

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

In the Matter of)

N. J.)

OAH No. 26-0370-SNA

NON-ADOPTION & FINAL DECISION

After review of the proposed decision, the administrative record, and the applicable law, the undersigned, by delegation from the Commissioner of Health and pursuant to AS 44.64.060(e), declines to adopt the following portions of the proposed decision as explained below:

I. Speculative Finding Regarding the Callback

Pursuant to AS 44.64.060(e)(4), the undersigned rejects the proposed finding that the message stating, “Connected. Please enter your PIN,” “suggests DPA’s callback triggered either a SPAM filter or some sort of system error on Ms. J.’s phone, and that somehow triggered DPA’s system to leave an automated message,” because the finding is not supported by the evidence contained in the administrative record.

The record contains insufficient testimony, documentary evidence, or other competent evidence establishing that the recorded message resulted from a spam filter, a malfunction of Ms. J.’s telephone, or any other identified technical issue. The proposed finding itself reflects the speculative nature of the conclusion by stating only that the evidence “suggests” such a possibility and that it occurred “somehow.” Administrative findings of fact must be based upon evidence contained in the administrative record rather than conjecture or speculation.

Although other explanations for the recorded message may exist, the administrative record does not permit the undersigned to determine its cause. The message appears equally consistent with a voicemail system requesting mailbox access. However, adopting that explanation would likewise be speculative because it is unsupported by evidence in the administrative record. Accordingly, the proposed finding is rejected because it lacks an adequate evidentiary basis.

II. Implication that the Division Failed to Place the Callback

Pursuant to AS 44.64.060(e)(4), the undersigned rejects and modifies the finding that, if a spam filter or other technical issue existed on Ms. J.’s telephone, such evidence demonstrates that the Division failed to place the scheduled callback.

The evidence establishes that the Division’s callback system initiated a call to the telephone number provided by Ms. J. and that the call encountered a recorded message requesting entry of a PIN. The administrative record does not establish why that message was played. More importantly, it does not establish that the Division failed to initiate the callback.

Nothing in the governing statutes or regulations requires the Division to maintain,

diagnose, or ensure the functionality of an applicant's telephone service, voicemail system, spam filter, or other private telecommunications services.

Likewise, the undersigned rejects the proposed decision's finding that "Playing a prerecorded message into the ether is no different than drafting a notice but never sending it." That comparison is unsupported by both the administrative record and the governing legal framework. Drafting but never sending a notice involves no attempt to communicate with the intended recipient. Here, by contrast, the evidence establishes that the Division initiated a telephone call to the contact number provided by Ms. J.. A more apt analogy is a notice that is properly mailed to the address provided by the recipient but cannot be retrieved because circumstances beyond the sender's control prevent delivery or receipt. The administrative record does not establish why the telephone system requested a PIN, but it does establish that the Division initiated the scheduled callback. Accordingly, the record does not support the conclusion that the Division failed to place the scheduled callback.

III. Immediate Corrective Action

Pursuant to AS 44.64.060(e)(4), the undersigned rejects the proposed finding that the Division's efforts to schedule a June 24 interview "is not immediate corrective action" because the finding is not supported by compelling evidence contained in the administrative record.

The proposed decision concludes that directing Ms. J. to the missed interview hotline and maintaining the June 24 interview did not constitute immediate corrective action. The administrative record, however, contains no evidence establishing that an earlier interview was operationally available. Rather, the evidence reflects that Division staff advised Ms. J. and her counsel that June 24 was the earliest available interview date.

The proposed finding assumes, without evidentiary support, that the Division had the practical ability to conduct an earlier interview and therefore failed to take immediate corrective action. Administrative findings must be based upon the evidentiary record rather than assumptions regarding the Division's operational capacity, staffing, or appointment availability.

The administrative record does not establish that an earlier interview was operationally available or that the Division possessed the practical ability to conduct one before June 24. Accordingly, the proposed finding that the Division failed to take immediate corrective action lacks an adequate evidentiary basis and is rejected. The Division still must take immediate corrective action.

IV. Rhetorical Characterization of the Division's Conduct

Pursuant to AS 44.64.060(e)(3), the undersigned, by delegation from the Commissioner of Health, revises the disposition of the case as set forth in the proposed decision and declines to adopt portions of the proposed decision that employ rhetorical language to characterize the Division's conduct. The repeated characterization that the Division "failed" Ms. J. functions as rhetorical emphasis rather than an objective factual finding. The undersigned agrees that the Division failed to timely complete Ms. J.'s interview and timely process her application. However, repeated rhetorical characterizations are

unnecessary to resolve the issues presented. Accordingly, the undersigned substitutes neutral factual findings supported by the evidentiary record.

