

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

In the Matter of	)	
	)	
BUSINESS A.	)	OAH No. 23-0325-CCA
	)	
_____	)	

DECISION

I. Introduction

Business 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. Company A. met that deadline for one of its CCAP providers for February 2023 services and believed it had for Business A. as well. But email records show no payment request for Business A. until several days after the deadline. The agency has no discretion to pay late requests. Accordingly, the Agency’s decision denying payment for Business A. February 2023 services is affirmed.

II. Facts

Company A. operates two childcare facilities at separate locations — Business B. and Business A.¹ Both are licensed childcare providers receiving CCAP benefits.²

The deadline to submit CCAP payment requests for February 2023 services was March 31, 2023. On March 3, 2023, Company A.’s Assistant Finance Director, T. N., emailed the agency, stating “Attached please find our February 2023 childcare billings and CCG for Business B. @ Location A.”³ The agency responded the following business day advising Ms. N. that she had omitted the attachment and asked her to resend it.⁴ Ms. N. then responded, on March 6, and attached the February billing for Business B.⁵

On April 5, Ms. N. emailed the agency to check on status on Company A.’s payment requests for February services.⁶ She attached February payment requests for both Business B.

¹ Ex. 7.1, 8.2.
² Ex. 1, 7, 8.
³ Ex. 4-4.1
⁴ Ex. 4.
⁵ Ex. 4, 5-5.5.
⁶ Ex. 6.

and Business A. program.⁷ The agency denied payment to Business A. program because it did not receive the payment request until Ms. N.’s April 5, 2023 email.⁸

Ms. N. submitted an appeal on behalf of Company A., explaining that when she resent the Business B. payment request on March 6, the billings for Business A. was ready so she attached both payment requests to her email.⁹ She further stated that Company A. has experienced technical challenges with its email and submitted (1) an email from an IT Specialist explaining that Company A.’s email server experienced outages in 2022 because of hacking and in 2023 because of a licensing issue, but that “[w]e now keep things current and under watch with added features on our spam filter”; and (2) a consultant’s report on the 2022 hacking incident.¹⁰ Company A. later submitted screenshots from Ms. N.’s sent file, including the March 6, 2023 email where she re-sent the Business B. payment request. This sent email shows only one attachment, “2023 0228 SAP-PC CCA,” which is the Business B. payment request the agency received with this email.¹¹ At the June 1, 2023 hearing, Ms. N. asked for additional time to work with Company A.’s IT employee to seek documentation of Company A. emailing the Business A. before the deadline. Company A. was given until June 22. On June 21, Ms. N. notified OAH that Company A. did not have any additional information or documentation to provide.

III. Discussion

The CCAP provides day care assistance to children of low- and moderate-income families by paying benefits directly to childcare providers.¹² Among other requirements, payment requests must be submitted on or before the last day of the following month.¹³ Thus a request for February 2023 childcare services was due on or before March 31, 2023. Because Company A. is seeking payment, it bears the burden of showing that it timely submitted its payment request.¹⁴

Despite its best efforts, Company A. has not met this burden. Ms. N. emailed the payment request for the Business B. provider well before the deadline, on March 6. And she

⁷ Ex. 6, 7-7.5, 8-8.7.

⁸ Ex. 9.

⁹ Ex. 11.1.

¹⁰ Ex. 13.1-12.

¹¹ Compare Ex. 14.3 with Ex. 4 and 5-5.5.

¹² AS 47.25.001(a)(1); 7 AAC 41.

¹³ 7 AAC 41.250(a).

¹⁴ 7 AAC 49.135.

sincerely believes she attached the Business A. provider payment request to the same email. But the documents tell a different story. On the agency's end, it received the March 6 email from Ms. N. with only the Business B. payment request attached and only the Business B. program referenced in the email chain. On Ms. N.'s end, the sent copy of this March 6 email also shows a single attachment, for the Business B. program. Company A. has experienced technical difficulties in the past, but these manifested in email outages. There is no evidence that Company A. was experiencing similar technical difficulties on March 6 or that these technical difficulties ever caused an email to be stripped of one of its attachments en route, with no record of the stripped attachment. The evidence Company A. has provided is insufficient to demonstrate that it submitted its February Business A. payment request before the March 31 deadline.

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.¹⁵ "Administrative agencies are bound by their regulations just as the public is bound by them."¹⁶ Because Company A.'s payment request was untimely, the Agency correctly denied it in accordance with their regulations.

IV. Conclusion

Company A. has not shown that its February 2023 CCAP payment request for its Business A. provider was timely, and the agency has no discretion to grant an untimely request. Accordingly, the Agency's decision denying February 2023 CCAP payments is affirmed.

Dated: June 29, 2023

Signed

Danika B. Swanson
Administrative Law Judge

¹⁵ 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.

¹⁶ *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, 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 13th day of July, 2023.

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.]