



### III. Discussion

One of the eligibility requirements for any type of Medicaid coverage, including both Denali KidCare and emergency alien Medicaid coverage, is that the applicant must be a resident of the State of Alaska.<sup>9</sup> “[A] resident of the state is an individual who is physically present in the state and living in the state voluntarily with the intent to remain in the state permanently or for an indefinite period of time.”<sup>10</sup>

Ms. S argued that she is not seeking coverage for herself but for her daughter who is eligible, because her daughter is a United States Citizen. The Medicaid regulations specifically provide that Medicaid eligibility for newborns is limited to children born of women “who [were] eligible for and receiving Medicaid in the month of delivery.”<sup>11</sup> Therefore, Y’s eligibility to Denali KidCare is contingent upon Ms. S’s eligibility. For Ms. S to be eligible, she must be an Alaska resident, meaning that she must be physically in Alaska with the intent to remain permanently or for an indefinite period of time.

Because she is physically present in Alaska under a visitor’s visa, Ms. S was required to demonstrate that she would only remain in the United States for a specific period of time, and that Ms. S has ties that will ensure she returns to her residence outside of the United States at the end of the visit.<sup>12</sup> Also, Ms. S’s immigrant status requires she have no intent of abandoning her residency in a foreign country.<sup>13</sup>

Ms. S was in Alaska for the purpose of visiting her family for a limited period of time, and intends to return to Mexico when her visa expires.<sup>14</sup> Even if she were to extend her tourist visa, the extension would be for a definite period of time. Ms. S attempted to circumvent this requirement by arguing that she did not know when she would return to Mexico; therefore, she was physically in Alaska for an indefinite period of time. Because Ms. S must exit the United States on or before the date her visa expires, and the expiration date is known (even if extended the extension will expire on a date certain), her argument fails. Ms. S was not an Alaska resident, and consequently not eligible to receive any form of Medicaid benefits from the State of Alaska. Accordingly, Y was not eligible to receive Medicaid benefits.

---

<sup>9</sup> 7 AAC 100.050(a) and 7 AAC 100.060 (a).

<sup>10</sup> 7 AAC 100.060(b).

<sup>11</sup> 7 AAC 100.306(a).

<sup>12</sup> 22 C.F.R. § 41.32.

<sup>13</sup> 8 U.S.C. 1101(a)(15)(B).

<sup>14</sup> S Testimony.

#### **IV. Conclusion**

The Division's decision to deny Ms. S's application for Medicaid benefits for her daughter Y is AFFIRMED.

DATED this 22<sup>nd</sup> day of February, 2013.

*Signed* \_\_\_\_\_  
Rebecca L. Pauli  
Administrative Law Judge

#### **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 8<sup>th</sup> day of March, 2013.

By: *Signed* \_\_\_\_\_  
Name: Rebecca L. Pauli  
Title: Administrative Law Judge

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