

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

In the Matter of:)
)
X J. D) OAH No. 12-0821-MDE
) DPA Case No.

DECISION

I. Introduction

Mr. D challenges the Division of Public Assistance’s determination to end his Adult Public Assistance-related Medicaid program (APA-related Medicaid) because his monthly household income exceeds the maximum income limit for a household of two.

A hearing was held on November 19, 2012. Mr. D participated in the hearing by telephone. The Division was represented by Public Assistance Analyst Jeff Miller.

Because the Division correctly determined that Mr. D's monthly household income exceeds the applicable maximum income limit for his household, its decision to terminate Mr. D’s APA-related Medicaid is affirmed.

II. Facts

Mr. D is 74 years old.¹ He is married and lives with his wife L D in a single family home.² His wife receives Medicaid Home and Community-Based Waiver Services.³ Mr. D's income consists of \$749.00 per month in Social Security retirement benefits.⁴ Ms. D's income consists of \$1,454.00 per month in Social Security retirement benefits.⁵ Thus, the D household's current gross monthly income is \$2,203.00.

The Division found Mr. D eligible for APA-related Medicaid, under the Older Alaskans category, in January 2012.⁶ On October 16, 2012 the Division reviewed Mr. D's case and found that it had understated his income. The Division’s original income

¹ Ex. 1.
² Exs. 3, 3.1, X D hearing testimony.
³ X D hearing testimony.
⁴ Ex. 3.
⁵ Ex. 3.1.
⁶ Ex. 1. The Older Alaskans (OA) program, a component of Home and Community-Based Waiver Services program, is administered by the Division of Senior and Disabilities Services (DSDS). *See* Senior And Disabilities Services Policy & Procedure Manual, Section: 6, Older Alaskans Waivers, Number 6-1, Page 1. The OA program is a Medicaid program that funds services for individuals, 65 years of age or older, who require a level of care ordinarily provided in a nursing facility. *Id.* DPA determines whether individuals meet financial eligibility requirements, and DSDS determines whether individuals meet program eligibility requirements. *Id.*

calculation did not include Ms. D's income as part of Mr. D's household income. When Ms. D's income was included, Mr. D's household's income exceeded the monthly income limit by \$282.00.⁷ On October 17, 2012 the Division mailed a notice to Mr. D stating that his APA-related Medicaid coverage would end after October 31, 2012.⁸ Mr. D requested a hearing to contest the Division's termination of his APA-related Medicaid. He also requested that his benefits be continued pending a decision in this case.

III. Discussion

The Division asserts that it mistakenly found Mr. D eligible for benefits because it originally miscalculated his income by failing to include his wife's Social Security retirement benefits. The Division asserts that, when all countable income is included, Mr. D is not financially eligible for APA-related Medicaid. Therefore, the only issue to be resolved is whether Mr. D's countable income exceeds the maximum amount allowed by the APA-related Medicaid program for a household of his size.

For purposes of APA-related Medicaid, the income and resources of an applicant's spouse who is living with him are considered the income and resources of the applicant.⁹

APA-related Medicaid uses the APA financial eligibility criteria (discussed below) for making APA-related Medicaid financial eligibility determinations.¹⁰ The income eligibility standards for APA-related Medicaid are set forth in 7 AAC 40.310 and in the Division's Adult Public Assistance Manual, Addendum 1. For the 2012 calendar year, the maximum countable income limit for a couple living independently, both otherwise eligible for Medicaid (Household Type A2-C) is \$1,921.00.¹¹ Accordingly, if Mr. D's household's countable income exceeds \$1,921.00, then he is not eligible for APA-related Medicaid.

For purposes of APA and APA-related Medicaid, countable income is an applicant / recipient's total (gross) income minus any applicable deductions.¹² The Adult Public Assistance Program's list of allowable deductions from income is set forth in 7 AAC 40.320 and 7 AAC 40.330. Examples of allowable deductions include the value of any social

⁷ Ex. 2; Jeff Miller hearing testimony.

⁸ Ex. 4.

⁹ See 7 AAC 40.240(a).

¹⁰ See 7 AAC 100.400.

¹¹ See Division's Adult Public Assistance Manual, Addendum 1, accessed online at <http://dpaweb.hss.state.ak.us/manuals/apa/apa.htm> (date accessed December 3, 2012); see also Exs. 2.1, 2.2. The income limit for this category of Medicaid is the second highest of the 11 categories of APA-related Medicaid. *Id.*

¹² See 7 AAC 40.230, 7 AAC 40.310(a), 7 AAC 40.320(a), and 7 AAC 40.350.

services furnished the applicant by a governmental or private agency; income tax refunds; any taxes on real property or food refunded by a public agency; certain grants, scholarships, and/or fellowships used to pay for tuition, fees, books, or supplies at an educational institution; foodstuffs obtained through subsistence activities; and certain payments for the foster care of a child. However, the only deduction available to Mr. D based on the facts of this case is a general deduction of \$20.00 under 7 AAC 40.320(a)(23) for “the first \$20 per month of income, earned or unearned, other than unearned income based on need.”

In this case, Mr. D's \$749.00 per month in Social Security retirement benefits¹³ is added to his wife's \$1,454.00 per month in Social Security retirement benefits, resulting in gross monthly household income of \$2,203.00. Subtracting the \$20.00 general deduction provided by 7 AAC 40.320(a)(23) reduces Mr. D's countable monthly household income to \$2,183.00.¹⁴ Mr. D's countable monthly household income of \$2,183.00 exceeds the 2012 maximum income limit for a couple living independently (\$1,921.00) by \$262.00. Therefore, Mr. D is not financially eligible for APA-related Medicaid.

IV. Conclusion

In summary, Mr. and Ms. D's countable monthly income (\$2,183.00) exceeds the Adult Public Assistance-related Medicaid program's applicable monthly income limit of \$1,921.00. Accordingly, the Division was correct to terminate Mr. D's Adult Public Assistance-related Medicaid benefits after October 31, 2012. The Division's determination that Mr. D no longer qualifies for APA-related Medicaid is therefore affirmed.

Dated this 4th day of December, 2012.

Signed

Jay Durych
Administrative Law Judge

¹³ Ex. 3.

¹⁴ \$749.00 + \$1,454.00 = \$2,203.00 Total Gross Household Income; \$2,203.00 - \$20.00 = \$2,183.00 Countable Income.

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 December, 2012.

By: Signed
Name: Jay D. Durych
Title: Administrative Law Judge

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