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**STATE OF ALASKA  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
OFFICE OF HEARINGS AND APPEALS**

In the Matter of )  
 )  
 [REDACTED], ) OHA Case No. 08-FH-103  
 )  
 Claimant. ) Division Case No. [REDACTED]  
 )  
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**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

[REDACTED] (Claimant) was an Adult Public Assistance and Medicaid recipient. (Ex. 1.0) On February 1, 2008, the Division of Public Assistance (Division) sent the Claimant notice her Adult Public Assistance and Medicaid benefits would terminate effective the end of February 2008. (Ex. 3) The Claimant requested a fair hearing on February 5, 2008. (Ex. 4.1) This office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to Claimant's request, a hearing was held on March 13, 2008. The Claimant appeared in person and represented herself. [REDACTED], Public Assistance Analyst with the Division, attended in person to represent the Division.

**STATEMENT OF ISSUES**

The Division's position was that it was required to terminate the Claimant's Adult Public Assistance and Medicaid benefits because the Claimant had her Supplemental Security Income benefits terminated by the Social Security Administration. The Division explained that if the basis for the Supplemental Security Income termination was because the Claimant made too much money, it would have reviewed the Claimant's case to see if she qualified for Adult Public Assistance or Medicaid under a different eligibility category that did not require Supplemental Security Income eligibility. The

Division argued, however, that it was required to terminate the Claimant's Adult Public Assistance and Medicaid benefits because the Social Security Administration had found her to be not disabled.

The resulting issue is:

Was the Division correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits effective the end of February 2007, because her Supplemental Security Income benefits had been terminated by the Social Security Administration due to a finding of no disability?

### **FINDINGS OF FACT**

1. The Claimant began receiving Adult Public Assistance and Medicaid benefits in 2006. (Ex. 1)
2. The Claimant was receiving Adult Public Assistance and Medicaid benefits because she was approved for Supplemental Security Income disability benefits from the Social Security Administration.
3. The Claimant experiences a severe form of Crohn's Disease. (Ex. A) She had been a student at the University of Alaska Anchorage, but her illness forced her to leave the University. *Id.* She began working at Hope Community Resources in September 2007. (Ex. 2.0)
4. On January 31, 2008, the Division became aware the Claimant was no longer receiving Supplement Security Income benefits because the Social Security Administration determined she was no longer disabled (Code N07). (Exs. 2.0 – 2.2)
5. The Division then terminated the Claimant's Adult Public Assistance and Medicaid benefits, effective the end of February 2008, because the Claimant no longer met the disability requirements for Adult Public Assistance and Medicaid. (Ex. 3)
6. The Claimant is appealing the Social Security Administration's termination of her Supplemental Security Income benefits.
7. The electronic database that provided the Division with the status of the Claimant's Supplemental Security Income case shows the following:
  - a. The Claimant was eligible for and receiving Supplemental Security Income benefits as of October 23, 2007. (Code C01)
  - b. The Claimant was not eligible for Supplemental Security Income benefits as of November 6, 2007 because she was earning excess income. (Code N01)
  - c. The Claimant was not eligible for Supplemental Security Income benefits as of November 27, 2007 because she was no longer disabled. (Code N07)(Exs. 2.1 – 2.2)

## PRINCIPLES OF LAW

This case involves the termination of benefits. The Division has the burden of proof<sup>1</sup> by a preponderance of the evidence.<sup>2</sup>

A person who is eligible to receive Social Security Supplemental Security Income benefits is also eligible to receive Adult Public Assistance benefits from the State of Alaska, if she also satisfies other State of Alaska eligibility criteria. 7 AAC 40.030. A person who is receiving Supplemental Security Income or who has been approved for Adult Public Assistance is automatically eligible for Medicaid benefits. 7 AAC 100.002(b)(1) and (d)(1); 7 AAC 100.410(a) and (b).

If a recipient of both Adult Public Assistance benefits and Supplemental Security Income benefits has her Supplemental Security Income benefits terminated by the Social Security Administration, the State of Alaska is required to terminate her Adult Public Assistance benefits. The Alaska regulation reads:

(c) If an applicant is receiving SSI benefits and is determined by the Social Security Administration to be ineligible, except as provided in (d) and (e) of this section, the division will terminate assistance in accordance with 7 AAC 49.060, regardless of whether the applicant files an appeal with the Social Security Administration.

