

II. Facts

The relevant facts in this case are undisputed. The M's household consists of X M, his wife U, and their three minor children.⁴ Mr. M is disabled and receives monthly SSDI payments from the Social Security Administration (SSA).⁵ One of the M children also receives SSDI.⁶ Other than these payments, the only other income regularly received by the Ms is Alaska's annual Permanent Fund Dividend (PFD) and a small amount of child support.⁷

The M household has received "MAGI" Medicaid (formerly Family Medicaid) since mid-2015 or before.⁸ On December 3, 2015, the Ms submitted an Eligibility Review Form to renew their Medicaid benefits.⁹ On December 24, 2015, the Division issued a notice of its determination concerning the continuing Medicaid eligibility of each household member.¹⁰ The Division determined that the Ms' three minor children continued to be eligible for Medicaid because, under federal regulations, the children's eligibility did not depend on income criteria.¹¹ However, the Division also determined that, after January 31, 2016, X and U M would no longer be eligible for MAGI Medicaid because the household's countable monthly income of \$4,264.35 exceeded the MAGI Medicaid income limit of \$4,120.00 per month for a five-person household.¹² Accordingly, the Division's notice stated that, while the M children's Medicaid coverage would continue, X and U M's Medicaid coverage would terminate.¹³ Mr. M requested a hearing on December 29, 2015.¹⁴

The Ms' hearing was held on January 28, 2016. X M participated in the hearing by phone, represented himself and his wife, and testified on their behalf. Public Assistance Analyst Sally Dial participated in the hearing by phone, represented the Division, and testified on its behalf. The record closed at the end of the hearing.

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⁴ Exhibit 2.1.

⁵ Exhibit 2.9.

⁶ Exhibit 2.8.

⁷ Exhibits 2.0, 3.0, 3.1.

⁸ Exhibit 2.1.

⁹ Exhibits 2.1 – 2.7.

¹⁰ Exhibits 4.0 - 4.6.

¹¹ Exhibits 4.1, 4.2.

¹² Exhibits 4.1 – 4.2.

¹³ Exhibit 4.0, 4.2. The fact that the Division's notice stated that X and U M's "overall" Medicaid coverage would terminate implied that the Division had found X and U M to be ineligible for Transitional Medicaid.

¹⁴ Exhibit 5.

III. Discussion

A. *Over-view of Medicaid and its Relevant Eligibility Categories*

Medicaid is an entitlement program created by the federal government, but administered by the states, to provide payment for medical services for low-income citizens.¹⁵ However, although having limited assets and income is one of the primary requirements for Medicaid eligibility, those factors alone do not qualify people to receive Medicaid benefits unless they also fall within an established Medicaid eligibility category.¹⁶

In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives states the flexibility to cover other population groups (optional eligibility groups).¹⁷ Research indicates that, in addition to the coverage recently authorized by the Affordable Care Act, the federal government has created 65 different categories of Medicaid, including both mandatory eligibility groups and optional eligibility groups.

One of Alaska's Medicaid eligibility categories is known as MAGI Medicaid. Persons receiving MAGI Medicaid, who later become ineligible for MAGI Medicaid as a result of an increase in the earnings of a caretaker relative *due to an increase in pay rate or the number of hours worked*, become eligible for Transitional Medicaid ("T-Med").¹⁸ The purpose of T-Med is to ease the transition from welfare to work by encouraging households to take advantage of better employment opportunities, even when it means the household will make too much money to qualify for MAGI Medicaid.¹⁹ T-Med eligibility begins on the date MAGI Medicaid eligibility ends and, assuming other eligibility criteria continue to be met, continues for 12 months.²⁰

B. *Is Mr. M's SSDI Earned Income for Purposes of Transitional Medicaid?*

In this case, the Ms do not dispute that their adult household members became over-income for MAGI Medicaid in December 2015. Accordingly, they do not dispute the Division's termination of their MAGI Medicaid coverage. Rather, they assert only that the Division should have found them eligible for *Transitional Medicaid* and continued their Medicaid coverage for one

¹⁵ See State of Alaska Division of Health Care Services website at http://dhss.alaska.gov/dhcs/Pages/medicaid_medicare/default.aspx (accessed February 8, 2016).

¹⁶ See <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Eligibility.html> (accessed February 8, 2016).

¹⁷ See the official Medicaid website at <http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Eligibility.html> (accessed February 8, 2016).

