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Clerk of the Trial Courts

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

NATILIA EDWARDS, on behalf of)
herself and all those similarly)
situated,)

Plaintiffs,)

vs.)

STATE OF ALASKA, DEPARTMENT)
OF HEALTH, Heidi Hedberg, in her)
official capacity as Commissioner of)
the Department, DIVISION OF)
PUBLIC ASSISTANCE, and Deb)
Etheridge, in her official capacity)
as Director of the Division,)

Defendants.)

Case No. 3AN-23-05707 CI

**CLASS ACTION COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. Alaska's Adult Public Assistance ("APA") program provides cash assistance to certain indigent Alaskans who are disabled, blind, or elderly. The

purpose of the APA program is to help these vulnerable Alaskans “attain self-support or self-care.”¹

2. When an Alaskan applies for APA benefits, the defendants (hereinafter, collectively, “the State”) are legally required to make an eligibility decision within 30 days of receiving the application.² However, the State has long been failing to timely evaluate APA applications.

3. The State’s systemic and unlawful delays in processing APA applications have deprived and continue to deprive thousands of Alaska’s most vulnerable citizens of vital cash assistance while their applications languish in a bureaucratic black hole.

4. Plaintiff Natilia Edwards is just one of the many Alaskans who have been impacted by the State’s application evaluation delays. Ms. Edwards brings this class action on behalf of herself and a class of similarly situated disabled, blind, or elderly Alaskans whose APA applications were not timely processed by the State.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this case pursuant to AS 22.10.020(c) and (g).

6. Venue is proper under AS 22.10.030 and Alaska Civil Rule 3(c).

¹ AS 47.25.590(b).

² 7 AAC 40.070.

PARTIES

7. Plaintiff Natilia Edwards is an APA applicant residing in Anchorage, Alaska. She brings this action on behalf of herself and all those who are similarly situated.

8. The Department of Health (“DOH”) is the agency that administers the various public benefit programs in the State of Alaska.

9. Defendant Heidi Hedberg is the Commissioner of DOH and is sued in her official capacity.

10. The Division of Public Assistance (“DPA”) is the specific agency within DOH that administers Alaska’s APA program.

11. Defendant Deb Etheridge is the Director of DPA and is sued in her official capacity.

GENERAL ALLEGATIONS

12. Alaska’s APA program provides cash assistance to indigent Alaskans who are disabled, blind, or elderly, in order to “provide recipients with a reasonable subsistence.”³ APA supplements federal Supplemental Security Income (“SSI”) benefits. Eligible individuals receive, on average, \$308.20 per month in cash assistance from the State.⁴

13. Alaska’s APA program is administered pursuant to Alaska Statutes 47.25.430 – 47.25.970.

³ See *Moore v. Beirne*, 714 P.2d 1284, 1285 (Alaska 1986).

⁴ See <https://health.alaska.gov/dpa/Documents/dpa/publications/Program-Descriptions.pdf>.

14. Alaska’s APA program is also implemented by regulations codified at 7 AAC 40.005 *et seq.*

15. APA recipients, by definition, have limited resources. In order to be eligible for APA benefits, a recipient must not have resources that exceed the limits enumerated in 7 AAC 40.270. For instance, after any regulatory exclusion, an individual applicant may have no more than \$2,000 in total resources.

16. APA recipients also have limited incomes. In order to be eligible for APA benefits, a recipient must not have an income that exceeds the limits enumerated in 7 AAC 40.310. For instance, after any regulatory exclusion, an individual applicant who lives independently may receive no more than \$1,047 in monthly income.

17. Beyond resource and income restrictions, APA recipients must also be of a qualifying age. This can happen in two ways. First, under 7 AAC 40.120(1), an APA recipient must be 65 years of age or older. Otherwise, under 7 AAC 40.120(2), a person can only qualify for APA if they are 18 years of age or older, and are either blind or permanently and totally disabled.

18. The State is required to “promptly” investigate APA applications when received,⁵ and to “promptly” decide whether an applicant is eligible and to notify the applicant in writing of the decision.⁶

19. Pursuant to 7 AAC 40.070, the State is legally required to make an

⁵ AS 47.25.450.

⁶ AS 47.25.460(a).

eligibility decision within 30 days of receiving an application for APA benefits.

20. The State is *not* “promptly” processing APA applications and is not complying with the 30-day deadline under 7 AAC 40.070. Indeed, in recent years, the State has routinely failed to timely evaluate large portions of APA applications.

