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

|                  |   |                   |            |
|------------------|---|-------------------|------------|
| In the Matter of | ) |                   |            |
|                  | ) |                   |            |
| ██████████,      | ) | OHA Case No.      | 08-FH-0237 |
|                  | ) |                   |            |
| Claimant.        | ) | Division Case No. | ██████████ |
| _____            | ) |                   |            |

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

██████████<sup>1</sup> (Claimant) applied to the Division of Public Assistance (Division) for Family Medicaid (Program) for himself on March 4, 2008. (Ex. 3) On March 5, 2008 Claimant received a denial of his application because his household monthly income was over the \$2,154 Medicaid income limit for his household size. (Ex. 3) On March 27, 2008 Claimant requested a fair hearing. (Ex. 4.2) A fair hearing was held in the Office of Hearings and Appeals (Office) on April 24, 2008.

The Claimant was represented by ██████████, who appeared in person and stated she was the Claimant's girlfriend. The Claimant appeared briefly telephonically and verified that ██████████ was his girlfriend and representative for the hearing. The Division was represented by ██████████, Policy Analyst with the Division of Public Assistance, who attended the hearing in person. The hearing was held before Mary Jane Sutliff. Subsequently, the case was transferred to Elizabeth Vazquez, who reviewed the entire record and is issuing this decision.

This Office has jurisdiction pursuant to 7 AAC 49.010.

**ISSUE**

Was the Division correct to deny Claimant's March 4, 2008 application for Family Medicaid because the Claimant's household's monthly countable income exceeded the maximum allowed household monthly income for the Program?

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<sup>1</sup> A review of submitted pay stubs shows that Mr. ██████████ also uses the first name, ██████████ (Exs. B and C)

## FINDINGS OF FACT

1. The Claimant resides with seven minor children and his girlfriend, Ms. [REDACTED].<sup>2</sup> (Ex. 2.3) The children receive Medicaid coverage through the Denali Kidcare Program. (Ex. 4.0)
2. Claimant applied for Family Medicaid coverage for himself on March 4, 2008. The Division denied the application on March 5, 2008 because the Claimant's household income was over the "Medicaid income limit" for his household size. (Exs. 1 and 3)
3. The Claimant's income varies and the most recent monthly income was used by the Division to calculate income. (Ex. 2.1, 19) The record contains the following paystubs for the Claimant:

| <u>Date</u> | <u>Gross pay</u>    |
|-------------|---------------------|
| 12/28/07    | \$1,163.83 (Ex. 19) |
| 1/11/08     | \$1,284.36 (Ex. 19) |

4. Because the Claimant's income varies, the Division averaged Claimant's bi-weekly monthly income as set forth above, using a conversion factor of 2.15. (Ex. 2.1) After using this conversion factor, the Claimant's gross monthly income is \$2,631.79. (Ex. 2.1) The Claimant did not dispute the method for averaging or the resulting calculated gross monthly income. The Division then applied the \$90.00 work deduction and calculated the Claimant's net monthly income to be \$2,541.79. (Ex. 19, 2.1) During a conference between the Claimant and Division personnel before the hearing was held, the Claimant objected to the amount of the deduction (\$90).

5. Ms. [REDACTED] is also employed. Her most recent monthly incomes were used by the Division to calculate income. (Ex. 2.2) The Division income averaged using following paystubs:

| <u>Date</u> | <u>Gross pay</u> |
|-------------|------------------|
| 1/18/08     | \$297.83         |
| 1/25/08     | \$266.48         |
| 2/1/08      | \$385.34         |

6. Because Ms. [REDACTED]'s income varies, the Division averaged her monthly income by using a conversion factor of 4.3. (Ex. 2.2) After using this conversion factor, Ms. [REDACTED]'s gross monthly income is \$1,361.17. (Ex.2.2) The Claimant did not dispute the method for

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<sup>2</sup> The submitted payroll documents contain the name of [REDACTED] (Exs. D, E, F, G, 18 and 18.1) but the Division of Public Assistance file lists "[REDACTED]" as a member of the Claimant's household. (Exs. 1, 2.3, 2.4, and 2.5). It is assumed that [REDACTED] and [REDACTED] is the same person.

averaging or the resulting calculated gross monthly income for Ms. [REDACTED]. The Division then applied the \$90.00 work deduction and calculated Ms. [REDACTED]'s net monthly income to be \$1,271.17.