¹⁸ 7 AAC 100.200(a). There are other situations in which persons can become eligible for T-Med, but they are not relevant to this case.

¹⁹ Family Medicaid Eligibility Manual Section 5220.

²⁰ 7 AAC 100.200(a); 7 AAC 100.204(a); Family Medicaid Eligibility Manual Section 5220. There are other situations creating variations or exceptions to this general rule, but they are not relevant to this case.

year under *that* eligibility category. Specifically, Mr. M asserts that his SSDI (the type of income which caused his household to exceed the applicable MAGI Medicaid income limit), should be considered earned income for purposes of eligibility for Transitional Medicaid. This is a purely legal issue.

Initially, it is appropriate to discuss the nature of the disability benefits Mr. M is receiving. The Social Security Administration (SSA) administers two programs that provide benefits based on disability: the Social Security disability insurance (SSDI) program (Title II of the Social Security Act), and the supplemental security income (SSI) program (Title XVI of the Social Security Act).²¹ Title II provides for payment of disability benefits to individuals who are "insured" under the Act by virtue of their contributions to the Social Security trust fund through the Social Security tax on their earnings, as well as to certain disabled dependents of insured individuals.²² Title XVI provides SSI payments to disabled individuals (including children under age 18) who have limited income and resources.²³ People who have never worked, or who haven't worked enough to be considered "insured" for Title II disability benefits, are eligible to receive SSI as long as they have limited income and assets.²⁴ In short, SSDI has been "earned" by its recipient in the general sense of the term, whereas SSI is "unearned" (or at least not fully earned).

However, the issue of whether Mr. M and his wife are ineligible for T-Med, based on an increase in Mr. M's SSDI payments, depends on the specific language of the relevant regulation. Alaska Medicaid regulation 7 AAC 100.200, titled "Eligibility for Transitional Medicaid benefits," provides in relevant part as follows:

(a) Medicaid eligibility under 7 AAC 100.002(a) (2) and 7 AAC 100.200 - 7 AAC 100.209 is available for up to 12 months if the household (1) was eligible for and in receipt of Family [now MAGI] Medicaid in any three of the six months, including months of retroactive eligibility, immediately preceding the month in which the household became ineligible for Family [now MAGI] Medicaid; and (2) became ineligible for Family [now MAGI] Medicaid under (b) of this section because of an increase in the earnings of a caretaker relative *due to an increase in hours worked or in the rate of pay*. [Emphasis added].

In summary, 7 AAC 100.200(a) specifically limits earned income, for purposes of Transitional Medicaid, as "an increase in hours worked or in the rate of pay." The increase in the

²¹ See the SSA's website at <https://www.ssa.gov/disability/professionals/bluebook/general-info.htm> (accessed on February 8, 2016).

²² The statutes composing Title II and governing SSDI are codified at 42 U.S.C. Section 423.

²³ The statutes composing Title XVI and governing SSI are codified at 42 U.S.C. Sections 1381 - 1383f.

²⁴ 42 U.S.C. Sections 1381 - 1383f.

Ms' SSDI payments, although earned in a general sense, was not due to "an increase in hours worked or in the rate of pay." Accordingly, based on the strict language of the regulation, the Division was correct to conclude that Mr. M and his wife were ineligible for T-Med.

The Division did not dispute that the Ms have a significant need for affordable medical insurance, and the record supports that finding. However, the Division is required to follow its Medicaid eligibility regulations as currently written.²⁵ Likewise, the Office of Administrative Hearings does not have the authority to create exceptions to these regulations.²⁶ To provide Medicaid coverage for someone in X and U M's current financial situation would require changes in law, perhaps at both the state and federal level. Those changes cannot be made through the hearing process.

IV. Conclusion

The Division was correct, under its regulations, to treat Mr. M's SSDI payments as unearned income for purposes of eligibility for Transitional Medicaid. The Division's decision terminating X and U M's Medicaid coverage, effective January 31, 2016, is therefore affirmed.

Dated this 16th day of February, 2016.

Signed _____
Jay Durych
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 25th day of February, 2016.

By: *Signed* _____
Name: Jay D. Durych
Title: Administrative Law Judge

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

²⁵ "Administrative agencies are bound by their regulations just as the public is bound by them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

²⁶ *See* 7 AAC 49.170 (limits of the hearing authority).