

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

In the Matter of:)	
)	OAH No. 13-0659-MDE
M L. T)	Agency No.
_____)	

CORRECTED DECISION¹

I. Introduction

M T applied for Medicaid benefits. The Division of Public Assistance (division) determined that her household's monthly net income exceeded the Medicaid net income limit for a household of two persons and denied her application. Ms. T appealed and requested a hearing. Based on the evidence in the record, the division's eligibility determination is affirmed.

II. Facts

Ms. T's household is composed of herself and her husband, E.² They are both retired.³ Their monthly household income includes Mr. T's Social Security of \$1,532.90 and an annuity of \$522.52 from a prior work injury; and Ms. T's Social Security of \$750, for total of \$2,805.42.

Ms. T applied for Medicaid benefits on April 19, 2013.⁴ She was seeking Medicaid coverage to assist with payment of her Medicare Part B premium.⁵ On April 29, 2013, the division mailed a notice to Ms. T stating that it had denied her application because her household's countable income exceeded the Medicaid income limit for a household their size.⁶

On May 10, 2013, Ms. T requested a hearing with regard to the division's denial of her application.⁷ Ms. T's hearing was held on June 18, 2013. Ms. T participated in the hearing by telephone and her husband, E T, also presented testimony. Public Assistance Analyst Jeff Miller, who represented the division, also appeared by telephone.

¹ The proposed decision incorrectly identified Terri Gagne as the division representative in this matter. In fact, Jeff Miller represented the division. This corrected decision changed the name of the division representative.

² Ex. 1.

³ Ex. 2.1.

⁴ Ex. 2.

⁵ Ex. 2.

⁶ Ex. 5.

⁷ Ex. 6.1.

III. Discussion

The only issue in this case is the factual question of whether Ms. T's countable monthly income exceeds the maximum income level applicable under the Medicaid financial eligibility criteria.

Ms. T applied for Medicaid benefits in order to get assistance with paying her Medicaid Part B premiums. This is known as a "Special low-income Medicare beneficiary qualifying individual" under DPA regulation 7 AAC 100.756. In order to qualify for this benefit, in addition to other eligibility requirements, an applicant's monthly income must not exceed "135 percent of the federal poverty guidelines for this state, adopted by reference in 7 AAC 100.980. . . ."⁸ An applicant's income also includes the income of a spouse who is living with the applicant.⁹ Thus, for Ms. T's application, her income and the income of her husband, E, must both be considered.

In 2013, the federal poverty level for a two-person household in Alaska is \$19,380.¹⁰ To ascertain what amount is 135 percent of that figure, one must multiply it times 1.35. The result is \$26,163.¹¹ Thus, in order to qualify for this Medicare benefit, the annual income of Ms. T and her husband, E, must not exceed \$26,163. When divided by 12, the monthly income limit is \$2,180.25.

When she submitted her application, Ms. T reported her monthly income to be \$750 from Social Security, and E's monthly income to be \$1,540 from Social Security and \$522.52 from an annuity.¹² The division subsequently confirmed that E's Social Security is \$1,532.90 rather than the \$1,540 Ms. T reported; most likely she simply rounded his monthly benefit up on the application. Their actual monthly income totals \$2,805.42.¹³

The income counted for purposes of determining eligibility is everything received during a given month that can be used to meet basic needs, except that certain receipts are excluded and do not "count" toward the total.¹⁴ Examples of these exclusions include the value of any social services furnished to the applicant by a governmental or private agency,

⁸ 7 AAC 100.756(a)(2).

⁹ 7 AAC 40.240(a)-(b).

¹⁰ U.S. Department of Health and Human Services' website, <http://aspe.hhs.gov/poverty/13poverty.cfm> (date accessed August 1, 2013).

¹¹ $\$19,380 \times 1.35 = \$26,163$.

¹² Ex. 2.3.

¹³ $\$750 + \$1,532.90 + \$522.52 = \$2,805.42$.

¹⁴ 7 AAC 40.300 – 330.

income tax refunds, and foodstuffs obtained through subsistence activities. There is also a \$20 exclusion under 7 AAC 40.320(a)(23) applicable to "the first \$20 per month of income, earned or unearned, other than unearned income based on need." The \$20 exclusion is the only one that applies in this case, making their monthly countable income \$2,785.42. This exceeds the income limit for payment of Ms. T's Medicaid Part B premiums.

Ms. T argued that her husband's annuity should not be used as income because he receives it as the result of a work accident. He testified that the annuity company told him the monthly funds he receives cannot be counted as income. In this case, the annuity must be counted -- the Medicaid regulations control what is included in an applicant's income, not the annuity company. In any event, even if Mr. T's annuity is taken out of the calculation, the household's income would still be \$2,282.90.¹⁵ This figure also exceeds the \$2,180.25 income limit for Ms. T to be eligible for payment of her Medicaid Part B premiums as a "Special low-income Medicare beneficiary qualifying individual" under 7 AAC 100.756. The division's determination was correct.

IV. Conclusion

Ms. T's household income exceeds the applicable income eligibility limit for her to qualify for payment of her Medicaid Part B premiums. Accordingly, the division was correct to deny her application for benefits and the division's determination is therefore affirmed.

Dated this 15th day of August, 2013.

Signed

Kay L. Howard
Administrative Law Judge

¹⁵ \$1,532.90 + \$750 = \$2,282.90.

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 26th day of August, 2013.

By: Signed _____
Name: Kay L. Howard
Title: Administrative Law Judge

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