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

In the Matter of

[REDACTED]

Claimant.

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OHA Case No. 08-FH-162

Division Case No. [REDACTED]

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] Claimant) applied for Adult Public Assistance, Medicaid, and Food Stamp benefits on January 3, 2008. (Ex. 1) On January 16, 2008, the Division of Public Assistance (Division) sent the Claimant notice her application for all three public assistance benefit programs was denied. (Exs. 2.3 - 2.4) The Claimant requested a fair hearing on February 14, 2008. (Ex. 3) This office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to Claimant's request, a hearing was held March 27, 2008, May 20, 2008, and June 24, 2008. The Claimant attended the hearing telephonically and represented herself. [REDACTED] Public Assistance Analyst with the Division, attended in person to represent the Division.

ISSUES

1. Was the Division correct to deny the Claimant's Food Stamp application because she owned countable resources worth over \$2,000?
2. Was the Division correct to deny the Claimant's Adult Public Assistance application?
3. Was the Division correct to deny the Claimant's Medicaid application?

FINDINGS OF FACT

1. The Claimant is a [REDACTED] woman (birthdate [REDACTED]) who currently resides in [REDACTED] Alaska. (Ex. 1)
2. The Claimant previously resided in Florida. She owned both real property and a mobile home¹ located in Florida.
3. On October 1, 2007, the Claimant conveyed her entire interest in the real property and her entire interest in the mobile home to [REDACTED] (Exs. A, pp. 1 - 2; B, p. 11) At the time of the transfer, there was a loan against the real property that reduced the equity in the real property to approximately \$6,000 and the equity in the mobile home was approximately \$26,000. (Ex. 4)
4. The Claimant testified she signed over her interest in the real property and the mobile home to [REDACTED] under duress. She said that [REDACTED] threatened to destroy the mobile home and all of her personal property unless she conveyed the real property and mobile home over to him.
5. The Claimant was not residing in Alaska or receiving Alaska Public Assistance benefits at the time she transferred her interest in the real property or the mobile home to [REDACTED].
6. The Claimant provided her handwritten statement that she was not aware the transfer of her interest in the real property or the mobile home would affect her public assistance eligibility: "I wasn't afraid of losing my benefits because I was on the loan." (Ex. B, p. 14)
7. The Claimant moved to Alaska from Florida on October 2, 2007. (Ex. 2.0)
8. As of October 2007, the Claimant was receiving both Social Security retirement and Supplemental Security Income benefits. However, the Social Security Administration terminated her Supplemental Security Income benefits as of November 2007. The termination was because the Social Security Administration determined the Claimant owned too much in resources to qualify for Supplemental Security Income (code N04). (Ex. 2.1) A Social Security Administration representative informed a Division caseworker that it was counting the mobile home as a financial resource worth \$26,000 owned by the Claimant. (Ex. 2.2)
9. The Claimant applied for Food Stamp, Adult Public Assistance, and Medicaid benefits for herself from the State of Alaska on January 3, 2008. (Ex. 1) The Division interviewed her about her application on January 11, 2008. (Ex. 2.0)

¹ The record contains references to both a motor home and a trailer. A review of the sale and title documents show that it is a mobile home. See Exs. A, pp. 1 - 2; B, p. 9.

10. On January 16, 2008, the Division sent the Claimant written notice her January 3, 2008 application for Food Stamp, Adult Public Assistance and Medicaid benefits was denied because she owned over the \$2,000 resource limit for the three programs. The notice stated the excess resource was the \$26,000 mobile home in Florida. (Ex. 2.3) That same notice also stated the transfer of the real property disqualified the Claimant from being eligible for Adult Public Assistance benefits. *Id.* A second part of the notice also explained that the application for Adult Public Assistance and Medicaid was denied because "SSI PREVIOUSLY DENIED." (Ex. 2.4)

11. The Claimant, as of the hearing, had not pursued any action to recover the real property or the motor home back from [REDACTED] damages against [REDACTED]

PRINCIPLES OF LAW

This case involves the denial of an application for benefits. When an application is denied, the applicant (Claimant) has the burden of proof² by a preponderance of the evidence.³

The Food Stamp program has a resource limit of \$2,000 for a household whose members are under 60 years of age. 7 CFR 273.8(b). Resources are measured on the date the applicant participates in a Food Stamp intake interview. 7 CFR 273.10(b).

