial. His hearing request cites delayed processing of his application, indicating Mr. D did not have any idea his application had been denied months earlier. And because DPA did not send the denial notice to ALSC as Mr. D's authorized representative, ALSC was not able to receive that notice on his behalf or alert Mr. D to the denial and his rights to a fair hearing.²³

The preponderance of the evidence is that DPA likely mailed the notice, but that Mr. D did not receive it. Because of that, his hearing request was not untimely.

3. The Evidence Does Not Show Mr. D Refused an Interview.

Mr. D has the burden to show, by a preponderance of the evidence, that the Division incorrectly denied his application.²⁴ The sole reason the Division gave for denying his application was that he did not complete an eligibility interview. Federal regulation requires applicants or their authorized representatives to complete an eligibility interview before they are determined eligible for SNAP, but permits a state agency to deny an application only if the applicant “refuses to cooperate” with completing an interview.²⁵ Not interviewing and affirmatively *refusing* to interview are two very different things. To be found to have refused an interview, an applicant “must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview.”²⁶

The evidence does not show Mr. D was capable of interviewing or refused an interview. DPA mailed notices of the scheduled and missed interview to a different zip code than the one Mr. D listed on his application. He does not recall receiving these notices. Notices were not sent to ALSC as his authorized representative, nor was ALSC contacted when Mr. D missed his interview, despite the fact

²³ At the hearing and in post-hearing submissions, the parties dispute whether DPA had a legal or constitutional obligation to give ALSC notice as Mr. D's authorized representative. The fact that DPA did not notify or contact ALSC is evidence that supports finding that Mr. D did not receive notice. But because he lacked notice, it is not necessary to determine whether DPA had any obligation to contact ALSC.

²⁴ 7 AAC 49.135.

²⁵ 7 C.F.R. § 273.2(d)(1).

²⁶ *Id.*

that ALSC could complete the interview for Mr. D on his behalf.²⁷ And his hearing request indicates Mr. D had no knowledge of scheduled or missed interviews. The preponderance of the evidence thus shows Mr. D did not receive these notices. Because he did not receive them, he was not capable of cooperating with the interview process.

There is no evidence that Mr. D affirmatively refused to interview. With no notice, the fact that Mr. D did not call for the interview or to reschedule the interview once missed cannot be considered a refusal to cooperate with this process.

Because the evidence does not show Mr. D refused to interview, DPA improperly denied his application.²⁸

IV. Conclusion

For the reasons discussed above, DPA's denial of Mr. D's SNAP application is reversed.

Dated: June 23, 2026

Signed

Danika B. Swanson
Administrative Law Judge

²⁷ 7 C.F.R. § 273.2(e).

²⁸ *In re M.X.*, OAH No. 13-0417-SNA at 4-6 (2013) (reversing SNAP denial based on failure to provide information because Division had not shown applicant clearly and affirmatively refused to take actions required for the application process, as opposed to failing to act because of a lack of understanding).

NON-ADOPTION & FINAL DECISION

The undersigned, acting under delegated authority from the Commissioner of Health and pursuant to AS 44.64.060(e)(4) and (5), rejects, modifies, or amends the following findings of fact and interpretations or applications of law based on the evidence contained in the administrative record and for the reasons stated below.

I. Finding Regarding Receipt of Notices

The final decision maker rejects the finding that Mr. D did not receive the notices mailed by Division of Public Assistance (DPA).

The evidence establishes that DPA properly mailed the notices to Mr. D's mailing address as reflected in DPA's eligibility system.¹ Under the common-law mailbox rule, proof that a notice was properly addressed and mailed gives rise to a rebuttable presumption that the notice was received.² The Office of Administrative Hearings has likewise recognized this presumption in prior decisions.³

The DPA met its burden of proving that notice was mailed by producing eligibility system records identifying the date the notices were generated, the address to which they were mailed, and the contents of the notices. This type of documentary evidence has long been relied upon by DPA and accepted in administrative proceedings to establish proper mailing.

The final decision maker also rejects the finding that the notices should have been mailed using ZIP code 99807. The evidence does not support that conclusion. ZIP code 99807 is not a valid ZIP code for the mailing address at issue, and no party argued during the hearing that DPA should have mailed the notices using that ZIP code. Alaska Legal Services Corporation identified the same mailing address using ZIP code 99801 in its hearing referral.⁴ The record therefore supports the conclusion that DPA mailed the notices to the correct mailing address.

Whether the handwritten application was misread or whether Mr. D inadvertently wrote an incorrect ZIP code on the application does not alter this conclusion. The relevant evidence demonstrates that DPA mailed the notices to Mr. D's correct mailing address, giving rise to the presumption of receipt. Mr. D presented insufficient evidence to rebut that presumption.

Mr. D's own testimony further supports this amended finding. At multiple points during the hearing, Mr. D expressly acknowledged that he was not asserting that DPA failed to mail the notices, stating, in substance, "I am not saying they didn't send it." Rather, Mr. D testified that he did not remember receiving the notices. While the final decision maker does not question the sincerity of Mr. D's testimony regarding his memory, testimony that an

¹ Exhibit 3.