V. Prescribed Forms of Immediate Corrective Action

The undersigned, by delegation from the Commissioner of Health and in accordance with AS 44.64.060(e)(3), revises the order and remedy set forth in the proposed decision and adopts that portion of the proposed decision as revised. The undersigned declines to adopt the proposed decision's prescription of specific forms of "immediate corrective action." Although federal SNAP law requires the Division to take immediate corrective action when agency-caused delay has occurred, neither the federal statute nor its implementing regulations prescribe the particular corrective measures the Division must employ to satisfy that obligation. Rather, they require the Division to take immediate corrective action.

The proposed decision therefore exceeds the proper scope of administrative adjudication by suggesting the Division should implement particular operational procedures, including placement on a specific internal processing list, utilization of specified interview methods, and other prescribed administrative practices. The selection and implementation of appropriate corrective measures are matters committed to the Division's administrative discretion, provided those measures are consistent with applicable law and achieve compliance with the Division's legal obligations.

Accordingly, the order is revised to require the Division to take immediate corrective action consistent with applicable law, without directing the specific operational steps by which the Division must satisfy that obligation.

VI. Conclusion

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 6, 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 have been changed to protect privacy.]

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
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In the Matter of)

N. J.)

OAH No. 26-0370-SNA

DECISION

I. Introduction

N. J. applied to recertify Supplemental Nutrition Assistance Program (SNAP) benefits for herself and her family on March 2, 2026. The Division of Public Assistance (DPA) was required by law to determine eligibility within 30 days — by April 1, 2026. On March 2, 2026, DPA sent Ms. J. a notice of a scheduled interview, but that interview was not set until April 20, 2026, several weeks *after* DPA’s deadline to determine eligibility. Ms. J. called for her interview. She could not get through and elected an option to receive a callback. A recording of that callback reveals two automated systems exchanging prerecorded messages. Ms. J. was rescheduled for an interview on June 24, 2026. It is more than three months since Mr. J. applied for benefits and her application has still not been processed. DPA violated federal statute and regulations with these delays.

II. Facts

On March 2, 2026, an employee at the tribal consortium A., emailed Ms. J.’s SNAP and Medicaid recertification application to DPA.¹ On the application Ms. J. listed her home address as Village A, Alaska, a Yupik village of approximately X people on Island A in the Bering Sea, about X miles east of Russia.² She included both her home phone number and a message phone number. She identified herself, age 34, her husband M. D., age 54, and daughter O., age 15, as members of the household. Ms. J. reported that the household has no assets, no employment, and no income.³

Under “Expense Information” she noted that the family relies on the Alaska Temporary Assistance Program (ATAP) to pay for fuel oil to heat their home.⁴ The final page of the application is titled, “Contact People and Organizations” and states,

¹ Ex. 2.

² *Id.*

³ *Id.*

⁴ The Alaska Temporary Assistance Program (ATAP) is a jobs-focused program that helps families with basic needs while they work toward supporting themselves. ATAP provides cash assistance and work services to low-

To determine your eligibility for assistance, we may need to contact people or organizations that can answer questions about your situation. By completing this form, you are allowing us to contact the people and organizations you provide.

What questions do we ask?

We often ask questions about where you live, who lives with you, and your household's income and resources. We may also ask for information about a child's parent not living in the home.⁵

Under “Information about two people who know you well” Ms. J. listed the names, addresses and phone numbers of two individuals she identified as her aunt and her sister-in-law.⁶

Ms. J.’s recertification application started a 30-day clock for DPA to determine SNAP eligibility — including any steps to reach that conclusion, such as conducting an eligibility interview.⁷ DPA thus had until **April 1, 2026** to determine if the household should continue receiving SNAP benefits.

On March 2, 2026, DPA sent Ms. J. a notice stating, “To remain eligible for SNAP benefits, you must participate in an interview.”⁸ The notice advises her to call in to the Virtual Contact Center (VCC) at 1-800-78-7778 on April 20, 2026, between the hours of 1:00 p.m. and 3:00 p.m.⁹ Notably this interview days is several weeks past DPA’s deadline to determine eligibility. The notice also states, “If you do not participate in the interview, your SNAP recertification application will be denied and your SNAP benefits will stop[,]”¹⁰ citing 7 CFR 273.14 and SNAP Manual Section 604-3.

