

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

In the Matter of)

E H-G)
_____)

OAH No. 17-0080-MDE
Agency No.

DECISION

I. Introduction

In September 2016, E H-G applied for Medicaid benefits. Months later, after it received copies of Ms. H-G's bank statements, the Division of Public Assistance (Division) approved the application. However, the Division suspended benefits for the months of October, November and December 2016, because Ms. H-G's bank account balance exceeded the \$2,000 resource limit on the first day of each month. Ms. H-G appealed.

The Division's decision is upheld. Under applicable Medicaid regulations, Ms. H-G was over-resource on the first day of each month at issue. The Division has no authority to override the governing regulations, even if Ms. H-G was over-resource for understandable reasons.

II. Facts¹

The relevant facts of the case are not in dispute. In August 2016, Ms. H-G was in the process of moving from the Lower 48 to Alaska. On August 21 or 22, 2016, she was in a major car accident near No Name, Canada, and she sustained life-threatening injuries. She was eventually medevac'd to No Name, where she received intensive medical treatment for several months.² Ms. H-G has no memory of her first month in No Name. She began responding to simple questions in late September, but she did not feel fully cognizant until late November 2016. She is still in the process of recovering from her injuries, and she currently lives in an assisted living home.

Because of the car accident, Ms. H-G lost most of her belongings in August 2016, including her checkbook and bank cards. This made it extremely difficult for her to access or manage her bank account, particularly while she was confined to the hospital and focused

¹ Unless indicated otherwise, the factual background is based on the testimony of E H-G.

² See Exhibit 2.

on her physical recovery. In the meantime, she was receiving her monthly Social Security benefits via direct deposit into her checking account.³

Before Ms. H-G began her move to Alaska, she had signed a rental agreement for housing. For understandable reasons, she was physically unable to pay her rent for several months, even though she acknowledges that she owed her landlord a significant amount of money. As Ms. H-G's condition improved, a social worker at the hospital eventually helped her get replacement checks and a new bank card. Sometime after December 1, 2016, Ms. H-G wrote a \$3,750 check to pay her rent bill. Her landlord cashed it on December 14, 2016.⁴

On September 1, 2016, Ms. H-G's combined checking and savings account balance was \$979.71.⁵ Because her total resources remained below the \$2,000 eligibility limit, the Division approved Ms. H-G's Medicaid application for September.⁶ Primarily due to her Social Security deposits, her combined checking and savings account balances grew in subsequent months. On October 1, 2016, the combined balance was \$3,327.42.⁷ On November 1, 2016, it was \$4,121.81.⁸ And, on December 1, 2016, it was \$5,073.21.⁹ These balances exceeded the \$2,000 eligibility threshold, so the Division suspended Ms. H-G's Medicaid benefits for those three months.¹⁰

After Ms. H-G's landlord cashed her rent check in mid-December, her combined checking and savings account balance fell below \$2,000. It remained below that threshold on January 1, 2017, and the Division approved her Medicaid eligibility for that month.¹¹

Ms. H-G appealed the suspension of her benefits for October, November and December 2016.¹² The hearing took place on February 16, 2017. Ms. H-G appeared telephonically. She was assisted by C Z. Public Assistance Analyst Sally Dial appeared by telephone and represented the Division.

³ Exhibits 3.1 – 3.9.

⁴ Exhibit 3.4.

⁵ Exhibits 3, 3.6.

⁶ Exhibit 3.

⁷ Exhibits 3.1, 3.12. *See also* Exhibit 3.

⁸ Exhibits 3.2, 3.7, 3.12.

⁹ Exhibits 3.4, 3.8, 3.13.

¹⁰ Exhibit 4.

¹¹ *Id.*

¹² Exhibit 5.

III. Discussion

The issue in this case is whether the Division correctly suspended Ms. H-G's Medicaid benefits for October, November and December 2016, because her bank balance exceeded \$2,000 on the first day of each month. Because this was a new application, Ms. H-G has the burden of proof to show, by a preponderance of the evidence, that the Division's decision was incorrect.¹³

The Medicaid program is created under federal law, but it is administered by the state. State law sets out specific resource limits for Medicaid eligibility.¹⁴ To be eligible for benefits, individual applicants may not have more than \$2,000 in non-excludable resources, also known as "countable resources," at any time on the first day of a calendar month.¹⁵ If the applicant's countable resources exceed that limit on the first day of the month, he or she is "over-resource" and therefore not eligible in that month.¹⁶ In general, cash funds in a bank account are considered a countable resource.¹⁷

Ms. H-G argues that she did not have meaningful access to the cash in her bank account for many months following her accident. She was hospitalized, focused on her significant medical needs, and without checks or a bank card for several months. It took some time to replace those materials. In addition, she argues that, although her account included cash exceeding the \$2,000 limit, it was not her money. It included past-due rent that she was legally obligated to pay her landlord. After accounting for the outstanding rent obligation, she asserts that the actual cash available for her use remained below \$2,000 in each of the months at issue.

The Medicaid program specifically excludes some resources, which are then considered non-countable for eligibility purposes.¹⁸ Unfortunately, there is no exclusion that applies to a situation like Ms. H-G's. Therefore, even accepting all of her assertions as true, the outcome of this case does not change. The applicable rules require inclusion of her savings and checking account balances as countable resources. There is no ability to adjust the total balance, for instance, to account for accrued but unpaid debts like Ms. H-G's rental obligations. Further, the Medicaid regulations do not contain a hardship exception for exceptional cases like Ms. H-G's.

¹³ 7 AAC 49.135.

¹⁴ 7 AAC 100.400(a).

¹⁵ 7 AAC 40.270(a), (b).

¹⁶ 7 AAC 40.270. Medicaid uses the Adult Public Assistance financial guidelines. *See* 7 AAC 100.502(a)(2), 7 AAC 100.400(a).

¹⁷ 7 AAC 40.260. *See also* Exhibit 10 (Adult Public Assistance Manual § 430-1).

¹⁸ *See* 7 AAC 40.280.

Thus, despite the very understandable reasons explaining why Ms. H-G's bank balances exceeded \$2,000 for several months, applicable rules preclude eligibility.

IV. Conclusion

Ms. H-G did not meet her burden to show that she was financially eligible for Medicaid benefits for the months of October, November and December 2016. On the first day of each month, Ms. H-G's countable financial resources exceeded the program eligibility limit. Despite the understandable and unfortunate reasons for this situation, there are no exceptions that would permit a different outcome. Therefore, the Division correctly suspended Medicaid benefits for those three months. Its decision is affirmed.

Dated: February 23, 2017

By: Signed _____
Kathryn Swiderski
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 10th 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.]