

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

In the Matter of: )  
 )  
 C L ) OAH No. 16-0677-MDE  
 ) DPA Case No.

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**DECISION**

**I. Introduction**

The issue in this case is whether C L is entitled to payment, by Alaska's Medicaid program, of certain medical expenses she incurred between February 5, 2016 and March 8, 2016 (inclusive). Although Ms. L applied for Alaska Medicaid coverage on February 5, 2016, the Division of Public Assistance (Division) did not approve coverage in Alaska until March 9, 2016 because Texas Medicaid did not close its case on Ms. L until March 8, 2016.<sup>1</sup>

Ms. L asserts that Alaska Medicaid coverage should be extended to cover certain medical and prescription drug expenses she incurred prior to March 9, 2016, because (1) she did not intentionally use her Texas Medicaid benefits after applying for benefits in Alaska, and (2) it was not within her power to make Texas Medicaid close its case by any specific date.<sup>2</sup> The Division asserts that its regulations prevent it from providing coverage for medical expenses incurred prior to March 9, 2016 because one of Ms. L's standing prescriptions was auto-renewed through Texas Medicaid and received by Ms. L's former Texas nursing home in late February 2016.<sup>3</sup>

This decision concludes that, because of the specific language of 7 AAC 100.062(a)(2), Ms. L's February 2016 medical expenses *cannot* be covered by Alaska Medicaid, but any medical expenses she incurred from March 1 - 8, 2016 *are* covered by Alaska Medicaid. Accordingly, the Division's *de-facto* decision not to pay Ms. L's February 2016 medical expenses is affirmed, and the Division's *de-facto* decision not to pay Ms. L's medical expenses from the period March 1 - 8, 2016 is reversed.

**II. Facts**

The relevant facts are not in dispute. C L is 30 years old.<sup>4</sup> She has been disabled since 1999 and her primary income consists of Supplemental Security Income (SSI) from the Social Security Administration.<sup>5</sup> Her mother, M X, helps care for her.<sup>6</sup>

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<sup>1</sup> Exhibits 2.1, 4, 8.

<sup>2</sup> M X's hearing testimony.

<sup>3</sup> Exhibits 9; Sally Dial's argument at hearing.

<sup>4</sup> Exhibit 1.

Ms. L and Ms. X lived in Texas until sometime in January 2016, when Ms. X's employer transferred her to Alaska.<sup>7</sup> Ms. L lived in a nursing home while in Texas, and continues to live in a nursing home now that she is in Alaska.<sup>8</sup>

Ms. L did not intentionally utilize her Texas Medicaid benefits at any time after coming to Alaska in January 2016.<sup>9</sup> However, she had a prescription, for one or more medications, which was set for auto-renewal and auto-shipment, and these medications were shipped to Ms. L's Texas nursing home sometime between the date Ms. L left the Texas nursing home in January 2016, and the date she applied for Medicaid in Alaska.<sup>10</sup>

On February 5, 2016 Ms. L applied for Adult Public Assistance (APA), and APA-related Medicaid, in the state of Alaska.<sup>11</sup> On February 12, 2016 Ms. X participated in an eligibility interview with one of the Division's eligibility technicians (ETs).<sup>12</sup> During that interview, Ms. X informed the ET that Ms. L had previously been covered by Texas Medicaid.<sup>13</sup> Following the interview, the ET notified Texas Medicaid that Ms. L had applied for coverage in Alaska, and asked Texas Medicaid for confirmation that its case had been closed so that Ms. L could be approved for Medicaid coverage in Alaska.<sup>14</sup>

On March 1, 2016 an ET checked on the status of Ms. L's application and found that no response had yet been received from Texas Medicaid.<sup>15</sup> There is an indication in the ET's notes that either the ET or Ms. X had spent two hours on "hold" with Texas Medicaid trying to determine whether Texas had closed its Medicaid case.<sup>16</sup> Ms. X contacted (or tried to contact) Texas Medicaid numerous times, between early February and early March 2016, in an effort to expedite Texas' closure of its case, so that Ms. L could obtain coverage in Alaska.<sup>17</sup>

On March 4, 2016, the Division was notified by Texas Medicaid that it was closing its case on Ms. L effective March 8, 2016.<sup>18</sup> Based on this information, the Division approved Ms. L's

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<sup>5</sup> Exhibit 2.

