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

In the Matter of)	
)	
M J. D)	OAH No. 14-0641-MDE
)	Agency No.

DECISION

I. Introduction

M D challenged the denial of her application for Family Medicaid coverage. She received a hearing on the matter on May 14, 2014.

Ms. D represented herself at the hearing and spoke on her own behalf. Terri Gagne, Public Assistance Analyst, argued the case for the Division of Public Assistance. Ms. Gagne did not present any witnesses, but she offered Exhibits 1-23, which were admitted without objection. The key relevant facts were stipulated orally at the hearing.

Based upon the undisputed evidence, it is not possible for Ms. D to qualify for Medicaid coverage under her present residency and health status. The Division's decision to deny coverage is affirmed.

Ms. D is expecting a child. As Ms. Gagne was kind enough to explain at the hearing, limited Medicaid coverage may become available to Ms. D for her own treatment in connection with the birth of her child, as well as coverage for the child. Ms. D should seek information from the Division of Public Assistance or from other reliable sources about coverage under Alaska regulations 7 AAC 100.700 and 7 AAC 100.306.

II. Facts

All facts are taken from the oral stipulations at the hearing, unless otherwise noted. M D, who works but has a relatively limited income, applied for Medicaid and other public assistance programs on April 1, 2014, listing only herself as a member of her household. Ms. D is a citizen of the Federated States of Micronesia, and holds citizenship in no other country. She has lived in the United States for more than seven years. She does not have permanent residency status. She is expecting a baby, and feels a strong need for medical coverage.

On April 29, 2014, the Division formally notified Ms. D that her application was denied.² The decision to deny the application must have been communicated informally at an earlier time,

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Ex. 2. Ex. 4.

because Ms. D had submitted a Fair Hearing request on April 15, 2014.³ The reason for denial was that Ms. D was neither a citizen nor in any other eligible category of residents.⁴ 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."⁵

III. Discussion

Apart from certain exceptional circumstances not applicable here, ⁶ 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. ⁷ 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. 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", 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.¹⁰

³ Ex. 5.1.

⁴ See Ex. 3.

⁵ Ex. 5.1.

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.

⁷ 7 AAC 100.050(a).

⁸ 7 AAC 100.0052.

⁹ 7 AAC 100.052(b)(1).

¹⁰ *Korab v. Fink*, 748 F.3d 875 (9th 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 27th 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 8th 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.]