

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

In the Matter of)	
)	OAH No. 13-0630-MDE
E M)	Agency No.
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DECISION

I. Introduction

E M applied for Family Medicaid benefits for herself. The Division of Public Assistance (division) determined that her household’s monthly net income exceeded the Family Medicaid net income limit for a household of three persons and denied her application. Ms. M appealed and requested a hearing. Based on the evidence in the record, the Division’s eligibility determination is affirmed.

II. Facts

Ms. M’s household is composed of herself and her two minor children.¹ Her children receive Medicaid benefits through the Denali KidCare Program.²

Ms. M has two part-time jobs. She is employed by the No Name (NN), where she works in a no name and is paid every two weeks. In March 2013, she received \$542.70 on March 1st; \$548.73 on March 15th; and \$370.48 on March 29th.³ The Division estimated her average check to be \$545.72, and multiplied that figure times 2.15 to equal gross monthly income of \$1,173.28.⁴

Ms. M also has a part-time job as a bookkeeper for No Name, Inc. She received \$633.73 on March 8th; \$676.07 on March 22nd; and \$612.47 on April 5th. The division estimated her average check to be \$640.76, which it multiplied times 2.15 to equal gross monthly income of \$1,377.63.⁵ Her NN and No Name earnings total gross monthly income of \$2,550.91.⁶

In addition to her earnings, Ms. M’s two children each receive \$266 per month in Social Security benefits, the total of which is \$532. She also had other countable resources

¹ Ex. 1.1.
² Ex. 2.10.
³ Exs. 2.17 - 2.19.
⁴ Ex. 2.17.
⁵ Exs. 2.20 – 2.22.
⁶ Exs. 2.11 & 2.16.

of \$1,264.⁷ Ms. M's earned income, the children's Social Security, and her other countable resources equals \$3,082.91 in total monthly gross income.⁸ The division subtracted a \$90 work deduction, which resulted in countable net income of \$2,992.91. Ms. M does not dispute these figures.⁹

Ms. M applied for Family Medicaid benefits on April 4, 2013.¹⁰ She was seeking Medicaid coverage to assist with payment of medical expenses.¹¹ On April 18, 2013, the division mailed a notice to Ms. M stating that it had denied her application for Family Medicaid because her household's countable income exceeded the Family Medicaid net income limit for a household of three.¹²

On April 23, 2013, Ms. M requested a hearing with regard to the division's denial of her application.¹³ Ms. M's hearing was held on May 31, 2013. Ms. M participated in the hearing by telephone and represented herself. Public Assistance Analyst Terri Gagne, who represented the division, also attended the hearing by telephone.

III. Discussion

The issue in this case is whether Ms. M was eligible for Family Medicaid benefits.

The procedure for determining income eligibility under the Family Medicaid Program has two steps. First, the applicant must meet the gross income test.¹⁴ If the applicant meets the gross income test, he or she must then satisfy the net income test.¹⁵ Thus, an applicant is only eligible for Family Medicaid if he or she satisfies *both* the gross income test and the net income test. If the applicant fails the gross income test, the applicant is denied at that point without determining whether the applicant satisfies the net income test.¹⁶

Based on Ms. M's earned income, the monthly Social Security benefits her two children each receive, and her other countable resources, the division correctly calculated her household's total gross income for the month of April 2013 was \$3,082.91 and her total countable net income was \$2,992.91. The gross amount was more than the Family Medicaid gross income limit of

⁷ Ex. 2.16.

⁸ Ex. 2.16.

⁹ Ms. M hearing testimony.

¹⁰ Ex. 2.0.

¹¹ Ms. M hearing testimony.

¹² Exh. 2.25.

¹³ Ex. 2.26.

¹⁴ 7 AAC 100.102(c) and 7 AAC 100.180.

¹⁵ *Id.*

¹⁶ *Id.*

\$2,850 for a household of three persons, and her countable net income exceeded the net income limit of \$1,541.¹⁷ Accordingly, the division correctly denied Ms. M's application.

Ms. M does not dispute the calculations the division used in its determination of her eligibility for Family Medicaid. Essentially, her only issue on appeal is her argument that because she works for the NN for the school year only, her income should be annualized over a 12-month basis, which would effectively reduce her monthly gross income.

Eligibility for Family Medicaid is initially determined by examining the income actually received, or expected to be received, in a particular, discrete month.¹⁸ When determining household income at the very end of the month under consideration, the division can make its determination retrospectively using historical data, *i.e.* the income actually received during the month in question.

There is also the very common situation, as in Ms. M's case, in which an individual applies for benefits at the beginning of a month, for that month. It is impossible to know with absolute certainty what income will be received by the applicant during the remainder of that month. In this situation, the regulations instruct the division to make its best estimate of the applicant's future income.¹⁹ In estimating an applicant's future income, the division looks at both the previous and current month, including the income received up to the date of the eligibility determination.²⁰ The division considers what the applicant's income is most likely to be for the entire month, and the applicant's estimate of what is likely to change during the month for which eligibility is being determined.²¹ There is no provision for annualizing income received for less than twelve months of the year.

In this case, the determination is for the month of April 2013, the month in which Ms. M's application was received. Because Ms. M's application was received on April 4th, the division made its determination based on its estimation of her expected April earnings, which were based on her actual March earnings and the April earnings she had received up to the time the determination was made. The division was aware that Ms. M was facing a summer layoff from her NN job. However, the division does not have the authority to alter program eligibility

¹⁷ 7 AAC 100.190; Alaska Family Medicaid Manual, Addendum 2, at Ex. 11.

¹⁸ 7 AAC 100.152.

¹⁹ 7 AAC 100.152; 7 AAC 100.154; 7 AAC 100.168.

²⁰ 7 AAC 100.154. If the applicant's income has fluctuated, the division may average the income received during previous months in order to make a fair determination of the applicant's usual or typical income level. 7 AAC 100.168(c).

²¹ 7 AAC 100.154.

standards for a particular individual's situation.²² The division followed its regulations and correctly determined Ms. M's Family Medicaid eligibility.

IV. Conclusion

Both Ms. M's gross monthly income and net income exceeded the Family Medicaid Program's applicable income levels for the period in question. Accordingly, Ms. M was not eligible for Family Medicaid benefits, and the division's decision denying those benefits is therefore affirmed.

Dated this 10th day of July, 2013.

Signed

Kay L. Howard
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 19th day of July, 2013.

By: *Signed*

Name: Kay L. Howard
Title: Administrative Law Judge

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

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).