

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

In the Matter of)

BUSINESS A)

OAH No. 22-0292-CCA

DECISION

I. Introduction

Business A (Business A) is a licensed childcare provider that participates in the Division of Public Assistance's (Division) Child Care Assistance Program (CCAP). It submitted its January 2022 billings for several of the children in its care to the Division's Child Care Program Office (CCPO) on March 16, 2022. The CCPO denied payment for its January 2022 billings as being untimely. Business A requested a hearing to challenge the payment denial.

Business A's hearing was held on April 29, 2022. T.T., 's director, represented Business A. Ms. T testified for Business A, as did U.C, Business A's assistant director. Jeff Miller, a fair hearing representative with the Division, represented the CCPO and testified on its behalf.

The evidence in this case demonstrates that Business A filed its billing for January 22, 2022 on March 16, 2022, which was after the regulatory deadline of February 28, 2022. Consequently, the CCAP's denial of payment to Business A's January 2022 billing is **AFFIRMED**.

II. Facts

Business A is a licensed childcare provider that participates in the CCAP program.¹ Ms. T, its director, has completed the CCAP's provider billing training, and has signature authority to submit those billings.² On February 23, 2021, she completed and signed a "Child Care Provider Rates and Responsibilities" form which she acknowledged as having read and understood.³ That form contains a section that reads, in pertinent part:

I assume the responsibility for remaining in compliance with the Child Care Assistance Program regulations 7 AAC 41, including but not limited to:

* * *

¹ Ex. 1.

² Exs. 4, 5.

³ Exs. 3 – 3.2.

3. Submitting a *Request for Payment* CC78 form by the last day of the month, following the month care services were provided and charges were incurred, signed by an individual with signatory authority for the facility
...⁴

Business A provided childcare services to several children who had CCAP coverage in January 2022. On March 16, 2022, Business A submitted its billing for those children to the Division's Child Care Program Office (CCPO) by email.⁵ On March 18, 2022, the CCPO notified Business A that its request for payment for childcare services provided in January 2022 was denied because it was received after the February 28, 2022 deadline.⁶ Business A, however, was able to file other billing claims in a timely manner.

Ms. T and Ms. C acknowledged that the January 2022 payment request was filed after the February 28, 2022 deadline. They explained that Business A was not a small facility. It provides day care services for Military Base A. Due to Covid-19 infections and quarantines, Business A had a reduction in its staff, in addition to staff who were temporarily assigned to other duty stations. As a result, during this time, both Ms. T and Ms. C ended up working in classrooms and in the kitchen to make sure that the children were properly cared for. In addition, Business A's program manager, the backup for submitting paperwork, was away from Business A because she was quarantined due to a Covid-19 exposure. This affected Business A's ability to perform its administrative duties. As a result, the deadline for submitting the January 2022 billing was inadvertently missed.⁷

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."⁸ 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."⁹ This

⁴ Exs. 3.2 (emphasis in original).

⁵ Exs. 11.1 – 11.3.

⁶ Ex. 12.

⁷ Testimony of Ms. T and Ms. C.

⁸ AS 47.25.001(a)(1).

⁹ 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.

means that the bill for January 2022 must have been submitted by the end of February 2022, which was Monday February 28, 2022.

Because Business 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.¹⁰ It is undisputed that Business A's billing was not received until March 16, 2022, after the due date of February 28, 2022.

Business A argued that its late filing should be allowed because of the understaffing that it experienced due to Covid-19. Ms. T's and Ms. C's credible testimony showed the extreme degree to which the Covid-19 pandemic adversely impacted Business A's day to day operation. The CCAP regulations, however, do not allow an exception to the deadline for undue hardship or exceptional circumstances. "Administrative agencies are bound by their regulations just as the public is bound by them."¹¹ Despite the circumstances, the Division does not have the discretion to accept Business A's late filed billings.

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, Business A's March 16, 2022 billing for its January 2022 services was late. The CCPO's denial of payment for those January 2022 services is therefore AFFIRMED.

Dated: May 9, 2022

Signed

Lawrence A. Pederson
Administrative Law Judge

¹⁰ 7 AAC 49.135.

¹¹ *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

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 20th day of May, 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 may have been changed to protect privacy.]