On April 20, 2026, Ms. J. called the VCC at 12:53 p.m. for her interview.¹¹ After waiting in the call queue for approximately 30 minutes, Ms. J. elected to receive a call back to complete her interview.¹² Ms. J. asserts she did not receive a call back.¹³ DPA has a recording of a callback, but not one that demonstrates a successful attempt. On the recording, an automated voice is heard repeatedly saying, “You are connected. Please enter your PIN number.” Over this

income families with children. To determine applicant eligibility ATAP uses a need standard based on the family size and the 185% federal poverty level. *See* State of Alaska, Department of Health, Alaska Temporary Assistance Program at <https://health.alaska.gov/en/services/alaska-temporary-assistance/>.

⁵ Ex. 2., p.6.

⁶ *Id.*

⁷ 7 U.S.C. § 2020(e)(3).

⁸ Ex. 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Ex. 5.

¹² Ex. 6.

¹³ N. J. testimony.

message another automated voice says, “Hello. This is the Division of Public Assistance returning your call back request. We are sorry that we missed you. Please call us back if you still need to speak with an agent.” The call ends. This recording suggests DPA’s callback triggered either a SPAM filter or some sort of system error on Ms. J.’s phone, and that somehow triggered DPA’s system to leave an automated message.

On April 21, 2026, Ms. J. called the DPA to inquire about not receiving a call back the prior day. Her eligibility interview was rescheduled for between 9:00 a.m. at 11:00 a.m. on June 24, 2026.¹⁴ That same day Ms. J. submitted a Fair Hearing Request appointing the Alaska Legal Services Corporation (ALSC) as her authorized representative.¹⁵

On April 24, 2026, at 9:44 a.m. the DPA attempted to “cold call” Ms. J. at her listed home phone number (907-434-0716), with no success, and no option to leave a voicemail. At 9:46 a.m. the DPA called her message phone number (907-434-0490) and left a voicemail. At 9:50 a.m., there was another call to the message phone. At 9:50 a.m., DPA placed another call to her home phone, but the DPA employee noted, “Got weird msg ‘you are connected please enter your pin number.’”

On April 24, 2026, a DPA representative advised ALSC that Ms. J. should call the “missed interview hotline” to get an interview sooner than June 24. On April 28, 2026, Ms. J. and ALCS jointly place a call to the hotline and were told that she could not get a sooner interview date, as she was already scheduled for June 24, 2026.

On April 28, 2026, the matter was referred to the Office of Administrative Hearings (OAH). A telephonic hearing was held on May 14, 2026. Ms. Ashley Vincent of ALSC represented Ms. J.. Ms. Marie Thirlwell participated and represented the Division of Public Assistance.

III. Discussion

The DPA must approve or deny a SNAP applications within 30 days.¹⁶ When it fails to do so, DPA is required to determine whether the delay was the fault of the applicant or the agency.¹⁷ When the agency is at fault, it is required to take “immediate corrective action.”¹⁸

¹⁴ Ex. 8.

¹⁵ Ex. 9.

¹⁶ 7 U.S.C. § 2020(e)(3).

¹⁷ 7 C.F.R. § 273.14(e) (“The State agency shall determine cause for any delay in processing a recertification application in accordance with the provisions of § 273.3(h)(1),” which appears to a reference to 7 C.F.R. § 273.2(h)(1), which addresses processing delays and not 7 C.F.R. § 273.3, which addresses residency and does not include a subsection (h)).

¹⁸ 7 C.F.R. § 273.2

DPA repeatedly fell short of its obligation to determine eligibility by April 1, 2026 — the 30-day deadline for Ms. J.’s recertification application.

DPA responded to Ms. J.’s application within days, sending her an interview notice on March 2. But that interview was not scheduled until April 20, several weeks after DPA’s deadline to determine eligibility. Considering DPA scheduled the interview, there can be no question that this delay is one of DPA’s own making. Did DPA take immediate corrective action? No. It proceeded with the late interview.

