

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

In the Matter of)
)
X F) OAH No. 15-0895-MDE
) Agency No.
_____)

DECISION

I. Introduction

X F applied for Medicaid benefits. The Division of Public Assistance (Division) denied his application, and Mr. F appealed. A hearing was held on August 18, 2015. Mr. F was represented by his daughter, S E, who had been granted a power of attorney to act on his behalf. The Division was represented by a lay advocate, Jeff Miller.

Based on the evidence presented, the Division’s decision is affirmed.

II. Facts

Mr. F applied for Home and Community-Based Medicaid Waiver services on December 30, 2014.¹ The Division requested copies of Mr. F’s bank statements, and those statements were received by the Division on February 9, 2015.² On June 3, 2015, the Division denied Mr. F’s application after determining that he had more than \$2,000 in countable resources.³ Mr. F appealed on June 15, 2015.⁴ Mr. F intended to leave the nursing home and return to his own residence once his Medicaid Waiver application was approved.⁵ Between the date of application and the June denial, Mr. F was billed over \$89,000 by the nursing home he was staying at.⁶

After receiving the denial, Mr. F reapplied and was approved for Medicaid effective June of 2015.⁷ Had he known of the need to pay the nursing home bill, Mr. F could have done so sooner, and could have qualified for Medicaid at an earlier date.⁸

¹ Exhibit 2.
² Exhibit 5.
³ Exhibit E.
⁴ Exhibit G.
⁵ Exhibit 3.
⁶ Exhibit F.
⁷ Exhibit J.
⁸ E Testimony.

III. Discussion

There are several eligibility requirements that must be met before an applicant can be approved for Medicaid. One requirement is that an individual applicant not living with a spouse may have no more than \$2,000 in countable resources on the first day of each calendar month.⁹

Mr. F does not dispute that he had more than \$2,000 in countable resources in December and January. Instead, he was trying to apply to have his benefits begin in February.¹⁰ Mr. F asserts that if his application had been processed in a timely manner, he would have been able to qualify for benefits in February, or at least no later than March of 2015.

In support of his argument, he has submitted a copy of the Division's Timeliness Standards. The Division has established a 30 day processing time frame.¹¹ If, after processing the application, the Division decides to deny the application:

A denial notice must be sent to the applicant explaining the reason for the denial. This notice should be sent as soon as possible following the determination of ineligibility, but no later than 30 days following the application filing date.¹²

Mr. F argues that the failure to meet the Division's own standards denied "the F family an opportunity to resolve the ineligibility issues in a timely manner to attain Medicaid eligibility and continue to incur a private pay debt."¹³

Although it is unfortunate that the Division did not meet its own timeliness standards, those standards are not adopted regulations, and neither the standards nor the regulations provide a remedy when there is a delay in processing an application. The Division and the Office of Administrative Hearings must follow the regulations as written. Because it is undisputed that Mr. F did have more than \$2,000 in countable resources, the Division correctly denied his application.

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⁹ 7 AAC 40.270; 7 AAC 40.090(7).

¹⁰ E testimony.

¹¹ Exhibit K.

¹² Exhibit L.

¹³ Written statement from Mr. F submitted on August 17, 2015.

IV. Conclusion

Mr. F did have more than \$2,000 in countable resources. Accordingly, the Division’s denial of his application is upheld.

Dated this 31st day of August, 2015.

Signed

Jeffrey A. Friedman
Administrative Law Judge

Adoption

The undersigned adopts this decision as final 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 AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 15th day of September, 2015.

By: *Signed*

Name: Cheryl Mandala
Title: Administrative Law Judge

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