

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

In the Matter of: )  
 ) OAH No. 14-1359-MDE  
 N U ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

On May 27, 2014, N U submitted an application for Medicaid.<sup>1</sup> The Division of Public Assistance (division) determined that Ms. U's assets were too great, and denied her application.<sup>2</sup> On July 30, 2014, Ms. U's son and power of attorney, C U, requested a hearing on that decision.<sup>3</sup>

The hearing was held on August 25, 2014. Mr. U participated by telephone on Ms. U's behalf. Ms. U's care coordinator, G X, also testified on Ms. U's behalf. The division was represented by Jeff Miller, who appeared by telephone.

This decision concludes that at the time of her application, Ms. U's countable resources were in excess of the allowable limit and, therefore, the division was correct when it denied her application. Also, the appeal was filed after the deadline.

**II. Facts**

At the time of her application, Ms. U had a checking account at Denali Alaskan Federal Credit Union. On April 1, 2014, the balance of the account was \$4,235.60, and on May 1, 2014, the balance was \$3,499.78.<sup>4</sup> Following a transfer of \$1,000.24 to her money market savings account on May 7, 2014, the balance of her checking account was \$2,300.<sup>5</sup>

After the transfer from her checking account, Ms. U's money market account balance on May 7, 2014 was \$9,776.78.<sup>6</sup> That same day, a check for the total balance of the money market account was written to the No Name, which reduced the balance of that account to

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<sup>1</sup> Exhibit 2.  
<sup>2</sup> Exhibit 7.  
<sup>3</sup> Exhibit 8.1.  
<sup>4</sup> Exhibit 4-4.3.  
<sup>5</sup> Exhibit 4.2.  
<sup>6</sup> *Id.*

zero.<sup>7</sup> Ms. U's son, C U, testified that check was for a "Preneed Funeral Agreement and Assignment," in which Ms. U had paid for future funeral services and merchandise. Mr. U provided a copy of the funeral home agreement, which was signed on May 7, 2014.<sup>8</sup> The line indicating the agreement was irrevocable as to Ms. U was left blank; there was no check mark on the line.<sup>9</sup> On May 27, 2014, the division staff contacted the funeral home and later spoke with "E," who verified that he had failed to mark the line that indicates the funeral home agreement is irrevocable. E stated that he would contact C U and complete the form.<sup>10</sup>

The division's decision denying Ms. U's application for Medicaid was issued on June 27, 2014.<sup>11</sup> The hearing request was filed on July 30, 2014.<sup>12</sup>

### III. Discussion

Ms. U's application was denied because the division determined she had excess financial resources. An individual is not eligible for Medicaid if she has more than \$2,000 in non-excludable resources.<sup>13</sup> Resources include any real or personal property that can be converted to cash to be used for the individual's support.<sup>14</sup> Total resources are counted as of the first day of the calendar month.<sup>15</sup> If Ms. U's resources exceeded the allowable limit at any time during that calendar day, she would not be eligible for assistance.<sup>16</sup>

Mr. U argued that his mother should not be denied benefits simply because there were "minor clerical errors" on her documents. He acknowledged that the funeral home agreement does not have a check on the line indicating Ms. U's funeral home agreement was irrevocable. He argued that mistake should not deprive his mother of Medicaid benefits. In addition, Ms. X asserted that Mr. U had written checks on his mother's checking account that verify the funds are gone and no longer exceed the \$2,000 limit.

The Medicaid regulations at issue clearly state that an applicant's resources may not exceed the allowable limit on the first day of the calendar month. The applicable date in

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<sup>7</sup> *Id.*  
<sup>8</sup> Exhibit 5-5.3.  
<sup>9</sup> *Id.*  
<sup>10</sup> Exhibit 6.  
<sup>11</sup> Exhibit 7-7.1.  
<sup>12</sup> Exhibit 8.  
<sup>13</sup> 7 AAC 40.270(a)(1); 7 AAC 100.400(a)(14).  
<sup>14</sup> 7 AAC 40.260; 7 AAC 100.400(a)(13).  
<sup>15</sup> 7 AAC 40.270(b).  
<sup>16</sup> *Id.*

Ms. U's case is May 1, 2014. However, the documents show that her checking account balance on that date was \$3,499.78. Therefore, she had access to resources in excess of the limit set out in 7 AAC 40.270(a)(1). Even if the funeral home agreement had been marked as irrevocable, Ms. U's checking account balance still would have been in excess of the allowable limit on that date. Accordingly, the division correctly determined that she was not eligible for Medicaid.

Further, Ms. U's appeal of the denial of her application for Medicaid coverage was not timely filed. The appeal should have been filed within thirty days of the division's June 27, 2014 denial letter, or by July 27, 2014.<sup>17</sup> However, it was actually filed on July 30, 2014.

#### **IV. Conclusion**

Alaska law strictly limits the total available resources a person may have and still qualify for Medicaid benefits. Ms. U's available resources exceeded that amount, and her appeal was untimely. Accordingly, the division's determination is affirmed.

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

*Signed* \_\_\_\_\_  
Kay L. Howard  
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 14<sup>th</sup> day of October, 2014.

By: *Signed* \_\_\_\_\_  
Name: Kay L. Howard  
Title: Administrative Law Judge

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

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<sup>17</sup> 7 AAC 40.030(a).