

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

In the Matter of	)	
	)	OAH No. 12-0357-DKC
L G	)	Agency No.
_____	)	

**DECISION**

**I. Introduction**

L G challenges the Division of Public Assistance’s (DPA’s) conclusion that her adult son should not be included in her household for determining household size and Denali Kid Care (DKC) eligibility. If the DPA included her adult son as it had in prior years, her income would not exceed the maximum income for a household of four. However, because her son was not included, the DPA used a household of three and concluded the household was not eligible for DKC because its income exceeded the maximum allowed for a 3 person household.

A hearing was held September 21, 2012. Ms. G attended the hearing in person and Terri Gagne, DPA representative, participated by telephone.

The rules governing DKC eligibility are exacting and leave no room for discretion. If a household has income in excess of the applicable income standards, the household is not eligible. The rules also identify who may or may not be included in a household. Ms. G’s 23-year-old son is not a member of the household for purposes of determining household income eligibility. As a result, DPA correctly concluded that the household’s income exceeded the maximum for a household of three and that it was not eligible for DKC.

**II. Facts**

There are no genuine issues of material fact in dispute. Ms. G challenges the application and interpretation of the law to the undisputed facts.

Ms. G is a single mother who supports herself and her three children. She is the sole wage earner in the household. The oldest child is 23 years old, is unemployed, and Ms. G is his sole support. The other two children are under the age of 18 and are cared for by their older sibling when Ms. G is not at home.

Ms. G's countable program monthly income is \$3,233.63.<sup>1</sup>

Until August 31, 2012, Ms. G's younger children received DKC because the DPA included her adult child and assessed eligibility under a household of four until her current application for renewal.

Ms. G does not challenge the income figures used by the DPA in its calculations or the DPA's calculation that her countable program monthly income is \$3,233.63 or that her countable income is in excess of the maximum allowable for a family of three. Ms. G challenges the DPA's determination that her oldest son is not included in the household.

One of the younger children has a medical issue that may require surgery in the future. Ms. G has insurance available through work, but needs DKC as a secondary.

### **III. Discussion**

DKC is a Medicaid program for children, pregnant women and infants when the family's monthly household income does not exceed 150% of the federal poverty guidelines (FPG) if the household has insurance available to purchase, and 175% of the FPG if insurance is not available. To be eligible for Family Medicaid, including DKC, the DPA performs a two step analysis. First, it determines who is in the household, and second, whether the household is financially eligible.<sup>2</sup>

Household size for the DKC program is the "combination of individuals whose financial needs the department considers for the purpose of determining eligibility."<sup>3</sup> This includes dependent children,<sup>4</sup> caretaker relatives and their dependent children,<sup>5</sup> any individual who is required to have the individual's financial resources included in the financial eligibility assessment,<sup>6</sup> and a category referred to as "optional members of the household."<sup>7</sup> To be included in the household, Ms. G's oldest son must fit within one of these categories.

Of the four categories, two are potentially applicable. At 23 years of age, Ms. G's eldest son is well over the age of 18, and while he is dependent on his mother, he is not a

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<sup>1</sup> Exh. 8.

<sup>2</sup> 7 AAC 100.102.

<sup>3</sup> 7 AAC 100.102(b)

<sup>4</sup> 7 AAC 100.104.

<sup>5</sup> 7 AAC 100.110.

<sup>6</sup> 7 AAC 100.102(b)(3).

<sup>7</sup> 7 AAC 100.102(b)(2); 7 AAC 100.116 (optional members are individuals who have applied for and are separately eligible for Family Medicaid).

“dependent child” as defined by regulation.<sup>8</sup> The sibling of a dependent child is not part of the household if the sibling does not meet the age or deprivation requirements.<sup>9</sup> Nor is he considered a “caretaker relative.”<sup>10</sup> To be considered a “caretaker relative,” the younger children would have to live in a home that he maintained and he would have to be responsible for the care and control of the children. Therefore, the DPA correctly concluded that the household size is three, not four.

Because Ms. G has insurance available through work, her income may not exceed 150% of the FPG for a household of three, \$2,984. The household’s monthly net income as calculated by regulation is \$3,233.63.<sup>11</sup> This exceeds the maximum allowable income for a household of three by \$249.63.

The DPA and this tribunal must apply the regulations as written, and as written, the DPA correctly excluded Ms. G’s adult son from the household. As written, the regulations give neither the DPA nor the undersigned any discretion in this instance.

#### **IV. Conclusion**

The DPA correctly determined that Ms. G’s 23-year-old son should not be included as a member of the household for purposes of determining DKC eligibility and that the household size was three. Ms. G’s household income exceeds the maximum allowed for a household of three.

DATED this 2<sup>nd</sup> day of October, 2012.

By: Signed  
Rebecca L. Pauli  
Administrative Law Judge

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<sup>8</sup> The individual must be under 18 years of age, or if enrolled in school, under 19 years of age. 7 AAC 100.104(a)(1).

<sup>9</sup> 7 AAC 100.120(a)(2).

<sup>10</sup> 7 AAC 100.110.

<sup>11</sup> This amount includes gross wages and child support less a \$90 work deduction and a \$50 child support deduction. 7 AAC 100.180; 7 AAC 100.184(1) and (3); 7 AAC 100.310(a) and (b)(8).

## Adoption

The undersigned adopts this decision as final under the authority of AS 44.64.060(e)(1). 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 16<sup>th</sup> day of October, 2012.

By: Signed  
Signature  
Rebecca L. Pauli  
Name  
Administrative Law Judge  
Title

[This document has been modified to conform to the technical standards for publication.]