

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

In the Matter of	)	
	)	OAH No. 16-1023-MDE
E N	)	Division No.
_____	)	

**DECISION**

**I. Introduction**

E N applied for Medicaid on May 26, 2016. The Department of Health and Social Services, Division of Public Assistance (Division) approved his Medicaid benefits effective July 1, 2016. Mr. N disagreed with the start date for his benefits and requested that his benefits be approved effective January 1, 2016. Mr. N's income, however, exceeded the Medicaid program's income limits during each of the months of January through June 2016. While he created a Medicaid Qualifying Income Trust (Medicaid Trust) in May 2016, he did not place funds in it to reduce his monthly countable income to below the Medicaid program's income limit until July 2016. Consequently, the Division's approval of his Medicaid benefits effective July 2016, and not allowing coverage in the preceding months, is upheld.

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

Mr. N applied for Medicaid at some time prior to February 2016. That application was denied because his income was too high. The Division notified him, on February 18, 2016, that he might qualify in the future if he set up a Medicaid Trust.<sup>2</sup> Mr. N followed up on the Division's advice: he set up a Medicaid Trust and registered it with the Court system in May 2016.<sup>3</sup> He then applied for Medicaid benefits on May 26, 2016.<sup>4</sup>

Mr. N's only income is a monthly Social Security Disability payment of \$1,535.<sup>5</sup> As a single person residing by himself, the maximum Mr. N can make and still qualify for Medicaid benefits is \$1,362 per month.<sup>6</sup> Because Mr. N was entitled to a monthly deduction of \$20 from his income, he would have needed to deposit a minimum of \$153 per month into his Medicaid

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<sup>1</sup> These factual findings are established by a preponderance of the evidence, and are based upon Mr. N's hearing testimony and exhibits as noted.

<sup>2</sup> Ex. 1.1.

<sup>3</sup> Exs. 3 – 3.23.

<sup>4</sup> Exs. 2 – 2.9.

<sup>5</sup> Ex. 2.10.

<sup>6</sup> Ex. 30.1 (*Aged, Disabled and Long Term Care Medicaid Eligibility Manual Addendum 1 - Adult Public Assistance Need Standards*).

Trust account.<sup>7</sup> Mr. N did not reduce his countable monthly income by placing the excess over \$1,362 in his Medicaid Trust bank account until July 2016.<sup>8</sup> Mr. N does not dispute that his Medicaid Trust was not funded until July 2016. However, he testified that the lack of earlier funding was due to difficulties with Social Security, his Trustee, and the bank.

### III. Discussion

The Alaska Medicaid program contains a variety of coverage categories. *See* 7 AAC 100.002. Each of these categories has differing eligibility requirements. These include financial requirements which limit how much monthly income a Medicaid applicant may have, and how much in resources (cash, other personal property, and real property) an applicant may own. Because Mr. N is applying for benefits, he has the burden of proof, by a preponderance of the evidence, to demonstrate that he is financially eligible for those benefits.<sup>9</sup>

A single Medicaid applicant/recipient, who is either living independently or in an assisted living home, may not have more than \$1,362 in countable monthly income.<sup>10</sup> Mr. N's monthly income is \$1,535. A person's monthly countable income, however, can be reduced by diverting some of it to a properly set up and funded Medicaid Qualifying Income Trust.<sup>11</sup> That Medicaid Trust must meet requirements regarding its provisions, must be registered with the Court, and must be funded before it is considered a valid Medicaid Trust.<sup>12</sup> If Mr. N reduced his countable monthly income to \$1,362 or less by depositing adequate funds to such a trust each calendar month, then his monthly income would not disqualify him from Medicaid eligibility. It is undisputed that Mr. N created a proper Medicaid Trust and registered it with the Court in May 2016. However, he did not deposit funds to the Medicaid Trust in order to reduce his countable monthly income to \$1,362 or less until July 2016.

Mr. N argued that he should have his Medicaid benefits approved beginning in January 2016.<sup>13</sup> His only argument on this point consisted of his testimony that the difficulty in funding

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<sup>7</sup> See the Division's Budget Worksheet contained in the record at Ex. 34.

<sup>8</sup> Ex. 8.2.

<sup>9</sup> 7 AAC 49.135.

<sup>10</sup> 7 AAC 100.400(a)(16) – (19) (incorporating Adult Public Assistance income regulations 7 AAC 40.300 – 350); *Aged, Disabled and Long Term Care Medicaid Eligibility Manual* Addendum 1 (<http://dpaweb.hss.state.ak.us/manuals/adltc/adltc.htm>).

<sup>11</sup> 7 AAC 100.600(a).

<sup>12</sup> See 7 AAC 100.600 – 606, and 610 for the regulations governing Medicaid Qualifying Income Trusts.

<sup>13</sup> An applicant can have his or her Medicaid application approved for each of the three months immediately preceding the month of the application if he or she was financially eligible for Medicaid during each of those months. See 7 AAC 100.072. Because Mr. N's application was made in May 2016, he could have received

his Medicaid Trust was caused by the Social Security Administration, his Trustee, and the bank. Because the Division did not cause any delay in setting up and funding the Medicaid Trust, Mr. N is not entitled to have his Medicaid Trust deemed effectively setup (created, registered with the Court, and funded) before it was fully setup in July 2016. It follows that Mr. N was not eligible for Medicaid benefits until July 2016 because his monthly income of \$1,535 exceeded the Medicaid income limit of \$1,362 during each of the months of January through June 2016.

#### **IV. Conclusion**

The Division's approval of Mr. N's Medicaid application effective July 1, 2016 is upheld.

DATED this 28<sup>th</sup> day of November, 2016.

*Signed*

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Lawrence A. Pederson  
Administrative Law Judge

### **Adoption**

The undersigned, by delegation from 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 28<sup>th</sup> day of December, 2016.

By: *Signed*

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Name: Deborah L. Erickson  
Title: Project Coordinator  
Agency: Office of the Commissioner, DHSS

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

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Medicaid coverage during February through April 2016, but not earlier, only if his countable income was \$1,362 or less during each of those months.