

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

In the Matter of:)
)
 S G) OAH No. 13-0690-GRE
) DPA Case No.

DECISION

I. Introduction

S G was a recipient of benefits under the Senior Benefits Program.¹ The Division of Public Assistance (Division) terminated his benefits effective November 30, 2012.² On May 16, 2013, Mr. G filed a new application for benefits in which he also asserted that the Division had improperly terminated his benefits after November 30. The Division treated the matter as an appeal, and its petition to dismiss the appeal as untimely was denied. The assigned administrative law judge conducted a telephonic hearing in the matter on October 1, 2013. Mr. G participated, and Terri Gagne represented the Division.

Because Mr. G was absent for medical treatment during the period from December 1, 2012 through April 19, 2012, he remained eligible for Senior Benefits during that time. The Division's decision is therefore reversed, and benefits reinstated.

II. Facts³

S G is a long-time Alaska resident, aged 81. He lives in a one-room cabin located at No Name. The cabin has no plumbing.

Mr. G has metastatic melanoma, congestive heart failure and atrial fibrillation. He was diagnosed with Stage 4 melanoma in April, 2012. His primary treating physician is Dr. W. William A. D, a No Name physician. Because of his medical condition, by the fall of 2012 Mr. G was no longer physically able to split wood for the stove in his cabin to provide winter heat. In order to sustain himself while he obtained medical treatment, Mr. G planned to spend the winter of 2012-2013 with relatives in LaGrange, Indiana. While there, he would obtain treatment from Dr. Babu at the nearby Fort Wayne Veterans' Memorial Hospital.

¹ See AS 47.45.301-.309; 7 AAC 47.545-.571.

² Ex. 2.13-2.16.

³ The facts in this matter are undisputed and were the subject of testimony by Mr. G at a hearing on July 9, 2013, regarding the Division's petition to dismiss the appeal. At the October 1, 2013, hearing the parties agreed to submit the matter on the basis of the record as submitted and Mr. G's prior testimony. The facts as set forth reflect his testimony and the evidence in the record.

Mr. G notified the Division of his planned departure for Indiana and providing a forwarding address. Mr. G also provided the Division with a letter from Dr. D, describing his medical condition and explaining why it was necessary for Mr. G to obtain treatment outside of Alaska.⁴

In mid-October, Mr. G left No Name for Indiana. In November, 2012, Mr. G went to a hospital emergency room due to an accumulation of fluid in the heart and lung area.⁵ He was hospitalized at the Parkview Hospital in LaGrange from November 21, 2012, through January 18, 2013. On November 23 had surgery for his lung cancer and on December 12 had a catheter in his chest to drain fluid from his heart and lung area.⁶ After his release from the hospital, he was placed in a nursing care facility in LaGrange, Indiana, for 17 days of recuperative care.⁷ Due to his heart condition Mr. G was again hospitalized, this time at St. Joseph's Hospital, for nine days in early February, 2013.⁸ From there, he returned to LaGrange, where he received regular care from home health care nurses⁹ until returning to Alaska on April 19, 2013.¹⁰

III. Discussion

A person who is receiving Senior Benefits is eligible to continue receiving those benefits while absent from the state to receive medical treatment.¹¹ In this case, it is uncontested that Mr. G left the state to receive medical treatment, for the reasons outlined in his treating physician's letter, as described above. He continued to receive treatment throughout his absence. Accordingly, he remained eligible for benefits during that time.

IV. Conclusion

The Division's decision to terminate Mr. G's benefits effective November 30, 2012, is reversed, and benefits are reinstated effective December 1, 2012.

DATED October 3, 2013.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

⁴ See Exhibit 2.7 (letter from Dr. D addressed to the Senior Benefits program in No Name bears the initials "SH" and the date "9-24-12" with a checkmark adjacent to the addressee); Exhibit 2.10 (printed October 4; refers to letter from Dr. D).

⁵ Ex. 2.4; 6/21, p. 3.

⁶ Ex. 2.5; 6/21, pp. 2, 3-4.

⁷ Ex. 2.5; 6/21, p. 4.

⁸ Ex. 2.5; 6/21, p. 4.

⁹ Ex. 2.6; 6/21, pp. 4-5.

¹⁰ Ex. 2.6.

¹¹ AS 47.45.304(1).

Adoption

The undersigned by delegation from the Commissioner of Health and Social Services, 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 AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 21st day of October, 2013.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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