<sup>6</sup> Exhibit 2; undisputed hearing testimony. Ms. X is Ms. L's authorized representative in this case.

<sup>7</sup> Exhibit 2; undisputed hearing testimony. Ms. X and Ms. L evidently lived in Alaska originally; then moved to Texas; and then moved back to Alaska.

<sup>8</sup> Exhibit 2; undisputed hearing testimony.

<sup>9</sup> M X's hearing testimony.

<sup>10</sup> M X's hearing testimony.

<sup>11</sup> Exhibits 2.1 - 2.18. Ms. X completed and signed Ms. L's application on her behalf.

<sup>12</sup> Exhibit 2.

<sup>13</sup> Exhibit 2.

<sup>14</sup> Exhibit 2.

<sup>15</sup> Exhibits 3, 8.

<sup>16</sup> Exhibit 3.

<sup>17</sup> M X's hearing testimony.

<sup>18</sup> Exhibit 4.

application for APA and APA-related Medicaid effective March 9, 2016.<sup>19</sup> The Division mailed a notice to Ms. L on March 7, 2016 informing her of the approval of her application and the effective date of her Medicaid coverage in Alaska.<sup>20</sup>

Between February 1 and March 8, 2016 Ms. L incurred prescription drug charges and medical expenses, totaling approximately \$400.00, which were not submitted to Texas Medicaid and were not otherwise paid.<sup>21</sup> On May 10, 2016 Ms. X contacted the Division to request an earlier effective date for Ms. L's Alaska Medicaid coverage so that these expenses could be paid by Alaska Medicaid.<sup>22</sup> On May 18, 2016 a Division representative advised Ms. X that, because Texas Medicaid did not close its case until March 8, 2016, the Division could not, under its regulations, approve an effective date earlier than March 9, 2016.<sup>23</sup>

Ms. X requested a hearing on May 31, 2016.<sup>24</sup> The hearing was held on July 11, 2016. Ms. L did not participate, but was represented by her mother and guardian M X, who testified by phone on her daughter's behalf. 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.

### **III. Discussion**

#### ***A. Over-view of Alaska Medicaid Regulations Concerning Coverage "Timing"***

The rules governing when an applicant's Medicaid coverage becomes effective in Alaska are spread across several regulations and Division program manuals. The general rule applicable to APA-related Medicaid, the Medicaid category at issue here, is set forth in Adult Public Assistance Manual Section 410-7 C, which states that, "[i]f otherwise eligible, APA applicants may qualify for Medicaid coverage back to the month that an APA application is received in a DPA office." But what *day of the month* does coverage begin? If an applicant meets all eligibility requirements on date of application, the benefit start date for the APA *cash payment* is the *actual date* that the APA application is *received* in the DPA office,<sup>25</sup> whereas the coverage start date for *APA-related Medicaid* is the *first day of the month* in which the application is received.<sup>26</sup> If an applicant *does not* meet all eligibility requirements on date of application, but subsequently satisfies all eligibility criteria, the benefit start date for the APA *cash payment* is the first day of the month *immediately*

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<sup>19</sup> Exhibit 4.

<sup>20</sup> Exhibit 5. The Division mailed a corrective notice to Ms. L on June 2, 2016 (Exhibit 9).

<sup>21</sup> M X's hearing testimony.

<sup>22</sup> Exhibit 6.0.

<sup>23</sup> Exhibit 6.1.

<sup>24</sup> Exhibit 7.

<sup>25</sup> Adult Public Assistance Manual Section 410-7(A)(1) (see example).

<sup>26</sup> Adult Public Assistance Manual Section 410-7(C) (see example).

following the date on which the last eligibility criterion is satisfied,<sup>27</sup> whereas the coverage start date for *APA-related Medicaid* is once again the first day of the month in which the application is received.<sup>28</sup> In this case, Ms. L's application was received by the Division on February 5, 2016. Accordingly, absent other complicating circumstances present in this case (discussed below), Ms. L's Alaska Medicaid coverage could be made effective as early as February 1, 2016.

