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

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In the Matter of:

U C

OAH Case No. 14-0723-MDE DPA Case No.

## DECISION

## I. Introduction

This case is U C's appeal of the decision by the Division of Public Assistance (or Division) to deny her application for Alaska Aged Disabled Long Term Care Medicaid coverage.

The Division denied Ms. C's application based on the determination that she was disqualified from eligibility because her and her husband's assets exceeded the community spouse and individual resource limits. At the hearing, Ms. C did not dispute the Division's estimates of value of her and her husband's assets in making the determination that she was disqualified. Ms. C argued that her husband's assets should not be counted in determining her eligibility. Ms. C also argued that she should not be disqualified because she had already had approval for the level of care and plan of care that had been submitted on her behalf.

After the hearing, a post-hearing order was issued, setting the deadline for briefing on the issues raised by Ms. C at the hearing.

Because Ms. C and her husband's assets exceed the limits set in regulation, and because there are no exceptions to these limits that apply to her situation, the Division's denial of her application for Alaska Aged Disabled Long Term Care Medicaid coverage is upheld.

# II. Facts<sup>1</sup>

Ms. C asked for a hearing to appeal the Division's decision to deny her application for Alaska Aged Disabled Long Term Care Medicaid coverage.

Ms. C filed her application for Alaska Aged Disabled Long Term Care Medicaid coverage on February 4, 2014.<sup>2</sup> After she filed her application, the Division contacted her and worked with her to determine her and her husband's income and assets. Ms. C and her husband, X C, live together in the home they own. Ms. C receives \$1,016.90 per month

<sup>&</sup>lt;sup>1</sup> The facts are taken from the exhibits to the Agency's Fair Hearing Position Statement, the Division's letter of June 6, 2014, and the testimony received at hearing.

<sup>&</sup>lt;sup>2</sup> Ms. C's application is found at Exhibit 1.

from Social Security. Mr. C works full-time. Ms. C owns 125 shares in the No Name Corporation; she also had \$2,832.08 in a bank account. The couple's other assets are under her husband's name. These assets include \$566,000.00 in an investment account, plus a boat and vehicles. The Division estimated that the total value of the couple's assets was \$589,761.06.<sup>3</sup> Ms. C did not dispute this estimate at the hearing. <sup>4</sup>

Ms. C appeared by phone at the hearing with her Care Coordinator, Z S. Ms. C and Ms. S were concerned that Mr. C's assets were being counted in the Division's determination that she was not eligible. They were also confused by the Division's denial of benefits after what they understood to be the Division's approval of the level of care and plan of care that had been submitted on Ms. C's behalf.<sup>5</sup>

### III. Discussion

The Medicaid regulations are precise and direct regarding what can and cannot be included or deducted for purposes of determining a couple's resources.<sup>6</sup> Although Ms. C has very few assets in her own name, the value of her husband's assets must also be counted in determining her eligibility for Medicaid services.<sup>7</sup>

Those limits are \$117,240 for the community spouse limit, plus \$2,000 for the individual limit for a total resource limit of \$119,240 for the couple. There is no factual dispute that the Cs' combined resources exceed this limit. Although there are some situations in which the community spouse resource limit may be increased, these circumstances do not include having approval for the level of care and plan of care <sup>8</sup>

### IV. Conclusion

Ms. C did not qualify for the Alaska Aged Disabled Long Term Care Medicaid coverage she applied for because her and her husband's assets exceed the limits set in regulation. The

<sup>&</sup>lt;sup>3</sup> Division's position statement, page 2 & Exhibits 1-4.

<sup>&</sup>lt;sup>4</sup> Recording of Hearing.

<sup>&</sup>lt;sup>5</sup> Recording of Hearing.

<sup>&</sup>lt;sup>6</sup> 7 AAC 100.506.

<sup>&</sup>lt;sup>7</sup> 7 AAC 100.506(b).

<sup>&</sup>lt;sup>8</sup> The list of situations that justify an increase in the community spouse resource limit are found under 7 AAC 100.506(e).

Division's decision is AFFIRMED.

Dated this 29<sup>th</sup> day of July, 2014.

<u>Signed</u> Mark T. Handley 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 12<sup>th</sup> day of August, 2014.

By:

<u>Signed</u> Name: Mark T. Handley Title: Administrative Law Judge

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