

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
FROM THE COMMISSIONER OF HEARTH AND SOCIAL SERVICES**

In the Matter of)	
)	
M H)	OAH No. 16-1354-GRE
_____)	Agency No.

DECISION

I. Introduction

D D II submitted an application for General Relief burial assistance for his late grandmother, M H. The Division of Public Assistance (Division) denied the application, and Mr. D appealed. A telephonic hearing was held on December 8, 2016. Mr. D appeared on his own behalf while Jeff Miller appeared on behalf of the Division. E J, an employee of the No Name Funeral Home, also provided testimony in this case.

Based on the record, the Division’s decision denying General Relief burial assistance for M H is upheld.

II. Facts

M H, a resident of an assisted living facility in Anchorage, was a Medicaid Waiver recipient¹ who passed away on October 27, 2016, a month shy of her 100th birthday.² On October 28, 2016, Mr. D submitted a General Relief Assistance Cremation/Burial Application (Application) to the Division on behalf of his late grandmother.³ The section titled “Household Income and Resources” on the Application was left blank.⁴ Mr. D testified that others assisted him in completing the Application and that he signed it, but did not review it carefully.⁵ Ms. H’s burial services were conducted by No Name Funeral Service.⁶ The bill for her funeral was \$7,070.⁷ An unknown benefactor assisted the family with the burial costs.⁸

The Application did not specify the amount of Ms. H’s monthly income or her resources. Subsequently, during the pendency of this appeal, Mr. Miller reviewed a recent Medicaid Waiver

¹ Exhs. 2 – 2.6 & 5.
² Exh. 2; D testimony.
³ Exhs. 4 – 4.4.
⁴ Exh. 4.1; Miller testimony.
⁵ Exh. 4 – 4.4; D testimony.
⁶ D testimony; J testimony.
⁷ D testimony; J testimony. The record does not contain a copy of the bill.
⁸ D testimony.

renewal application (“Medicaid Application”) for Ms. H to fill in the missing data.⁹ This Medicaid Application was signed by Mr. D on July 13, 2016.¹⁰ Based on this information, Mr. Miller determined that Ms. H’s monthly income exceeded \$300, which is the maximum amount of monthly income that a person can receive in a household of one in order to be eligible for burial assistance.¹¹ Because Mrs. H’s monthly income exceeded the \$300 threshold, the Division denied the Application on November 1, 2016.¹² Mr. D appealed the denial, which led to this hearing.¹³

III. Discussion

By regulation, the department will pay up to \$1250 for burial assistance to qualifying applicants.¹⁴ Eligibility is dependent on several factors, some of which include financial need and lack of personal resources.¹⁵ It is not easy to qualify: a household of one is only allowed a maximum monthly income of \$300.¹⁶ Resources are counted “from any source...received during the calendar month in which application is made,” minus payroll deductions and health premiums, and not counting income received the month prior to the application.¹⁷ Mr. D, the party who requested the appeal, bears the burden of proof of showing that his grandmother was eligible for burial assistance.¹⁸

At the time of the Application for General Relief burial assistance in October, Ms. H was receiving income from two sources: a social security payment of \$440, and a retirement pension of \$1232.90.¹⁹ The amount of her monthly income thus totaled \$1,828.90. Consequently, her monthly income was well above the maximum threshold of \$300.

⁹ See Exh. 4.1 & Miller testimony. Mr. D had completed the Medicaid Application. He confirmed at the hearing that the amounts he had listed on the renewal application at exhibit 2.4 were correct. See D testimony.

¹⁰ See Exh. 2.6.

¹¹ Exhs. 10 & 18; see also Miller testimony.

¹² At the hearing, Mr. Miller testified that October 31, 2016 was the date of denial. However, the notice sent to Mr. D contains a mailing date of November 1, 2016. See Exh. 7. There also appears to be an error in the calculation for Ms. H’s net monthly income ($\$544.90 + \$1284.00 = \$1828.90$, not $\$1838.90$). See Exh. 2.7. However, this discrepancy does not change the outcome of the case. A revised notice of denial issued on November 30, 2016 corrected this error and accurately calculated that Ms. H had a net monthly income calculation of $\$1724.00$ ($\$440 + \$1284 = \$1724.00$), which exceeds the \$300 threshold for burial assistance. See Exh. 20.

¹³ Exh. 7.1.

¹⁴ 7 AAC 47.130(a); see also Ex. 16.

¹⁵ The list of requirements is set forth in 7 AAC 47.140; see also Exh. 17.

¹⁶ 7 AAC 47.150(b); see also Exh. 18.

¹⁷ 7 AAC 47.150(c)(1); see also Exh.18.

¹⁸ 7 AAC 49.135.

¹⁹ Exhs. 2.4, 2.7 & 3.

Mr. D argued that Ms. H's income had already been disbursed earlier that month to the assisted living facility to pay for her care.²⁰ However, the Division's regulations state that income is counted from any source "received *during* the calendar month in which application is made."²¹ The regulation does not contain a provision which would allow for leniency if the funds were distributed prior to the application. While this may seem harsh, this is what the regulations provide and the Division is required to follow its regulations. Ms. H thus did not meet the income requirement that would have made her eligible for burial assistance.²²

IV. Conclusion

Ms. H's income, modest though it was, exceeded the program's income limit for a household of one. Therefore, the Division correctly denied Mr. D's October 28, 2016 Application for burial services on behalf of his grandmother. The Division's decision is upheld.

DATED: February 7, 2017.

By: Signed _____
Kathleen A. Frederick
Administrative Law Judge

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 AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of February, 2017.

By: Signed _____
Name: Lawrence A. Pederson
Title/Agency: Admin. Law Judge, OAH

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

²⁰ D testimony.

²¹ 7 AAC 47.150(c)(1) (emphasis added).

²² "Administrative agencies are bound by their regulations just as the public is bound by them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).