The regulation which specifically governs the transition in Medicaid coverage, in situations where (as here) a person covered by Medicaid in another state applies for Medicaid in Alaska, is 7 AAC 100.062, which provides in relevant part as follows:

- (a) An applicant who has recently arrived in the state with the intent to remain and who is still receiving assistance from another state meets the residency requirement of 7 AAC 100.060. However, the department will not issue Medicaid benefits until Medicaid benefits from the other state are terminated, unless the department verifies that (1) the other state was unable to or did not stop the issuance of Medicaid benefits before the individual arrived in this state; and (2) the applicant did not use the benefits issued from the other state to pay for any medical services provided in the month.

Finally, there are several provisions in the Division's various program manuals which essentially mirror the provisions of 7 AAC 100.062(a), including Adult Public Assistance Manual Section 423-3(B) ("[p]ersons who receive Medicaid benefits from another state are not eligible to receive Medicaid benefits from Alaska *for the same month*" (emphasis added)), Family Medicaid Manual Section 5012(E), and Aged, Disabled and Long Term Care Medicaid Eligibility Manual Section 513(F).

***B. Are Ms. L's February 2016 Medical Expenses Covered by Alaska Medicaid?***

Under the generally applicable coverage start rule for APA-related Medicaid (Adult Public Assistance Manual Section 410-7(C)), Ms. L would have been eligible as of the first day of the month during which she applied for benefits. In this case, Ms. L applied for APA-related Medicaid on February 5, 2016, so, absent her Texas Medicaid coverage, her Alaska coverage would have begun on February 1, 2016. However, because Ms. L *was* covered by Texas Medicaid at the time she came to Alaska, the more specific coverage start rule, 7 AAC 100.062, controls. Under 7 AAC 100.062(a), the Division generally cannot extend Medicaid coverage until the other state's Medicaid coverage has ended. The only exception is if the other state did not cease issuance of Medicaid

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<sup>27</sup> Adult Public Assistance Manual Section 410-7(A)(2) (see example).

<sup>28</sup> Adult Public Assistance Manual Section 410-7(C) (see example).

benefits before the applicant arrived in Alaska, *and* the applicant did not use the benefits issued by the other state to pay for any medical services provided "in the month."

In this case, Texas did not terminate its coverage of Ms. L before she arrived in Alaska, so the first element of the exception is satisfied here. However, Ms. L had previously authorized a pharmacy to auto-ship medications to her Texas nursing home, and those medications were paid and shipped, for Ms. L's benefit, in February 2016. Accordingly, Ms. L does not satisfy the second element of the exception as to those unpaid medical expenses which she incurred during the same month (February 2016). Because Ms. L does not satisfy *both* the first and second elements of 7 AAC 100.062(a), *as to her February 2016 medical expenses*, the Division's regulations prevent it from paying *those* expenses.

**C. *Are Ms. L's March 2016 Medical Expenses Covered by Alaska Medicaid?***

The situation is different, however, as to those medical expenses incurred by Ms. L from March 1 - 8, 2016. Texas did not terminate its coverage until March 8, 2016, so the first element of 7 AAC 100.062(a) is again satisfied. In addition, however, none of Ms. L's medical expenses were paid for by Texas Medicaid "in the month" of March 2016. Accordingly, Ms. L satisfies both the first *and* second elements of 7 AAC 100.062(a) *as to her March 2016 medical expenses*. Ms. L's medical expenses, incurred during the period from March 1 - March 8, 2016, should therefore be paid by Alaska Medicaid.

**IV. Conclusion**

Because of the specific language of 7 AAC 100.062(a)(2), Ms. L's February 2016 medical expenses cannot be covered by Alaska Medicaid, but any medical expenses she incurred from March 1 - 8, 2016 *are* covered by Alaska Medicaid. Accordingly, the Division's decision not to pay Ms. L's February 2016 medical expenses is affirmed, and the Division's decision not to pay Ms. L's medical expenses from the period March 1 - 8, 2016 is reversed.

Dated this 5th day of August, 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 19<sup>th</sup> day of August, 2016.

By: Signed \_\_\_\_\_  
Name: Jay D. Durych  
Title: Administrative Law Judge, DOA/OAH

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