

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

|                  |   |                     |
|------------------|---|---------------------|
| In the Matter of | ) |                     |
|                  | ) |                     |
| DAYCARE A        | ) | OAH No. 22-0131-CCA |
| _____            | ) |                     |

**DECISION**

**I. Introduction**

Daycare A (Daycare A) is a licensed childcare provider that participates in the Division of Public Assistance’s (Division) Child Care Assistance Program (CCAP). It submitted its billings for the month of November 2021 to the Division’s Child Care Program Office (CCPO) on January 6, 2022. The CCPO denied payment for its November 2021 billings as being untimely. Daycare A requested a hearing to challenge the payment denial.

Daycare A’s hearing was held on March 9, 2022. H. B. S., Daycare A’s owner, represented Daycare A and testified on its behalf. Jeff Miller, a fair hearing representative with the Division, represented the CCPO.

The evidence in this case demonstrates that Daycare A filed its billing for November 2021 on January 6, 2022, which was after the regulatory deadline of December 31, 2021. Even though this was a short delay in filing, the CCAP’s regulations do not allow for an extension to the deadlines. Consequently, the CCPO’s denial of payment to Daycare A’s November 2021 billing is AFFIRMED.

**II. Facts<sup>1</sup>**

Daycare A is a licensed childcare provider, which is owned by Ms. S..<sup>2</sup> Daycare A has been participating in the CCAP program for almost five years. Ms. S., its owner, completed the CCAP billing training in September 2017. During her training, she completed and signed a “Child Care Provider Rates and Responsibilities” form on September 1, 2017, which she acknowledged as having read and understood.<sup>3</sup> That form contains a section that reads, in pertinent part:

As the owner of a child care facility, I assume the responsibility for remaining in compliance with the Child Care Assistance Program regulations 7 AAC 41, penalties, and repayment of any overpayments. I further understand that:

---

<sup>1</sup> Unless other specified, the facts are derived from Ms. S.’s testimony.

<sup>2</sup> Ex. 1.

<sup>3</sup> Exs. 5 – 5.1.

\* \* \*

- 6.. *Request for Payment* CC78 forms must be submitted by the last day of the month, following the month care services were provided and charges were incurred. Payment may be denied if submitted outside these timeframes.<sup>4</sup>

Daycare A provided childcare services to children who had CCAP coverage in November of 2021. On January 6, 2022, the CCPO received Daycare A's billing for November 2021 to the Division's Child Care Program Office (CCPO).<sup>5</sup> On January 19, 2022, the CCPO notified Daycare A that its request for payment for childcare services provided in November 2021 was denied because it was received after the December 31, 2021 deadline.<sup>6</sup>

Ms. S. acknowledged that the payment request was filed after December 31, 2021. She explained that the delay was due because she was not able to file on time because her elderly father was hospitalized with Covid-19 and because she was also ill with Covid-19 when the billing was due. Ms. S. contacted the CCPO on January 4, 2022 and informed it that she had closed the day on January 2, 2022 for ten days due to Covid.<sup>7</sup>

Ms. S. testified that this was the first time she had ever severed a late request for payment and that the denial of payment was an extreme financial hardship for her family, because the childcare income is the only income source for her family.

### III. Discussion

The Department of Health and Social Services is required by statute to "implement and administer a program to assist in providing day care for the children of low and moderate income families."<sup>8</sup> The Division's childcare program's regulations require, in addition to other requirements, that a "request for payment must be submitted on or before the last day of the month immediately following the month in which child care services were provided."<sup>9</sup> This means that the bill for November 2021 must have been submitted by the end of December 2021, which was Friday December 31, 2021.

---

<sup>4</sup> Ex. 5.1 (emphasis in original).

<sup>5</sup> Exs. 6 – 6.1, 7.1.

<sup>6</sup> Ex. 9.

<sup>7</sup> Ex. 10.1.

<sup>8</sup> AS 47.25.001(a)(1).

<sup>9</sup> 7 AAC 41.250(a). There are some exceptions to this general rule, such as 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) and (2). There was no evidence or argument presented that either of these exceptions apply.

Because Daycare A is requesting the payment under the CCAP, it bears the burden by preponderance of the evidence that it timely submitted the childcare payment request.<sup>10</sup> It is undisputed that Daycare A's billing was not received until January 6, 2022, after the due date of December 31, 2021.

Daycare A made two arguments that its late filing should be allowed. The first was that Ms. S., its owner, and her father were both ill with Covid-19 to the point that Ms. S. was unable to file timely, and that Ms. S. would experience extreme economic hardship if payment was denied. The CCAP regulations, however, do not allow an exception to the deadline for undue hardship or exceptional circumstances.

#### **IV. Conclusion**

The CCAP regulations govern in this case. They do not contain an undue hardship exception nor an exceptional circumstances exception to the filing deadlines. Consequently, Daycare A's January 6, 2022 billing for its November 2021 services was late. The CCPO's denial of payment for those November 2021 services is therefore AFFIRMED.

Dated: March 23, 2022

SIGNED  
Lawrence A. Pederson  
Administrative Law Judge

---

<sup>10</sup> 7 AAC 49.135.

## **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 6th day of April, 2022.

By: SIGNED

Name: Lawrence A. Pederson

Title: Administrative Law Judge

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