

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

In the Matter of )  
 )  
 W L )  
\_\_\_\_\_ )

OAH No. 16-1385-MDE  
Division No.

**DECISION**

**I. Introduction**

W L is a Medicaid recipient who lives in an assisted living home. In October 2016, the Division of Public Assistance (Division) was informed that he received unreported income in 2015. Based upon that information, the Division determined that he was individually responsible for paying \$5,197.75 of his assisted living home costs for the month of November 2016.<sup>1</sup> Mr. L disagreed with the Division and requested a hearing.

The facts show that Mr. L's income for 2015 included \$12,778.90 in unreported Native Corporation dividends, in addition to his regular monthly Social Security payments. Because his unreported income exceeded the amount allowed by regulation for monthly living costs, he was responsible for paying for one entire month of his assisted living home costs - \$5,197.75. Accordingly, the Division's action requiring him to pay that amount is affirmed.

**II. Facts<sup>2</sup>**

Mr. L lives in an assisted living home. He is a Medicaid recipient and the Medicaid program pays for his assisted living home. His assisted living home costs the Medicaid program \$5,197.75 per month.<sup>3</sup> Mr. L's normal monthly income consists of monthly Social Security payments.<sup>4</sup>

Mr. L applied to renew his Medicaid benefits in August 2016.<sup>5</sup> When that application was processed, Mr. L's Medicaid Care Coordinator provided the Division with information that Mr. L received a total of \$12,778.90 in Native Corporation dividends (from Corporation A and

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<sup>1</sup> The Division also notified Mr. L that his December 2016 Medicaid Cost of Care contribution was \$50, and that his monthly Medicaid Cost of Care contribution would be \$54 starting in January, 2017. He did not challenge these changes.

<sup>2</sup> These factual findings are established by a preponderance of the evidence, and are based upon Mr. L's hearing testimony and exhibits as noted.

<sup>3</sup> Ex. 9.

<sup>4</sup> Ex. 2.

<sup>5</sup> Ex. 2.1.

Corporation B) during 2015.<sup>6</sup> Mr. L had not previously reported this income as it was received, because he did not know it needed to be reported.<sup>7</sup>

The Division then reviewed Mr. L's dividend income for 2015, and his normal monthly income, and determined that the amount he contributed toward his monthly medical bills (Medicaid Cost of Care) should be adjusted. The Division concluded that he should pay the entire amount of his assisted living home costs, \$5,197.75, for one month only – November 2016, in addition to his regular monthly Medicaid Cost of Care (\$50 in December 2016, and \$54 starting in January 2017).<sup>8</sup>

### **III. Discussion**

The Alaska Medicaid program contains a variety of coverage categories. *See* 7 AAC 100.002. Each of these categories has different financial requirements. Mr. L receives Medicaid Long-term Care, which pays for his residence in an assisted living home. As a Medicaid Long-term Care recipient, he is allowed a personal needs allowance of \$1,396 per month. If his income exceeds that amount, he is responsible for paying the excess to his assisted living home provider, which reduces the amount the Medicaid program pays to the assisted living home provider. That amount is referred to as the Medicaid Cost of Care contribution.<sup>9</sup>

Mr. L's normal monthly income consists of Social Security benefits. His normal monthly obligation would be the difference between that amount and the \$1,396 personal needs allowance. However, this does not take into account the \$12,778.90 that he received from his corporate dividends in 2015.

The Medicaid program is allowed to go back and retroactively adjust a recipient's Medicaid Cost of Care contribution, if a recipient has either been underpaying or overpaying his contribution.<sup>10</sup> Because Mr. L's income was clearly understated by the amount of his corporate dividends, the Medicaid program is entitled to recalculate his Medicaid Cost of Care contributions to account for that unreported income.

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<sup>6</sup> Exs. 3.1 – 3.3.

<sup>7</sup> Mr. L's testimony.

<sup>8</sup> The Division sent Mr. L a notice in October 2016, which had Mr. L paying a higher cost not only for November 2016, but for the following months. *See* Exs. 4 – 4.2. After speaking with Mr. L, the Division recalculated his Medicaid Cost of Care and sent him notice to that effect. *See* Exs. 8 – 8.1.

<sup>9</sup> 7 AAC 100.552; 7 AAC 100.554(a) and (c)(1); 7 AAC 100.558; Ex. 12.4.

<sup>10</sup> 7 AAC 100.570.

A recipient of Native Corporation dividends is entitled to a yearly deduction of \$2,000 from those dividends.<sup>11</sup> This reduces Mr. L's 2015 unreported income from \$12,778.90 to \$10,778.90. Because the Medicaid program allows retroactive adjustment of the Medicaid Cost of Care, this means that that \$10,778.90 must be applied to his Medicaid Cost of Care. However, this does not mean that Mr. L must contribute the entire \$10,778.90 to his assisted living home. The Medicaid program can only determine a retroactive Medicaid Cost of Care contribution for one month, and it may not exceed the actual Medicaid cost for that month.<sup>12</sup> In Mr. L's case, his monthly Medicaid cost for his assisted living home is \$5,197.75. Accordingly, as determined by the Division, his Medicaid Cost of Care contribution for November 2016, which he is required to pay to his assisted living home provider directly, was \$5,197.75.<sup>13</sup>

#### **IV. Conclusion**

The Division's change to Mr. L's Medicaid Cost of Care contribution increasing it to \$5,197.75 for one month - November 2016 - is AFFIRMED.

DATED this 10<sup>th</sup> day of March, 2017.

*Signed* \_\_\_\_\_

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 24<sup>th</sup> day of March, 2017.

By: *Signed* \_\_\_\_\_

Name: Kathryn A. Swiderski

Title: Administrative Law Judge

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

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<sup>11</sup> 7 AAC 100.280(15)(A).

<sup>12</sup> 7 AAC 100.554; Ex. 12.3.

<sup>13</sup> This is an issue between Mr. L and his assisted living home provider. It appears, from Mr. L's testimony and statements, that he has already started to pay his provider.