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

In the Matter of	)	
	)	
W C	)	OAH No. 17-0517-MDE
	)	Agency No.

DECISION

I. Introduction

W C and her husband were receiving Medicaid benefits. She submitted a renewal application for those benefits in January 2017. The Division of Public Assistance (Division) denied her application and terminated those benefits effective May 1, 2017 because it found that her total household income exceeded the income limits for the Medicaid program. Ms. C requested a hearing.

The hearing was held on May 25, 2017. Ms. C appeared and testified on her own behalf. Public Assistance Analyst Sally Dial represented the Division.

The evidence shows that Ms. C's household income did not exceed the Medicaid income limit for her household size. As a result, the Division's termination of those benefits effective May 1, 2017 is REVERSED.

II. Facts

Ms. C resides with her husband. They were receiving Medicaid benefits and applied to renew those benefits in January 2017. Ms. C began a new job in October 2016. Her renewal application notified the Division about her job.[1] Ms. C's employer filled out a form for the Division in late March 2017, which informed the Division that Ms. C worked 40 hours a week, and that her gross income earned in December 2016, January 2017, and February 2017, was respectively $2,209.00 (172:50 regular hours, 8 holiday hours, and 2:10 overtime hours), $2325.10 (175:05 regular hours, 8 holiday hours, and 1:21 overtime hours), and $2,104.23 (158.35 regular hours, 8 holiday hours, and 1:21overtime hours). Ms. C's hourly pay rate is currently $12.48. Her job is the sole income source for her family, other than the yearly PFD. She and her husband were eligible for the PFD in 2016. That PFD amount was $1,022 apiece. Ms. C did not actually receive her PFD because it was garnished by the State of Alaska to

[1] Ex. 2.4.

reimburse it for overpaid unemployment benefits. Ms. C testified that her husband is disabled, however, that disability has not been legally established.[2]

The Division then determined that Ms. C's average monthly employment income, based upon the three months' pay information provided by her employer, was $2,212.78.[3] The Division also determined that Mr. and Ms. C's PFD amount, when averaged out to a monthly payment was $85.17 apiece.[4] The Division then added Ms. C's averaged monthly income ($2,212.78), her averaged PFD payment ($85.17), and Mr. C's averaged PFD payment ($85.17) and arrived at a monthly household income of $2,383. The Division determined that the Medicaid program's monthly income limit for the C's two-person household is $2,303. The Division then denied Ms. C's Medicaid renewal application based on income, which terminated her and her husband's Medicaid benefits effective with the month of May 2017.[5]

III. Discussion

The Medicaid program has a variety of coverage categories. Each of these programs contains income limits; if an applicant/recipient's income exceeds that limit, they are not financially eligible for Medicaid. Ms. C and her husband, because they are two adults, both under the age of 65 and neither legally disabled, in the household, no one is pregnant, and there are no children in the household, fall under the Denali Care (Medicaid Expansion) category. Their eligibility coverage group's income limit is 133% of the federal poverty level for Alaska.[6] This federal poverty level fluctuates on a year to year basis. For the time period from April 1, 2016 through March 31, 2017, the income limit was $2,219 after application of disregard.[7] There are very limited income deductions or disregards which are available to applicants. There is a general income disregard, of 5% of the Federal poverty limit.[8] For the time period from April 1, 2016 through March 31, 2017, the income disregard for a two-person household was $84.[9] This meant that the actual gross income cap, before subtraction of the $84 disregard, was $2,303[10] However, effective April 1, 2017, the income limit was raised to $2,249 and the income disregard was

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2 Ms. C's testimony.

3 The Division arrived at this figure by averaging the gross income figures for December, January, and February of $2,209.00, $2325.10, and $2,104.23 ($2,209.00 + $2,325.10 + $2,104.23 = $6,638.33; $6,638.33 ÷ 3 = $2,212.78).

4 The 2016 PFD was $1,022.00. When that amount is divided by 12 months, it comes to $85.17 per month.

5 Exs. 2, 2.9, 3.2.

6 7 CFR § 435.119(b).

7 Ex. 7.

8 7 CFR §§ 435.603(d)(1), (d)(4), and (g)(2).

9 Ex. 7.

10 $2,219 + $84 = $2,303.

raised to $85.[11] This means that the gross income cap for the C's for any actions affecting eligibility for May 2017, prior to the subtraction of the $85 disregard, was $2,334.[12]

The eligibility notice that informed Ms. C that her and her husband's Medicaid would be closed beginning in May 1, 2017 stated that "[y]our income is over the income limit of $2,303.[13] On its face, this is a mistake. As discussed above, the income limit for the C's household, effective April 1, 2017, was $2,334, not $2,303. $2,303 was the income limit up through March 31, 2017.

The next step is to determine whether the Division correctly calculated the C's monthly gross income as being $2,383.12. If it did, then the C's were not eligible for Medicaid, even under the higher income limit of $2,334. The Division's calculations were based upon the C's each receiving a PFD and Ms. C's employment income.

Ms. C argued that the Division erred in its decision for three separate reasons. Her first argument was that there should be a higher income limit for her two-person household because her husband is disabled. However, because Mr. C has not been legally determined to be disabled, the C's only eligibility category is Denali Care, which has a monthly gross income limit of $2,334 for their two-person household.[14] Ms. C's second argument was that her PFD should not be counted as household income because it was garnished, which meant she did not receive those funds. However, persons who have their income's garnished are not allowed an income deduction for the amount of the garnishment.[15] This means that the PFD is counted in full, regardless of the fact that Ms. C did not receive it. The amount of this would be $85.17 apiece per month, for household income of $170.34 per month.

Ms. C's last argument was the Division calculated her gross monthly income improperly. The Division arrived at her income figure of $2,212.78 by averaging the income figures provided by her employer for the three months of December 2016, January 2017, and February 2017.

Ms. C disagreed with the averaging of her income, claiming that it should be counted at 40 hours per week, and not averaged. It should be noted that averaging is acceptable when the monthly income fluctuates.[16] However, the three months in question each involved overtime and

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11 Ex. 7.

12 $2,249 + $85 = $2,334.

13 Exs. 3.1 – 3.2.

14 *See* 7 AAC 100.002 for a complete list of eligibility categories; also *see Alaska MAGI Medicaid Eligibility Manual* Addendums 1 and 3.

15 *Alaska MAGI Medicaid Eligibility Manual* Addendum 3.

16 *Alaska MAGI Medicaid Eligibility Manual* § 820-2.

holiday pay. In short, they were not typical months. Under these circumstances, it is appropriate to calculate Ms. C's regular pay, without consideration of overtime pay or holiday pay. Taking $12.48 an hour, and multiplying it by 40 hours per week, and then multiplying that amount by 4.3 to account for the fact that most months are slightly longer than four weeks, comes to $2,146.56 in monthly gross work income. Adding in the $85.17 apiece for the C's PFDs, the total is $2,316.90. This is less than the Medicaid income limit of $2,334, which went into effect on April 1, 2017. As a result, Ms. C and her husband continue to be eligible for Medicaid benefits.

IV. Conclusion

The Division's termination of Ms. C and her husband's Medicaid benefits effective with the month of May 2017 is REVERSED.

Dated this 1st day of June, 2017.

Signed
Lawrence A. Pederson
Administrative Law Judge

Non-Adoption Options

C. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(4), rejects, modifies or amends one or more factual findings as follows, based on the specific evidence in the record described below:

Ms. C's income was over the Medicaid limit. The Division appropriately averaged her income.

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 5th day of July, 2017.

By: *Signed*
Erin Shine
Special Assistant to the Commissioner
Department of Health and Social Services

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