

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

In the Matter of	)	
	)	OAH No. 17-1019-MDE
S C	)	Division No.
_____	)	

**DECISION**

**I. Introduction**

S C’s health rapidly declined in June 2017. Her brother, who holds her power of attorney, applied for Medicaid on her behalf on July 6, 2017. The Division of Public Assistance (Division) denied the application for several reasons. However, the ultimate reason for the denial was that her resources exceeded the allowable resource limit for Medicaid. A hearing was requested to challenge the denial. That hearing was held on October 17, 2017. Mr. C represented Ms. C’s interests and testified on her behalf. Sally Dial represented the Division. Michelle Ridder, an Eligibility Technician with the Division, testified on its behalf.

A review of the evidence demonstrates that Ms. C’s bank account balance, which is a countable resource for Medicaid eligibility purposes, exceeded the Medicaid program’s \$2,000 resource limit on the first day of both July and August 2017. As a result, Ms. C was not eligible for Medicaid. The Division’s denial of her application is therefore AFFIRMED.

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

S C is an elderly woman whose health rapidly declined in June 2017. She was hospitalized from the end of June until August 1, when she was admitted to an assisted living home. Mr. C, her brother, applied for Medicaid coverage for her on July 6, 2017.<sup>2</sup> Mr. C was sent denial notices on September 14, 2017 and September 26, 2017, which informed him that Ms. C’s application was denied because her bank account balances on the first day of July and the first day of August 2017 exceeded the Medicaid program’s resource limit of \$2,000.<sup>3</sup>

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

<sup>2</sup> Exs. 2.2 – 2.9.

<sup>3</sup> Exs. 7, 10. There was an interim denial notice based upon Ms. C not qualifying due to having too much in monthly income. *See* Ex. 3. The September 14, 2017 denial notice also mentioned a failure to provide documentation as a reason for denial. *See* Ex. 7. Because the resource issue is dispositive, it is not necessary to address either of these grounds for denial.

It is undisputed that Ms. C's bank account had a balance of over \$2,000 on both July 1, 2017 and August 1, 2017.<sup>4</sup> Mr. C was not aware of the resource limit/bank account balance issue until after the application was denied. While he was familiar with the fact that the Medicaid program had a \$2,000 limit, he thought that was for income and not resources. Mr. C was not certain who gave him that information. Mr. C stated that if he knew about the resource limit, he could have paid Ms. C's bills earlier than he did, which would have reduced her bank account balance to less than \$2,000; for instance, he paid Ms. C's assisted living home \$1,579 on August 1.<sup>5</sup> If he had paid that bill a few days earlier, her account balance would have been well below \$2,000 on August 1.

Ms. Ridder is an Eligibility Technician with the Division. She telephonically interviewed Mr. C about Ms. C's application on July 21, 2017. It is her standard practice to discuss resource limits with applicants. The casenote, which she prepared after that interview, shows that resources were specifically discussed, and that she concluded during that interview that Ms. C's bank balance made her ineligible for July Medicaid benefits, and that she was requesting copies of bank statements.<sup>6</sup> The Division then sent Mr. C a notice on July 24 requesting a copy of Ms. C's bank statement "for July 2017 showing end of month balance and daily balance and all transactions to include all deposits/withdrawals."<sup>7</sup>

### **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 Ms. C is applying for benefits, she has the burden of proof, by a preponderance of the evidence, to demonstrate that she is financially eligible for those benefits.<sup>8</sup>

A single Medicaid applicant/recipient may not have more than \$2,000 in countable resources.<sup>9</sup> Resources are valued on the first day of each month.<sup>10</sup> Bank accounts are countable

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<sup>4</sup> See Ex. 6.1.

<sup>5</sup> See Ex. 9.3.

<sup>6</sup> The casenote reflecting the July 21, 2017 interview is contained at Exs. 2 – 2.1.

<sup>7</sup> Ex. 4.

<sup>8</sup> 7 AAC 49.135.

<sup>9</sup> 7 AAC 100.400(a)(13) - (15) (incorporating Adult Public Assistance resource regulations 7 AAC 40.260 – 280).

<sup>10</sup> 7 AAC 40.270(b).

resources.<sup>11</sup> This means that if a bank account balance exceeds \$2,000 on the first day of the month, the applicant is ineligible during that month.

Ms. C did not dispute that her bank account balance was over \$2,000 on the first day of both July and August 2017. She made two arguments as to why she qualified for Medicaid despite the fact that she did not fall within the resource limits. The first was that the Division did not inform her of the resource limit, and if it had, she could have paid bills in time to lower her bank account balance. This is an equitable estoppel argument. To successfully assert this argument, Ms. C must begin by showing that the Division made a representation to her representative, Mr. C, either actually, implicitly, or by omission, that her resources could have been in excess of \$2,000 on the first day of the month.<sup>12</sup> However, Mr. C's testimony was that he knew about the \$2,000 figure, but thought he was told that was for income, and he couldn't specifically recall who provided him with the \$2,000 figure. On the other hand, Ms. Ridder's casenote and testimony were definite that she informed him about resource limits. Based upon Ms. Ridder's testimony and Mr. C's testimony, Ms. C failed to establish that a Division representative either misinformed Mr. C or failed to inform him about the \$2,000 resource limitation. Accordingly, equitable estoppel has not been established.

Ms. C's second argument was that the check Mr. C wrote on August 1, 2017 to the assisted living home should reduce her bank account balance as of that date. That argument fails as a legal matter. The test is whether "an applicant has non-excludable resources that do not exceed the applicable resource limit at any time on the first date of a calendar month."<sup>13</sup> Even if the check had been negotiated the same day it was written, the beginning bank account balance on that day would have exceeded the \$2,000 limit.

Ms. C undeniably had a bank account balance on both July 1 and August 1 that made her ineligible for Medicaid benefits. She did not establish any legal or factual basis for an exception to the Medicaid program's financial requirements.

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<sup>11</sup> See 7 AAC 40.260 for a definition of a resource. See 7 AAC 40.280 for a list of excluded, *i.e.* non-countable resources.

<sup>12</sup> The elements required to successfully assert equitable estoppel against the government are:

1. The assertion of a governmental position by either conduct or words;
2. An act which reasonably relied upon the governmental position;
3. Resulting prejudice; and
4. "estoppel serves the interest of justice so as to limit public injury."

*Wassink v. Hawkins*, 763 P.3d 971, 975 (Alaska 1988).

<sup>13</sup> 7 AAC 40.270(b).

#### **IV. Conclusion**

The Division's denial of Ms. C's July 6, 2017 Medicaid application is AFFIRMED.

DATED this 16<sup>th</sup> day of November, 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 30<sup>th</sup> day of November, 2017.

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

Name: Lawrence A. Pederson  
Title/Agency: Administrative Law Judge/OAH

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