

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

In the Matter of	)	
	)	
K. Q.	)	OAH No. 22-0524-ATP
_____	)	

DECISION¹

I. Introduction

The Q. family has been receiving Alaska Temporary Assistance Program (“ATAP”) benefits. To remain eligible, E. Q. was required to work 40 hours per week and accept available hours from his current employer. In April 2022, the Department of Health and Social Services, Division of Public Assistance (“Division”) learned that Mr. Q. had turned down full-time hours from his employer. Thus, in early May, the Division notified Mr. Q. that his benefits were terminated for 30 days because he had refused suitable work without good cause. The record shows Mr. Q. turned down work and the Q.s have not denied that. They instead argued that he had good cause to refuse work. The record, however, does not support that argument. The Division’s decision is affirmed.

II. Facts

E. and K. Q. and their eight children have been receiving ATAP benefits. ATAP recipients may not refuse or quit suitable work.² Recipients must also enter a family self-sufficiency plan.³ Mr. Q.’s plan states that he will work all hours available with his employer, for a total of 40 work hours per week from all jobs or volunteer work.⁴

On April 13, 2022, the Q.s’ ATAP case worker, Corina Dickey, received a call from Mr. Q.’s employer stating that Mr. Q. had been turning down or not showing up for shifts as a cook at her restaurant.⁵ The employer stated that she has 40 hours of work per week available for Mr. Q. and that she offers him shifts daily, but Mr. Q. has turned them down to attend to his wife or

¹ On July 1, 2022, pursuant to Executive Order 121, the Department of Health and Social Services will be restructured into two separate Departments. At that time, the case caption in this matter will be modified to reflect that it is being heard on referral from the Commissioner of the Department of *Health*.

² AS 47.27.015(c).

³ AS 47.27.030(a).

⁴ Exs. 2-3.

⁵ Ex. 5.

children or because he does not have money for gas.⁶ The employer also stated that Mr. Q. came in for a shift that month but left after three hours for a break and never returned.⁷

Ms. Q. sent the Division time cards for Mr. Q., which listed three partial shifts in April: one hour and ten minutes on April 8; three hours and 54 minutes on April 9; and three hours and 30 minutes on April 15.⁸

Mr. Q.'s employer sent his case worker an email on April 29, 2022 confirming that Mr. Q. was "only working minimal hours that he has available. With his home life responsibility and schedule he's not able to work all of the hours I have available."⁹ In a follow-up call, the employer told the Division she had offered Mr. Q. 40 hours per week of work at a rate of \$16 per hour, but that he turned it down.¹⁰

On May 3, 2022, the Division notified Ms. Q. that it was closing the family's ATAP benefits because Mr. Q. did not accept full-time work when it was offered and that the penalty would last for 30 days as a first-time offense.¹¹

Mr. Q. appealed. At the June 20, 2022 hearing, Mr. Q. testified that he had trouble with his car. When asked whether there was a day in April 2022 when he turned down work because his car was not operating, he admitted there was not. Mr. Q. also testified that he was unavailable for work at least 14 days in April to drive his wife to driving lessons or medical appointments related to a long-term cancer diagnosis. Mr. Q. testified that he had some back pain in April but did not visit a chiropractor until May.

III. Discussion

A family is ineligible for ATAP benefits if an adult applicant refuses or quits suitable employment without good cause.¹² A first-time refusal results in one month of ineligibility.¹³ The Division may also impose a penalty for failing to comply with a family self-sufficiency plan.¹⁴

⁶ *Id.*

⁷ *Id.*

⁸ Ex. 6.

⁹ Ex. 9.

¹⁰ Ex. 11.

¹¹ Ex. 12.

¹² AS 47.27.015(c).

¹³ *Id.*

¹⁴ 7 AAC 45.257(d).

The record includes notes of numerous calls and an email from Mr. Q.'s employer stating that she offered him full-time work. The Q.s did not dispute this. They argued that Mr. Q. had good cause to refuse work.

There are 18 potential grounds for good cause listed in 7 AAC 45.261, and the Q.s argued that every single one applies to Mr. Q.'s refusal of work.¹⁵ It is readily apparent that most of these grounds do not, in fact, apply. Mr. Q. is not a single parent, he is not over age 59, did not have a child under 17 weeks of age in April 2022, was paid more than the Alaska minimum wage, and there is no evidence he refused hours for a different job or training, was incarcerated, needed to appear in court, was unable to travel because of weather, was laid off or had hours reduced, was unable to work because of a labor dispute, or that his work as a restaurant cook was more hazardous than the average job.¹⁶ The Q.s argued or cited the remaining four grounds for good cause, but the evidence does not support these arguments.

The Q.s argued that Mr. Q. had good cause because his vehicle often does not work. A breakdown of necessary transportation can constitute good cause.¹⁷ But while the Q.s made statements about Mr. Q.'s vehicle in general, when asked about April 2022, Mr. Q. said that there was not a day that month when he could not work because his vehicle was not working. To the contrary, Mr. Q. testified that there were 14 days when he drove his wife to driving lessons or medical appointments, demonstrating that the vehicle was in fact working throughout the month. The evidence does not support good cause of a transportation breakdown.

The Q.s argued that the domestic violence cause applies because Ms. Q. was recently arrested for domestic violence. Avoiding work because it would prevent a person from escaping domestic violence can constitute good cause.¹⁸ But Mr. Q. offered no evidence he tried to leave his wife or that this was a reason he turned down work hours.

The Q.s cited Ms. Q.'s health issues and need to attend medical appointments. Illness of a family member can constitute good cause, but it must be "sudden and temporary."¹⁹ The Q.s testified that Ms. Q. previously had cancer and that its long-term effects will continue indefinitely. Her health issues in April 2022 were thus neither sudden nor temporary.

¹⁵ 7 AAC 45.261(a).

¹⁶ 7 AAC 45.261 (a)(1), (3), (5)-(6), (8)-(15), (17)-(18); Ex. 1, 11.

¹⁷ 7 AAC 45.261(a)(7).

¹⁸ 7 AAC 45.261(a)(2).

¹⁹ 7 AAC 45.261(a)(4).

The Q.s also stated that they had been subjected to discrimination. Unlawful workplace discrimination can constitute good cause.²⁰ The Q.s claimed discrimination by the Division but did not state a basis for this alleged discrimination or offer any evidence of discrimination. More importantly, this alleged discrimination is not workplace discrimination by his employer and therefore it would not provide good cause for Mr. Q. to refuse work from that employer.

IV. Conclusion

The evidence shows that Mr. Q.'s employer offered him full-time work in the month of April 2022 and that he refused, working only a few hours the entire month without good cause. Accordingly, the agency's decision imposing a one-month job quit penalty is affirmed.

Dated: June 30, 2022

SIGNED
Rebecca Kruse
Administrative Law Judge

²⁰ 7 AAC 45.261(a)(16).

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 12th day of August, 2022.

By: SIGNED

Name: Laura O. Russell

Title: Policy Advisor, DOH

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