

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

In the Matter of	)	
	)	
PRESCHOOL A	)	OAH No. 22-0528-CCA
	)	
_____	)	

DECISION¹

I. Introduction

Preschool A is a licensed childcare provider that receives benefits from the Child Care Assistance Program (“CCAP”). There is a strict deadline to submit payment requests. Preschool A missed that deadline for March 2022 and the Division of Public Assistance Child Care Program Office (“Agency”) denied the request. Preschool A admits its request was late. And the Agency has no discretion to pay late requests. Accordingly, the Agency’s decision denying payment for March 2022 is affirmed.

II. Facts

Preschool A is a licensed childcare provider.² Mr. Z signed a Child Care Assistance Program Provider Responsibilities form on December 16, 2021 acknowledging that, as owner or administrator of Preschool A, he was assuming responsibility for:

Submitting a *Request for Payment* CC78 form by the last day of the month, following the month care services were provided and charged were incurred, signed by an individual with signatory authority for the facility and who has completed the online *Child Care Provider Billing Training* and submitted a copy of their certification of completion to the designated Child Care Assistance office.³

On May 6, 2022, a Preschool A representative submitted a request for payment by email for March 2022. This submittal requested payment of \$28,780.00 for 35 children. Preschool A’s email acknowledged that its payment request was late and explained that the person who usually prepares the requests was on vacation and the person who was supposed to submit the request in her absence forgot to do so.⁴

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 Ex. 1.

³ Ex. 4.2-4.3.

⁴ Ex. 2.

The agency notified Preschool A that its payment request for March 2022 was denied as untimely and Preschool A appealed. At a June 21, 2022 hearing, Mr. Z admitted that Preschool A made a mistake and filed the payment request late, but emphasized that it did not do so intentionally, would try not to do it again, and that the funds would be used for the sake of the school.

III. Discussion

The CCAP provides day care assistance to children of low and moderate income families by paying benefits directly to child care providers.⁵ Among other requirements, payment requests must be submitted on or before the last day of the following month.⁶ Thus a request for March 2022 child care services is due on or before April 30, 2022. Because Preschool A is seeking payment, it bears the burden of showing that it timely submitted its payment request.⁷

There is no question Preschool A's May 6, 2022 request for payment for March 2022 services was untimely. Preschool A itself admits it was untimely. It has instead asked for leniency. Unfortunately, the CCAP regulations do not give the agency discretion to accept a late filing, except under very narrow exception which are not at issue here.⁸ "Administrative agencies are bound by their regulations just as the public is bound by them."⁹ Because Preschool A's payment request was untimely, the Agency correctly denied it in accordance with their regulations.

IV. Conclusion

By Preschool A's own admission, its payment request for March 2022 CCAP payments was untimely. The regulation does not give the Agency discretion to grant an untimely request. Accordingly, the Agency's decision denying March 2022 CCAP payments is affirmed.

Dated: July 5, 2022

SIGNED
Rebecca Kruse
Administrative Law Judge

⁵ AS 47.25.001(a)(1); 7 AAC 41.

⁶ 7 AAC 41.250(a).

⁷ 7 AAC 49.135.

⁸ 7 AAC 41.250(a). The two exceptions are for 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), (2). There was no evidence or argument that either of these exceptions apply.

⁹ *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868-69 (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 19th day of July, 2022.

By: SIGNED

Name: Rebecca Kruse

Title: Administrative Law Judge

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