

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

In the Matter of)
)
 B M)
_____)

OAH No. 12-0365-MDE
Division No.

DECISION

I. Introduction

B M applied for Medicaid benefits. The Department of Health and Social Services, Division of Public Assistance (division) notified Mr. M that he was not eligible for Medicaid benefits because his income and resources exceeded those allowed by the Medicaid program.¹ Mr. M requested a hearing.²

Mr. M's hearing was held on September 25, 2012. Mr. M did not appear at the hearing. R J, his daughter and power of attorney, represented him and testified on his behalf. Terri Gagne, Public Assistance Analyst, represented the division.

Based upon the undisputed evidence, Mr. M did not financially qualify for Medicaid benefits. The division's decision denying his application is AFFIRMED.

II. Facts

Mr. M is an elderly single gentleman who was hospitalized and had his leg amputated. He was then transferred to a nursing home in May 2012.³ Ms. J, who is Mr. M's daughter and holds his power of attorney, set up a Medicaid Income Qualifying Trust (N Trust) for him, which was registered with the Superior Court at Anchorage, Alaska on May 18, 2012. Ms. J is the Trustee for the N Trust.⁴

Ms. J opened a bank account for the N Trust on May 30, 2012 and upon the advice of the attorney who set up the trust deposited \$1,000 from her father's funds in the account that same day.⁵ Mr. M's Medicaid application was filed on June 4, 2012.⁶

Mr. M's gross monthly income is \$2,234.20. It consists of \$441.20 in Social Security benefits and \$1,793 in civil service retirement annuity (retirement).⁷ He also receives periodic Alaska Native

¹ Exs. 2.53 – 2.54.

² Ex. 2.57.

³ Exs. 2.0, 2.4, 2.30; J testimony.

⁴ Exs. 2.14 – 2.29; J testimony.

⁵ Ex. 2.9; J testimony.

⁶ Exs. 2.0 – 2.7.

⁷ Exs. 2.32, 2.36.

corporation (both regional and village corporations) payments, which are not predictable in their amount.⁸

Mr. M has a personal bank account. The bank account for his N Trust is located at the same bank. The balance for his personal bank account, at the very beginning of the day on June 1, 2012 was \$1,298.79.⁹ During the month of June 2012, he received a total of \$2,122.20 in net Social Security and retirement income, all of which was deposited in his personal bank account.¹⁰ There were no direct deposits of his Social Security or retirement income into his N Trust bank account during the month of June 2012.¹¹ The balance for his personal bank account, during the entire day of July 1, 2012, was \$2,790.22.¹² The balance on his personal bank account, during the entire day of August 1, 2012 was \$3,687.92.¹³

\$401.20 and \$441 in Social Security income was deposited into Mr. M's personal bank account during the respective months of July and August 2012.¹⁴ His 2012 civil service retirement payment, in the net amount of \$1,681, was deposited directly into his N Trust account during each of the months of July and August 2012.¹⁵

The division denied Mr. M's Medicaid application on August 27, 2012 for two separate reasons and notified him that he could reapply at any time.¹⁶ The first reason for the denial was that his monthly countable income for June 2012 was greater than the \$2,094 Medicaid income limit.¹⁷ The second reason for the denial was that his checking account balance was \$2,790.22 on July 1, 2012, which was greater than the \$2,000 Medicaid program resource limit.¹⁸

Ms. J, who set up the N Trust and the N Trust bank account, thought because she set up the N Trust account with the same bank that held Mr. M's personal account, that she had arranged to transfer his retirement payment over to the N Trust account. However, due to bank requirements, the direct deposit of his retirement payment into the N Trust account did not occur until after June 2012. She did

⁸ J testimony.

⁹ Ex. 2.49.

¹⁰ \$441 Social Security and \$1,681.20 retirement, both of which were deposited in his personal account on June 1, 2012. Ex. 2.49.

¹¹ Ex. 2.50.

¹² Ex. 2.49.

¹³ Ex. 2.49.

¹⁴ Ex. 2.49.

¹⁵ Ex. 2.50.

¹⁶ Exs. 2.53 - 2.54.

¹⁷ Ex. 2.53.

¹⁸ Ex. 2.54.

not realize that she needed to monitor the personal bank account balance to make sure it did not exceed the Medicaid resource limits.¹⁹

III. Discussion

The Alaska Medicaid program contains a variety of coverage categories. *See* 7 AAC 100.002. Each of these categories have differing eligibility requirements. These include financial requirements which limit how much monthly income a Medicaid applicant may have and how much in resources (cash, other personal property, and real property) an applicant may own.

A single person who is aged or disabled, and who resides in a medical or intermediate care facility (which includes nursing homes) may not have total income that exceeds \$2,094 per month.²⁰ A Medicaid applicant whose monthly income exceeds the Medicaid program's monthly income limit may financially qualify for Medicaid by creating a Medicaid Qualifying Income Trust.²¹ The Medicaid Qualifying Income Trust reduces an applicant's monthly income by the amount of payments made directly into the Trust account.²²

A single person, who is aged or disabled and who resides in a medical or intermediate care facility (which includes nursing homes), may not own more than \$2,000 in countable resources.²³ Resources include cash and are valued on the first day of each eligibility month.²⁴

Mr. M is single and a nursing home resident. He is therefore subject to the requirements that he (1) may not own more than \$2,000 in countable resources, which is measured on the first day of the month, and (2) may not have more than \$2,094 in monthly income.

The undisputed facts show that Mr. M had gross income of \$2,234.20 (Social Security and retirement) for June 2012. \$2,122.20 was the net income deposited directly in his personal bank account in June 2012; none of it was directly deposited into his N Trust account. As a result, all of his June 2012 income was countable. Because Mr. M's June 2012 income exceeded the \$2,094 Medicaid monthly income limit, he was not eligible to receive Medicaid benefits for that month. While Mr. M's retirement income was deposited directly into his N Trust account in July and August 2012, that does not change the fact that he was not financially eligible for Medicaid benefits during June 2012, when he applied.

¹⁹ J testimony.

²⁰ AS 47.07.020(b)(6); 7 AAC 100.502(a)(4); *Alaska Aged, Disabled and Long Term Care Medicaid Eligibility Manual* Addendum 1.

²¹ 7 AAC 100.600; 7 AAC 100.604(a)(1).

²² 7 AAC 100.606(a).

²³ 7 AAC 100.502(a)(2).

²⁴ 7 AAC 40.260; 7 AAC 40.270(b); 7 AAC 100.400(a)(13) – (15).

The undisputed facts also show that Mr. M had a \$2,790.22 personal bank account balance on July 1, 2012. This meant that he was also not eligible for Medicaid benefits during July 2012 because the Medicaid resource limit for a single person is \$2,000.

IV. Conclusion

Mr. M was not financially eligible for Medicaid benefits during the months of June and July 2012. As a result, the division's denial of his June 4, 2012 Medicaid application is AFFIRMED.

DATED this 2nd day of October, 2012.

Signed _____
Lawrence A. Pederson
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 16th day of October, 2012.

By: *Signed* _____
Name: Lawrence A. Pederson
Title: Administrative Law Judge

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