7 AAC 40.060(c).<sup>3</sup>

## ANALYSIS

The facts in this case are not disputed. The Claimant was receiving Adult Public Assistance from the State of Alaska because the Social Security Administration approved her for Supplemental Security Income benefits. She received Medicaid coverage because she was receiving Adult Public Assistance and Supplemental Security Income benefits. The Social Security Administration subsequently terminated the Claimant's Supplemental Security Income because it determined she was no longer disabled.

As the facts are not in dispute, this case presents a purely legal issue. Was the Division correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits because her Supplemental Security Income benefits had been terminated by the Social Security Administration?

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<sup>1</sup> "Ordinarily the party seeking a change in the status quo has the burden of proof." *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985)

<sup>2</sup> Preponderance of the evidence is defined as follows:

Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Black's Law Dictionary 1064 (5<sup>th</sup> Ed. 1979)

<sup>3</sup> The exceptions to the termination rule contained in 7 AAC 40.060(c) refer to Supplemental Security Income termination due to either excess income or a disposal of resources for less than fair market value. 7 AAC 40.060(d) and (e).

The Alaska regulation pertaining to the domino effect of a Supplemental Security Income benefit termination, 7 AAC 40.060(c), is clear. Termination of Supplemental Security Income benefits requires that State Adult Public Assistance benefits be terminated. Even if the Social Security Administration's decision to terminate Supplemental Security Income benefits is wrong or under appeal with the Social Security Administration, the Division does not have leeway to ignore the termination requirement.

The only exceptions to the termination requirement are if the Supplemental Security Income termination was due to the Claimant's income or her disposal of resources. 7 AAC 40.060(c), (d), and (e). If the Social Security Administration had terminated the Claimant's Supplemental Security Income benefits because of her income (Code N01), then the Division could have reviewed the Claimant's case to see if she was eligible for Adult Public Assistance and/or Medicaid under the State Only disability<sup>4</sup> or Working Disabled<sup>5</sup> categories. However, once the Social Security Administration terminated the Claimant's Supplemental Security Income benefits because it determined she was not disabled (Code N07), the Division, by regulation, was required to and correctly terminated her State Adult Public Assistance and Medicaid benefits.

The Claimant's eligibility for Medicaid coverage required her to be a recipient of either State Adult Public Assistance or Federal Supplemental Security Income benefits. There is no evidence in the record demonstrating her eligibility for Medicaid coverage in any of the other eligibility categories: pregnancy, medical institutionalization, home and community based waiver approval, or breast or cervical cancer. 7 AAC 100.002(a)(4), (c)(7), (d)(4), d(7), and (d)(8). As a result, when the Claimant lost her Supplemental Security Income benefit, she also lost both her State Adult Public Assistance benefits and her Medicaid coverage.

### **CONCLUSIONS OF LAW**

1. The Division was required by the explicit terms of its regulation, 7 AAC 40.060(c), to terminate the Claimant's Adult Public Assistance benefits when the Social Security Administration terminated her Supplemental Security Income benefits.

2. The Social Security Administration's determination the Claimant was no longer disabled did not allow the Division to examine whether the Claimant fit within any of the exceptions to its regulation requiring she be eligible for Supplemental Security Income. As a result, the Division was correct to terminate the Claimant's Adult Public Assistance benefit.

3. Because the Claimant's eligibility for Medicaid coverage depended on her being eligible for either Adult Public Assistance or Supplemental Security Income benefits, the Division was correct when it terminated her Medicaid coverage.

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<sup>4</sup> See AS 47.07.020(b)(4); 7 AAC 100.002(d)(1); 7 AAC 100.410(b).

<sup>5</sup> See AS 47.07.020(b)(12); 7 AAC 100.002(d)(6); 7 AAC 100.426.

**DECISION**

The Division was correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits effective the end of February 2008,

**APPEAL RIGHTS**

If for any reason the Claimant is not satisfied with this decision, the Claimant has the right to appeal by requesting a review by the Director. To do this, send a written request directly to:

Director of the Division of Public Assistance  
Department of Health and Social Services  
PO Box 110640  
Juneau, AK 99811-0640

If the Claimant appeals, the request must be sent within 15 days from the date of receipt of this Decision. Filing an appeal with the Director could result in the reversal of this Decision.

DATED this 5th day of May, 2008.

Larry Pederson  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 5<sup>th</sup> day of May 2008, true and correct copies of the foregoing were sent to:

Claimant- Certified Mail, Return Receipt Requested.

██████████, Director  
██████████, Policy & Program Development  
██████████, Staff Development & Training  
Terri Gagne, Fair Hearing Representative

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Al Levitre, Law Office Assistant I