The Adult Public Assistance program has a resource limit of \$2,000 for a single person. 7 AAC 40.270(a)(1). Resources are measured on the first day of each month. 7 AAC 40.270(b).

If an Adult Public Assistance applicant voluntarily transfers either real or personal property to another person for less than fair market value during the thirty six month period preceding her application, the applicant is disqualified from being eligible for Adult Public Assistance benefits for up to thirty six months depending upon the value of the transferred property. 7 AAC 40.295(a). There is a rebuttable presumption that a "transfer is made for the purpose of qualifying for assistance." *Id.* The presumption may be rebutted by a number of reasons, which require the following evidence:

(3) documents establishing that the individual was a victim of theft, fraud, or coercion; the transfer was made as a result of the theft, fraud, or

² "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)

³ 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 (5th Ed. 1979)

coercion; and the individual has taken appropriate steps to recover the resource or the equity value of the resource;

(4) evidence that the individual did not believe the transfer would affect the eligibility of the assistance unit;

7 AAC 40.295(a)

An Adult Public Assistance applicant is normally required to be eligible for Supplemental Security Income benefits

(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).⁴

The Medicaid program has a number of eligibility categories. Families and minor children are covered under 7 AAC 100.002(a). Persons who are disabled, or 65 or older are covered under 7 AAC 100.002(b). This category includes persons who are receiving or are eligible for either SSI or Adult Public Assistance. 7 AAC 100.102(b) and (d). 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).

ANALYSIS

The issue in this case is whether or not the Division was correct when it denied the Claimant's application for Food Stamps, Adult Public Assistance, and Medicaid benefits. This discussion will address each program separately.

A. Food Stamp Program

The Division denied the Claimant's January 3, 2008 application for Food Stamp benefits because it determined she owned a mobile home in Florida worth \$26,000, which exceeded the Food Stamp program \$2,000 resource limit. However, the Food Stamp program requires that an applicant's resources be measured on the date an applicant has her Food Stamp interview. 7 CFR 273.10(b).

The Claimant participated in her Food Stamp application interview on January 11, 2008. The Claimant produced documents showing the Florida mobile home was transferred to [REDACTED] on October 1, 2007, several months before the Claimant's interview. (Ex. A,

⁴ 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).

p. 1) The Division was therefore incorrect to deny the Claimant's January 3, 2008 Food Stamp application because she did not own the mobile home.

B. Adult Public Assistance

The Division's denial notice raised three reasons why it denied the Claimant's application for Adult Public Assistance. First, the Division stated the Claimant owned too much in the way of countable resources, the mobile home, to qualify for Adult Public Assistance. Second, the Division stated the Claimant was not eligible for Adult Public Assistance because she had transferred real property over to [REDACTED] for less than fair market value. Third, the Division stated the Claimant was not eligible for Adult Public Assistance because her Supplemental Security Income assistance had been terminated.⁵

The Claimant does not dispute the fact she signed the real property and the mobile home over to [REDACTED] for less than fair market value. Instead, she argued that she did not actually own the real property and mobile home anymore, that she was coerced into signing it over to [REDACTED], and she submitted a handwritten statement that she was not aware her transfer of the property would affect her eligibility for benefits.

The established facts show the Claimant did not own the real property and mobile home when she applied for Adult Public Assistance. The Division's argument the Claimant exceeded the resource limit of \$2,000 for Adult Public Assistance fails.

The Division's second reason for denying the Claimant's Adult Public Assistance application was due to the transfer of the real property to [REDACTED]. The Claimant had several defenses to this reason. The first was that she had been coerced into signing the real property over. The relevant Adult Public Assistance regulation requires that there be documentary evidence of the coercion, and that there has been action taken to try and recover the transferred property. 7 AAC 40.295(a)(3). The Claimant has not submitted any documentary evidence, only her testimony, and she has not taken any action to recover the property or its value. The Claimant's second defense was provided in her handwritten statement to the Division that she was not aware the property transfer would affect her eligibility. (Ex. B, p. 14) This does satisfy the pertinent Adult Public Assistance regulation that allows an applicant to rebut the presumption that the transfer was improper when there is "evidence that the individual did not believe the transfer would affect the eligibility of the assistance unit." 7 AAC 40.295(a)(4). The Division's argument the Claimant was disqualified from Adult Public Assistance eligibility due to the transfer of the real property to [REDACTED] so fails.

