

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

In the Matter of:	)	
	)	
K W	)	OAH No. 13-1330-DKC
_____	)	DPA Case No.

**DECISION**

**I. Introduction**

K W’s minor son, U, was receiving Denali KidCare Medicaid (DKC) benefits. The Ws applied to renew U’s benefits, which included a request for Ms. W and the Ws’ other minor child be added to the DKC case. The Division of Public Assistance (Division) denied the application, because the household income was greater than the income limit for the household size. Mr. W requested a hearing.

The hearing was held on November 25, 2013. Mr. W appeared and testified on his own behalf. Public Assistance Analyst Terri Gagne represented the Division.

The W household has four persons in it. Its income is greater than the DKC income limits for a four person household. As a result, the Division's decision to deny the application is affirmed.<sup>1</sup>

**II. Facts**

The W household has four people in it, Mr. W, his wife, and their two minor children. The Ws applied for DKC benefits in 2011, which were denied because the family’s income was greater than the program limit. The Ws’ minor child U was approved for DKC benefits in August 2012, without considering the family income, because he had been hospitalized for more than 30 days. That approval was effective through the end of July 2013.<sup>2</sup>

U was subsequently approved, effective February 4, 2013, for Medicaid Home and Community-based Waiver benefits. However, the Waiver approval notice informed the Ws that his approval was contingent upon the family’s financial eligibility for either DKC or Family

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<sup>1</sup> The record in this case was left open after hearing due to questions regarding whether U had a TEFRA application which needed to be addressed. This issue was raised by the Administrative Law Judge because there was a reference in the record to potential TEFRA eligibility for U. *See* Ex. 6. The Division’s post-hearing filing made it clear that TEFRA eligibility was not an issue in this case. *See* Exs. 21.0 – 21.2. Accordingly, any issues regarding TEFRA are not disposed of in this decision.

<sup>2</sup> Ex. 9.

Medicaid. That same notice informed them that U could potentially be found eligible for a specific type of Medicaid (TEFRA) where the family's finances would not be a factor in determining U's eligibility. However, the Ws needed to complete and return several Medicaid forms for that eligibility determination to take place.<sup>3</sup>

On June 25, 2013, Ms. W submitted an application to renew U's benefits, which also requested coverage for her and the other minor child. That application did not request coverage for Mr. W.<sup>4</sup> Along with the application, Ms. W provided a copy of Mr. W's bank account statement that showed a Social Security deposit of \$338 and a Veteran's Administration deposit of \$3,166.<sup>5</sup> On July 15, 2013, the Division calculated that the W household was not financially eligible for DKC benefits because its income was \$4,322.90.<sup>6</sup> The Division, however, sent the Ws a notice on the next day, July 16, 2013, which asked for income information.<sup>7</sup> The following day, July 17, 2013, the Division sent the Ws a different notice stating they were not financially eligible for DKC benefits but that their child (presumably U) might be eligible for TEFRA Medicaid<sup>8</sup> benefits.<sup>9</sup>

The Division initially denied the application due to a failure to provide requested information.<sup>10</sup> Mr. W requested a hearing to challenge the denial. Simultaneously with Mr. W's hearing request, the Division sent Mr. W notice that the application was denied on financial grounds, not for a failure to provide requested information. The Division counted the family income as totaling \$4,396.90 (Mr. W VA benefit - \$3,166; Mr. W Social Security - \$842.90; Roseanne (minor daughter) Social Security - \$194; U Social Security - \$194). It then denied the application because the DKC income limit for a four person family was \$4,294.<sup>11</sup> Mr. W did not dispute the income figures used by the Division. Ms. W has no income.<sup>12</sup>

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<sup>3</sup> Ex. 12.

<sup>4</sup> Exs. 2.0 – 2.2.

<sup>5</sup> Exs. 2.3 – 2.4.

<sup>6</sup> Ex. 2.5.

<sup>7</sup> Ex. 4.

<sup>8</sup> The TEFRA Medicaid category provides Medicaid eligibility for certain disabled children, regardless of their parents' income and resources.

<sup>9</sup> Ex. 6.

<sup>10</sup> Ex. 8.

<sup>11</sup> Ex. 11; *also see* Exs. 11.1 – 11.3.

<sup>12</sup> Mr. W testimony.

### III. Discussion

DKC is a type of Medicaid that provides Medicaid coverage for children.<sup>13</sup> Like other types of Medicaid, the DKC program has financial eligibility requirements. The gross allowable monthly income for a four person household that does not have insurance coverage is \$4,294.<sup>14</sup> It is undisputed that the Ws' household's gross monthly income of \$4,396 is greater than the DKC income limit for a four person household. On its face, the Ws are not financially eligible for DKC benefits.<sup>15</sup> It should be noted that the DKC program bases financial eligibility upon gross income without allowing any income deductions or disregards.<sup>16</sup>

This case, due to U's potential eligibility for TEFRA benefits, had confusing and apparently contradictory notices, which clouded the underlying financial issue. For example, the notice dated July 16, 2013 requesting financial information, the July 17, 2013 notice informing the family it was financially ineligible but advising it of the TEFRA program, and then the initial denial notice which cited a failure to provide requested information as the basis for the denial. Regardless, TEFRA eligibility for U is not at issue in this case. The financial eligibility issue is determinative. As discussed above, the W household is not financially eligible for DKC benefits. This conclusion is made both with regard to the denied renewal of U's benefits, and to the extent that the application sought to add Ms. W and the other minor child to the DKC case, to the denial of DKC benefits for them also.

### IV. Conclusion

The Division had the burden of proof in this case because it was terminating DKC benefits for the Ws' minor son.<sup>17</sup> It met its burden of proof and demonstrated that the Ws were not financially eligible for DKC benefits. As result, its denial of the Ws' application

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<sup>13</sup> 7 AAC 100.310 - 316.

<sup>14</sup> 7 AAC 100.312(a)(2); *Alaska Family Medicaid Eligibility Manual Addendum 1*; Ex. 20.

<sup>15</sup> Mr. W also raised the issue of whether his wife should be included in the family unit, inasmuch as he and Ms. W are currently separated, albeit still residing under the same roof. However, if Ms. W were to be excluded from the family unit, then the income limit would be lower - \$3,560 for a three person household. Ex. 20. In other words, the result would be the same.

<sup>16</sup> 7 AAC 100.312.

<sup>17</sup> 7 AAC 49.135.

for DKC Medicaid benefits, both for renewing U's benefits and for adding Ms. W and the other minor child to the DKC case, is also affirmed.

Dated this 26<sup>th</sup> day of December, 2013.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

## **Adoption**

The undersigned, by delegation from of 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 9<sup>th</sup> day of January, 2014.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge, DOA/OAH

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