

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

In the Matter of)	
)	OAH No. 12-0695-MDE
M J)	Agency No.
_____)	

FAIR HEARING DECISION

I. Introduction

On June 26, 2012, the Division of Public Assistance (Agency) sent Ms. J written notice that her application for Medicaid benefits was denied.¹ Ms. J requested a hearing on June 28, 2012.² At the hearing, Ms. J clarified that the only issue was whether her daughter should be approved to receive Denali KidCare Medicaid benefits.

Ms. J's hearing was held on August 1, 2012. Ms. J represented herself and testified on her own behalf. Terri Gagne, Public Assistance Analyst with the Agency, represented the Agency. The hearing was recorded.

This decision concludes that Ms. J's income is greater than the Denali KidCare income limit for her household size. As a result, the Agency's decision denying her application for Denali KidCare benefits is AFFIRMED.

II. Facts

Ms. J has a three person household, which is composed of herself, her minor daughter, and her husband.³ Her husband is not the father, either biological or adoptive, of Ms. J's minor daughter.⁴

Ms. J and her husband applied for Medicaid benefits on June 21, 2012.⁵ Mr. J is not employed.⁶ No one in the household makes or receives child support payments.⁷ Ms. J works a 40 hour per week job earning \$15.36 per hour.⁸ In addition, Ms. J is provided an apartment, valued at \$975 per month, in exchange for resident caretaker services.⁹

¹ Ex. 4.0. The Agency also issued a more extensive denial notice on July 19, 2012. *See* Ex. 4.1.

² Ex. 5.1.

³ Ex. 2.1.

⁴ Ex. 3.1; J testimony.

⁵ Exs. 2.0 – 2.9.

⁶ Ex. 2.2.

⁷ Exs. 2.3, 2.5.

⁸ Exs. 2.2, 2.11.

⁹ Exs. 2.12 – 2.13.

Ms. J has health insurance available to her through her job. However, it does not provide coverage for her husband and child; she would have to pay a full premium (\$685 per month apiece) to place her husband and child on her health insurance.¹⁰

On June 26, 2012, the Agency sent Ms. J notice that her Medicaid application was denied. The reason the Agency denied her application was because her household's monthly countable income was \$3,526.92, which exceeded the Medicaid program's income limit of \$1,347 for her household size.¹¹

On July 19, 2012, the Agency sent Ms. J a supplemental denial notice that explained that it had calculated her income as follows:

Monthly Wages:	\$2,641.92 ¹²
In-kind Income:	\$ 975.00
Work Deduction:	<\$ 90.00>
Countable Income	\$3,526.92 ¹³

The supplemental notice explained that Ms. J's household's monthly countable income not only exceeded the Family Medicaid income limit (\$1,347) but also exceeded the Denali KidCare income limit (\$2,760).¹⁴

III. Discussion

The issue in this case is whether Ms. J's application for Denali KidCare benefits for her minor daughter should be approved.

Denali KidCare provides Medicaid coverage for children, who are not covered by health insurance, if the household's countable income does not exceed 175 percent of the federal poverty guidelines for the household size.¹⁵ Although there are actually three people in Ms. J's household, she only has a two person household for Denali KidCare purposes because a stepparent (someone who is not the biological or adoptive parent of a child) is not counted as part of the household when determining eligibility unless the household also includes a child

¹⁰ Ex. 2.14.

¹¹ Ex. 4.0.

¹² \$15.36 per hour wages multiplied by 40 hours per week = \$614.40 per week. \$614.40 in weekly wages multiplied by the regulatory factor of 4.3 (*see* 7 AAC 100.168(d)) = \$2,641.92 per month. *See* Ex. 4.1.

¹³ Ex. 4.1.

¹⁴ Ex. 4.1.

¹⁵ AS 47.07.020(b)(13); 7 AAC 100.312(a)(2).

common to the parent and the stepparent.¹⁶ The 175 percent federal poverty guideline figure for a household of two is \$2,760.¹⁷

Ms. J's gross monthly income from her 40 hours per week job is \$2,641.92.¹⁸ She also receives an apartment, valued at \$975 per month, in exchange for her being a resident caretaker. The Agency added the two figures together to arrive at a gross income figure of \$3,616.92, and allowed a \$90 deduction, because Ms. J was working, to arrive at the \$3,526.92 countable income figure. The Agency then denied her application because her countable monthly income was greater than the Denali KidCare income limit of \$2,760 for a two person household.

Ms. J did not argue that the Agency incorrectly calculated her monthly gross income based upon her wages. Instead, she made two arguments challenging how the Agency arrived at her countable income figure of \$3,526.92.

Ms. J's first argument was that the Agency should use her net income, *i.e.*, the income she actually received after tax and other deductions were taken from her gross pay, rather than her gross income when determining eligibility. The applicable regulations specifically provide that eligibility is based upon countable income, which is arrived at by subtracting allowable deductions from gross income.¹⁹ Denali Kid Care has very limited deductions, which are for child support payments made by a household member and a \$90 deduction for each employed member of the household who has not received Medicaid benefits during four months preceding the current application.²⁰ No other deductions are allowed.²¹ Because the financial eligibility regulations do not allow a deduction for taxes or other items typically deducted from gross pay in arriving at a person's net pay, Ms. J's argument is not persuasive.

Ms. J's second argument is that the Agency should not count the \$975 value of the apartment she receives in exchange for her resident caretaker duties. She does not consider this to be income. The applicable regulations specifically include "in-kind compensation earned directly from employment" as earned income for the purposes of determining Denali KidCare financial eligibility.²² While Ms. J does not receive a cash payment from her employer in exchange for her resident caretaker duties, she does receive the use of an apartment, which is

¹⁶ 7AAC 100.312(b).

¹⁷ See *Alaska Family Medicaid Eligibility Manual* Addendum 1; Ex. 14.

¹⁸ See footnote 11 above.

¹⁹ 7 AAC 100.184; 7 AAC 100.300(a).

²⁰ 7 AAC 100.184(a)(1); 7 AAC 100.310(a).

²¹ 7 AAC 100.184(a)(1); 7 AAC 100.310(a).

²² 7 AAC 100.158(b)(2); 7 AAC 100.160(a)(17); 7 AAC 100.310(a).

valued at \$975 per month, as compensation for her resident caretaker duties. Consequently, Ms. J's apartment is in-kind compensation, which is counted as being \$975 in earned income for the purposes of determining Denali KidCare eligibility.

Ms. J's monthly gross income therefore consists of \$2,641.92 in gross earned wages and \$975 per month in earned in-kind compensation. These two amounts total \$3,616.92 per month. She is entitled to one deduction, being the \$90 deduction allowed a person who is working.²³ After apply this \$90 deduction, her monthly countable income is \$3,526.92. This amount exceeds the Denali KidCare two person household countable income limit of \$2,760. As a result, Ms. J is not financially eligible to receive Denali KidCare benefits for her daughter.

IV. Conclusion

The Agency's decision to deny Ms. J's application for Denali KidCare benefits is **AFFIRMED**.

DATED this 30th day of August, 2012.

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 13th day of September, 2012.

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

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

²³ 7 AAC 100.184(a)(1); 7 AAC 100.310(a).