Ms. J. called in for the interview as scheduled. She then elected an option created by DPA that allows callers to receive a call back instead of waiting on hold for hours. DPA has a recording that shows two automated systems talking past each other. The callback triggered an operation on Ms. J.’s phone that asked for a pin number. While it is unclear how that occurred, there is no question from the recording that the callback neither rang for Ms. J. to answer nor triggered her voicemail. DPA’s system nonetheless proceeded to play a message as if it was leaving a voicemail. This is a system failure by DPA. If DPA is going to offer a callback option in lieu of sitting on hold, the option needs to function. The callback here triggered a recording asking for a pin number. How DPA’s system then came to play an automated voicemail message is unclear. But whether triggered by a human or the system itself, it was not a successful callback. Playing a prerecorded message into the ether is no different than drafting a notice but never sending it. Ms. J.’s phone or phone service provider may have contributed to the problem, but if DPA is going to tell applicants to call on a specific date and time, not have sufficient personnel to answer those calls without applicant sitting on hold for long periods of time, and then tell callers they can select a callback option, that callback option needs to work. Either the system should be able to respond to problems like the ones encountered with Ms. J.’s phone or have oversight to ensure a caller like Ms. J. receives a call or a message. By choosing to offer the callback feature, DPA is taking responsibility for it functioning. Here, it did not and the resulting delay was one of DPA’s making.

Did DPA take immediate corrective action when Ms. J. called back the next day? Again, no. Immediate corrective action would have been to conduct the interview it had promised to conduct the prior day. Instead, DPA scheduled Ms. J. for an interview to be held **two months** later. Ms. J. then requested this hearing. Days later, DPA attempted several successive cold calls to Ms. J.’s two phone numbers. When calling her home phone, the DPA representative

encountered the same request for a pin number and inability to leave a voicemail as its automated system had days earlier. This message alerted DPA that there was a problem with reaching Ms. J.. DPA then called Ms. J.'s counsel and advised her to call a missed interview hotline for an interview before June 24. But when Ms. J. and her counsel called that hotline, they were turned away, told that she could not have an interview before June 24. That is not immediate corrective action.

DPA did not attempt any other corrective action either prior to the hearing, at the May 14 hearing, or — to OAH's knowledge — following the hearing. DPA conceded it did not timely determine eligibility here.¹⁹ The federal SNAP statute, however, does not stop with setting a deadline. It requires DPA to determine if it caused delays and, if so, to take immediate corrective action. DPA failed to do so. DPA failed Ms. J.. Again and again. It failed to schedule an interview that would allow it to determine eligibility within the statutory 30-day deadline. It failed to provide Ms. J. on the date DPA scheduled. It did so by not answering when she called and — critically — by offering a callback option that did not successfully call Ms. J. back, leave a voicemail for her to follow up, or recognize that the callback feature was not successfully reaching either Ms. J. or a voicemail. DPA failed again when Ms. J. called back the following day. Rather than correct the delay caused by its failed callback system, DPA scheduled an interview two months out — nearly four months after Ms. J.'s application. DPA then attempted to cold call Ms. J.. Those calls revealed that calling Ms. J.'s home phone did not work. Rather than a dial tone or voicemail, a caller is confronted with a message asking for a pin number. DPA appropriately reached out to Ms. J.'s counsel at that point and recommended calling the missed interview hotline. But when Ms. J. called that hotline, DPA failed her again by refusing to correct its delays with an interview at that time or anytime before June 24. It has similarly failed to take corrective action since then.

Conceding delay is all well and good, but it does not help applicants like Ms. J.. When DPA delays an eligibility determination, it is required by law to take immediate corrective action. It has failed to do so.

¹⁹ DPA Position Statement.

IV. Conclusion

By its own admission, DPA failed to determine Ms. J.'s SNAP eligibility within 30 days and those delays were caused by DPA. DPA was thus obligated to take immediate corrective action but has thus far failed to do so. Accordingly, DPA is ordered to take immediate corrective action. This could take the form of:

- Placing Ms. J. on the Division's five day "quick list" — established by the Division to ensure it takes action within five business days — and take all actions necessary to determine eligibility within those five business days.
- Work with Ms. J.'s counsel to ensure DPA interviews Ms. J. on June 24 as scheduled. This may require scheduling an individual call rather than relying on the VCC system. That system has already proved incapable of calling back Ms. J.. DPA representatives have also proven unable to call Ms. J.'s phone. Ms. J. is able to call a number, including with her counsel's assistance, so DPA could make arrangements to accommodate these technological issues.
- Federal regulations specific to rural Alaska require DPA to "interview application households in the most efficient manner possible," which can include an interview by written correspondence.²⁰ If the technological issue persist on June 24, then it is obvious that the phone is the not the most efficient means to interview Ms. J.. Rather than reschedule the interview again, DPA could send its questions in writing to Ms. J..

DATED: June 22, 2026.

By: SIGNED
Danika B. Swanson
Administrative Law Judge

²⁰ 7 C.F.R. § 272.7(d)(6).