21. In the 2021 state fiscal year, the State timely evaluated APA applications no more than 64% of the time. There was a slight uptick in timely evaluations of APA applications in the 2022 state fiscal year. But there has been a rapid downturn in 2023.

22. As of February 23, 2023, the State had timely evaluated just 37.1% of initial applications for APA benefits in the 2023 state fiscal year, and just 26.8% of review applications.

23. Plaintiff Natilia Edwards applied for APA on February 3, 2023. However, as of the date of this complaint, Ms. Edwards still has not received an eligibility determination from the State.

24. The State’s application evaluation delays have affected thousands of other indigent Alaskans. As of April 3, 2023, at least 8,532 Alaskans had applied for APA in the 2023 state fiscal year alone. The vast majority of these applicants did not receive a timely eligibility determination from the State.

CLASS ACTION ALLEGATIONS

25. Plaintiff Natilia Edwards brings this action on her own behalf and on behalf of all persons similarly situated, pursuant to Rule 23 of the Alaska Rules of Civil Procedure.

26. The class is defined as: All individuals who applied for APA benefits in the past two years and did not receive an eligibility determination from the State within 30 days, and all future applicants for APA benefits.

27. All requirements of Rule 23(a) are met in this case. Specifically,

- a. The class is so numerous that joinder of all members is impracticable. The number of individuals in the proposed class is presently unknown and can only be determined through discovery. However, plaintiff is informed and believes and thereupon alleges that there are far more than 40 individuals in the proposed class. Indeed, as of April 3, 2023, at least 8,532 Alaskans had applied for APA in the 2023 state fiscal year alone.
- b. There are questions of law or fact common to the class; specifically, whether the State of Alaska must evaluate APA applications within 30 days of receipt.
- c. The claims of the representative party are typical of those of the class.
- d. The representative party will fairly and adequately represent the class. Neither the representative plaintiff nor her counsel have interests which might cause them not to vigorously pursue this action.

28. Certification of a class under Alaska R. Civ. P. 23(b)(2) is appropriate because the State at all times has acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and

corresponding declaratory relief with respect to the class as a whole.

CLAIMS FOR RELIEF:

Count I – Violation of 7 AAC 40.070 – Declaratory and Injunctive Relief:

29. The plaintiffs repeat and incorporate by reference the allegations of fact and law in each of the preceding paragraphs.

30. 7 AAC. 40.070 requires the State of Alaska to render an eligibility decision on APA applications within 30 days.

31. The State of Alaska is failing to render eligibility decisions on APA applications within 30 days, in violation of 7 AAC 40.070.

32. The class is entitled to declaratory and injunctive relief.

Count II – Violation of AS 47.25.450 – Declaratory and Injunctive Relief:

33. The plaintiffs repeat and incorporate by reference the allegations of fact and law in each of the preceding paragraphs.

34. AS 47.25.450 requires the State of Alaska to “promptly” investigate each APA application.

35. The State of Alaska is failing to “promptly” investigate APA applications, in violation of AS 47.25.450.

36. The class is entitled to declaratory and injunctive relief.

Count III – Violation of AS 47.25.460 – Declaratory and Injunctive Relief:

37. The plaintiffs repeat and incorporate by reference the allegations of fact and law in each of the preceding paragraphs.

38. AS 47.25.460 requires the State of Alaska to “promptly” decide whether

an APA applicant is eligible for APA benefits, and to provide written notice of the same.

39. The State of Alaska is failing to “promptly” decide whether APA applicants are eligible for APA benefits, and to provide written notice of the same, in violation of AS 47.25.460.

40. The class is entitled to declaratory and injunctive relief.

WHEREFORE, the plaintiff requests that this Court award the following relief:

1. A declaration that the State is violating AS 47.25.450, AS 47.25.460, and 7 AAC 40.070 by failing to process APA applications in a timely manner.
2. An injunction requiring the State to render eligibility decisions on APA applications within 30 days in accord with 7 AAC 40.070, to promptly investigate APA applications in accord with AS 47.25.450, and to promptly decide whether APA applicants are eligible for APA benefits and to provide written notice of the same in accord with AS 47.25.460.
3. The costs and expenses of litigation, including full attorney's fees.
4. For such other and further compensatory or equitable relief as this Court may deem just under the circumstances.
5. All other proper relief.

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DATED this 17th day of April, 2023

NORTHERN JUSTICE PROJECT, LLC
Attorneys for Plaintiffs

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