



because Ms. D had submitted a Fair Hearing request on April 15, 2014.<sup>3</sup> The reason for denial was that Ms. D was neither a citizen nor in any other eligible category of residents.<sup>4</sup> Ms. D contended in her hearing request that she should be eligible for Medicaid “in accordance with the diplomatic and consular protection of the Compact of Free Association between the FSM and United States.”<sup>5</sup>

### III. Discussion

Apart from certain exceptional circumstances not applicable here,<sup>6</sup> Alaska’s Family Medicaid program is only available to people who are United States citizens, qualified aliens, or North American Indians with lawful immigration status.<sup>7</sup> Ms. D is neither a U.S. citizen nor a North American Indian. The only question is whether she is a “qualified alien.”

Although her alien status in the United States is entirely legal, Ms. D does not fit the definition of “qualified alien” under Alaska law. Alaska recognizes three kinds of “qualified aliens” for purposes of Medicaid eligibility.<sup>8</sup> Two of the categories relate to people of Iraqi or Afghan origin, or to victims of human trafficking, and have no relevance to Ms. D. The third category is qualified aliens “as defined in 8 U.S.C. 1641”<sup>9</sup>, a federal law governing basic Medicaid eligibility.

That federal statute in turn provides a number of eligible categories, such as aliens admitted for permanent residence and aliens granted asylum. However, although there have been efforts to amend the federal law to include them, individuals admitted under the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia (COFA) are not included in this federal eligibility provision. This omission was confirmed by the United States Court of Appeals for the Ninth Circuit in an opinion issued this spring.<sup>10</sup>

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<sup>3</sup> Ex. 5.1.

<sup>4</sup> See Ex. 3.

<sup>5</sup> Ex. 5.1.

<sup>6</sup> These exceptions can include individuals who claim U.S. citizenship under certain conditions (Ms. D does not claim citizenship), aliens seeking emergency treatment (Ms. D is seeking full coverage), and newborns. See 7 AAC 100.050-054, 100.306, 100.700.

<sup>7</sup> 7 AAC 100.050(a).

<sup>8</sup> 7 AAC 100.0052.

<sup>9</sup> 7 AAC 100.052(b)(1).

<sup>10</sup> *Korab v. Fink*, 748 F.3d 875 (9<sup>th</sup> Cir. 2014). The main holding of *Korab* related to Hawaii law, but the decision also confirmed the omission of COFA aliens from federal eligibility.

#### **IV. Conclusion**

M D is not eligible for Family Medicaid at this time. The Division's decision to deny coverage is affirmed.

DATED this 27<sup>th</sup> day of June, 2014.

*Signed* \_\_\_\_\_

Christopher Kennedy  
Administrative Law Judge

### **Adoption**

The undersigned, by delegation from 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 8<sup>th</sup> day of July, 2014.

By: *Signed* \_\_\_\_\_

Name: Christopher M. Kennedy

Title: Administrative Law Judge

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