

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

In the Matter of)

J L)
_____)

OAH No. 13-1687-MDE
Agency No.

DECISION

I. Introduction

After J L was determined to be no longer eligible for services under the Medicaid Home and Community-based Waiver program, the Division of Public Assistance had to redetermine her eligibility for regular Medicaid. Under the Medicaid program, the maximum income limit for a person who is not receiving waiver services is lower than the maximum income limit for a person who is receiving waiver services. Because Ms. L's income exceeds the maximum limit applicable to her, the Division's determination that she is no longer eligible for Medicaid is affirmed.

II. Facts

Ms. L is a 77-year-old woman who lives in No Name, Alaska. Before November 2013, Ms. L qualified for services under the Medicaid Home and Community-based Waiver program. Under this program, an eligible applicant may elect to receive home or community-based services in lieu of placement in a nursing home.¹ Before November 1, when Ms. L was receiving waiver services, she was eligible for Adult Long Term Care Medicaid because her income was below the Medicaid limit for a person who receives waiver services. On November 1, 2013, however, Ms. L was notified that she is no longer eligible for waiver services.²

This hearing is not about Ms. L's eligibility for waiver services. This hearing is about her eligibility for Medicaid. If Ms. L's monthly income is more than is allowed under the regular Medicaid program, she will no longer be eligible for Medicaid. The maximum income for a

¹ See AS 47.07.045.

² Division Exhibit 1. This record does not reflect why Ms. L was determined to be ineligible for waiver services. No record of an ongoing appeal of the denial of waiver services exists.

person who receives waiver services is higher than the maximum income for a person who lives independently.³

The Division determined that Ms. L's monthly income from Social Security in November was \$1,635 (since that time it has increased to \$1,660 per month), and that this exceeded the Medicaid limit for an individual living independently.⁴ On November 8, 2013, the Division notified Ms. L that she is no longer eligible for Medicaid. It also told her that she could consider a Qualified Income Trust. On November 14, 2013, Ms. L requested a fair hearing to contest the decision.

A telephonic hearing was held on December 19, 2013. Ms. L represented herself and Terri Gagne appeared on behalf of the Division.

III. Discussion

Once Ms. L's waiver services were terminated, she was no longer eligible for Adult Long Term Care Medicaid.⁵ Accordingly, she would be eligible for Medicaid only if her income is below the income limits for a person eligible for Adult Public Assistance.⁶ The current Adult Public Assistance income limit for a person living alone is \$1,319.⁷

At the hearing, Ms. L did not dispute that her current income from social security is \$1,660 per month. She explained that "I do need that money. I worked hard for that – I worked my whole life. I'm having a hard time. Things are expensive in Alaska."⁸ She described how she had to make house and car payments, and pay expenses like lights and garbage. She stated that she is willing to go to a home.

Ms. L's testimony describes hardship. She may be able to explore options, including a qualified income trust, heating assistance, or other programs. Based on the facts in this record, however, at this time she is not eligible for Medicaid because she exceeds the income limit established in regulation.

³ Compare 7 AAC 40.310 (income limit for regular Medicaid) with 7 AAC 100.502 (income limit for waiver services).

⁴ Division Exhibit 3. Her income is now \$1,660 per month. *Id.* at 2.1.

⁵ 7 AAC 100.500.

⁶ 7 AAC 100.410; *see also* 7 AAC 40.310.

⁷ Division Exhibit 16.1. *See also* 7 AAC 40.310(a)(1) and (c).

⁸ L testimony.

IV. Conclusion

Ms. L's monthly income of \$1,660 exceeds the Medicaid-eligibility maximum applicable to her. Therefore, the Division's determination that she is no longer eligible for Medicaid is affirmed.

DATED this 7th of January, 2014.

By: Signed
Stephen C. Slotnick
Administrative Law Judge

Adoption

Under a delegation from the Commissioner of Health and Social Services, I adopt this Decision as the final administrative determination in this matter, under the authority of AS 44.64.060(e)(1).

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 28th day of January, 2014.

By: Signed
Name: Stephen C. Slotnick
Title: Administrative Law Judge/DOA

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