² *Jefferson v. Spenard Builder's Supply, Inc.*, 366 P.2d 714, 717 (Alaska 1961); *Martens v. Metzgar*, 524 P.2d 666 (Alaska 1974); *Hagner v. United States*, 285 U.S. 427, 430 (1932).

³ OAH Nos. 17-0392-CCA, 14-0744-MDE, 14-0035-MDE, 14-0079-MDE, 12-0828-ATP, 09-FH-328, and 09-FH-461 (recognizing and applying the common-law mailbox rule that proof of proper mailing creates a rebuttable presumption of receipt).

⁴ Exhibit 1.1.

individual does not recall receiving a properly mailed notice is insufficient, standing alone, to overcome the rebuttable presumption of receipt arising from proof of proper mailing. Accordingly, Mr. D's testimony does not rebut the presumption that the notices were received.

II. Finding Regarding Notice to the Authorized Representative

The final decision maker rejects the finding that DPA was required to mail copies of its eligibility notices to Alaska Legal Services Corporation or to any authorized representative.

Neither federal nor state law requires DPA to automatically mail duplicate eligibility notices to an authorized representative merely because one has been designated. DPA satisfies its notice obligations by mailing notices to Mr. D's designated mailing address.

An authorized representative may request that notices be mailed to a different address or may request copies of notices. However, the record contains no evidence that Alaska Legal Services Corporation requested either that notices be mailed to its office or that duplicate copies of notices be provided. Likewise, no applicable statute or regulation provides that an authorized representative is automatically entitled to receive separate mailed copies of all eligibility notices by virtue of that designation alone.

Accordingly, the finding that DPA failed to provide legally sufficient notice by not separately mailing Alaska Legal Services Corporation is rejected.

III. Finding Regarding Copies of the Notices

The final decision maker rejects the finding and interpretation that "DPA does not have copies of any notices that it sent Mr. D concerning his application."

The Division's eligibility system maintains the text, mailing address, and mailing date of notices generated by the system. Those electronic records constitute copies of the notices generated by DPA.

Although DPA could have reproduced the notices in the same printed format that would have been mailed to Mr. D, it was not required to do so. The eligibility system records reflecting the notice date, recipient address, and complete notice text are the official records maintained by DPA and have long been accepted in administrative proceedings as evidence of the notices generated and mailed by the system. Those records are sufficient to establish both the contents of the notices and that they were mailed.

IV. Interpretation Regarding the Procedural Propriety of DPA's Non-Referral of the Hearing Request

To the extent the proposed decision concludes that AS 44.64.060 contemplates judicial review of a denial of a hearing request, the final decision maker agrees.

The final decision maker rejects the implication that the procedural practice identified in the proposed decision was solely DPA's practice or that the Office of Administrative Hearings

has consistently interpreted AS 44.64.060 in the manner expressed in the proposed decision.⁵ The historical record demonstrates otherwise.

For many years, DPA has referred challenges to hearing-request non-referrals to the Office of Administrative Hearings, and the Office of Administrative Hearings has accepted those referrals, exercised jurisdiction over them, conducted evidentiary proceedings, and issued proposed decisions addressing the merits of the timeliness or non-referral determination.⁶ In several of those matters, the Department subsequently adopted the proposed decisions as its final administrative decisions. At no point did the Office of Administrative Hearings conclude that it lacked jurisdiction under AS 44.64.060 or decline to hear the matters on that basis.

Accordingly, while the final decision maker agrees that the administration of AS 44.64.060 should conform to the statute, the final decision maker rejects the proposed decision's characterization that the procedural approach at issue reflects only DPA's interpretation or practice. Rather, the historical record demonstrates a longstanding, shared administrative practice followed by both DPA and the Office of Administrative Hearings. The proposed decision therefore overstates the extent to which the asserted procedural error is attributable solely to DPA.

Conclusion

DPA's denial of Mr. D's SNAP application is AFFIRMED.

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: July 31, 2026.

Signed

Daniel R. Phelps II
Process Improvement
Manager Office of the
Commissioner Alaska
Department of Health

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

⁵ Proposed Decision, 3 ("OAH interprets regulations in a manner that is consistent with statute. Here we have a statute stating that hearing denials are appealable to superior court..."). However,

OAH has historically exercised jurisdiction over agency denials of hearing requests notwithstanding that interpretation.

⁶ OAH Nos. 17-0023-CCA, 15-1434-MDE, 14-0841-MDS (accepting jurisdiction over agency non-referrals of hearing requests and issuing decisions on the merits). See also OAH No. 21-1122-SAN (“Under the circumstances, denying the appeal request was not the appropriate procedure for OCS to raise the untimeliness of Ms. L's appeal. *But the correct procedure would have led to the same briefing on the same issues, so the error is harmless.*”), where OAH likewise accepted jurisdiction notwithstanding the procedural defect and resolved the merits of the appeal.