The Division's third reason for denying the Claimant's Adult Public Assistance application was because she had her Supplemental Security Income benefits terminated. The reason for the Supplemental Security Income termination was because the Social Security Administration determined the Claimant owned the mobile home in Florida. (Ex. 2.2) The Social Security Administration's reason for termination is contradicted by

⁵ The actual notice reads "SSI PREVIOUSLY DENIED." (Ex. 2.4)

the Claimant's evidence showing that she had transferred the mobile home to [REDACTED] on October 1, 2007. However, the applicable Adult Public Assistance regulation, 7 AAC 40.060(c), requires the Division to deny Adult Public Assistance benefits to persons applicants if they have had Supplemental Security Income benefits denied or terminated due to resource ownership. This is regardless of whether or not the evidence in this hearing does not support the Social Security Administration's decision or if the Claimant appealed the Social Security decision. The Division was therefore correct to deny the Claimant's Adult Public Assistance application because the Claimant's Supplemental Security Income benefits were terminated due to excess resource ownership.

C. Medicaid

The Claimant is a [REDACTED] woman who applied for Medicaid coverage for a one person household, herself. Because she only applied for herself, the only eligibility category she potentially falls under is the one for persons who are disabled or 65 years or older. 7 AAC 40.100(b) and (d). These eligibility categories require that an applicant be receiving or be eligible for either Supplemental Security Income or Adult Public Assistance benefits. However, the Social Security Administration terminated the Claimant's Supplemental Security Income benefits due to its determination that she owned too much property to qualify for Supplemental Security Income benefits. That in turn made the Claimant not eligible for Adult Public Assistance.

The Claimant is therefore not receiving or eligible for either Supplemental Security Income or Adult Public Assistance benefits. As a result, she is not eligible for Medicaid coverage. The Division was correct when it denied the Claimant's application for Medicaid coverage.

CONCLUSIONS OF LAW

1. The Claimant did not own the Florida mobile home at the time she participated in her January 11, 2008 Food Stamp intake interview. The Division was therefore not correct when it denied her January 3, 2008 Food Stamp application on the basis she owned the Florida mobile home.
2. The Claimant was not eligible for Adult Public Assistance benefits because the Social Security Administration terminated her Supplemental Security Income benefits due to its finding she owned a mobile home in Florida. Even though this decision finds the Claimant is not the owner of the Florida mobile home, the Alaska Adult Public Assistance regulations require that the Division follow the Social Security Administration's decision on resource eligibility issues.
3. The Claimant was not eligible for Medicaid coverage because she was neither receiving nor eligible for either Supplemental Security Income or Adult Public Assistance benefits.

DECISION

1. The Division was not correct when it denied the Claimant's January 3, 2008 application for Food Stamp benefits.
2. The Division was correct when it denied the Claimant's January 3, 2008 application for Adult Public Assistance benefits.
3. The Division was correct when it denied the Claimant's January 3, 2008 application for Medicaid coverage.

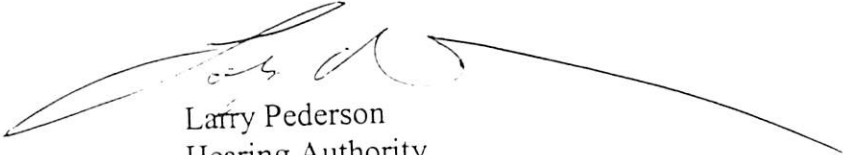
APPEAL RIGHTS

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 15th day of August, 2008.


Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 15th day of August, 2008, true and correct copies of the foregoing were sent to:

Claimant - Certified Mail, Return Receipt Requested.
Director
Policy & Program Development
Staff Development & Training
Fair Hearing Representative


Al Levitre
Law Office Assistant I