7. The Division allowed the Claimant a work income deduction of \$180 (\$90 apiece for him and Ms. [REDACTED].) (Testimony of [REDACTED]) This resulted in a net household income for nine people (household including Ms. [REDACTED]) of \$3,812.96 (\$2,541.79 plus \$1,271.17). (Ex. 2.5)

8. The Division sent the Claimant a notice on March 5, 2008, stating that his application for Family Medicaid coverage was denied because his household income (\$3,812.96) exceeded the Medicaid income limit of \$2,154.00 for his household size. (Ex. 3)

9. In his request for hearing on March 27, 2008, the Claimant sets forth the following objection to the Division's denial: "I had a large family and large expenses... It seems to me that my caseworker just wants to denied (sic) my benefits just based on my income." (Ex. 4.2) During a conference that was held before the hearing between the Claimant and Division personnel, the Claimant also objected to the Division allowing for only the \$90.00 deduction because he has other expenses. (Ex. 4.0)

10. During the hearing, the Claimant's representative set forth the following additional arguments: 1) friends who are both working and have the same hours receive Family Medicaid benefits; 2) other families with the same number of members and the same income receive Family Medicaid benefits; and 3) the Division did not take into consideration that their income is varied.

### **PRINCIPLES OF LAW**

The party wishing to change the status quo has the burden of proof.<sup>3</sup> In this case, the Claimant applied for benefits and therefore has the burden of proof by a preponderance of evidence.<sup>4</sup>

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<sup>3</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>4</sup> Preponderance of the evidence is defined as:

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 the fact sought to be proved is more probable than not.

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

Family Medicaid is a form of Medicaid coverage available to a family with minor children that meet certain financial requirements. 7 AAC 100.100 et. seq. In order to determine eligibility, the

Division is required to calculate the household's net income. 7 AAC 100.180(b). The net household income is then compared to the Family Medicaid Income Standard. *Alaska Family Medicaid Manual Addendum 2*

The 2008 Family Medicaid Income Standard for a family of eight is no more than \$2,154 in net monthly income. 7 AAC 100.180; 7 AAC 100.190; *Alaska Family Medicaid Manual Addendum 2 (Adult included)* In other words, to qualify for Family Medicaid, a household composed of eight individuals cannot have more than \$2,154 in net monthly income.

The Family Income Standard for a family of nine persons is no more than \$2,308 in net monthly income. 7 AAC 100.180; 7 AAC 100.190; *Alaska Family Medicaid Manual Addendum 2 (Adult included)* In other words, to qualify for Family Medicaid, a household composed of nine individuals cannot receive more than \$2,308 in net monthly income.

Where monthly income changes from month to month, the Division may average previously received (or anticipated to be received) income to arrive at its estimate of the applicant's monthly household income. 7 AAC 100.168(d). This provision states:

If income from a source is received on a weekly or bi-weekly basis, the Department will estimate the anticipated monthly income by multiplying weekly amounts by 4.3 and bi-weekly amounts by 2.15.

7 AAC 100.168(d)

In calculating a net income under 7 AAC 100.180(b), a work expense deduction of \$90 is taken from gross monthly income for each working household member. 7 AAC 100.184(1)

### ANALYSIS

The issue is whether the Division correctly denied Claimant's March 4, 2008 application for Family Medicaid benefits because his household's monthly net income exceeded the maximum allowed under the 2008 Family Medicaid Income Standards.

In determining eligibility for Family Medicaid, the Division is required to calculate the applicant's household net monthly income. 7 AAC 100.180 and 7 AAC 100.190. The net household income is then compared to the Family Medicaid Income Standard set forth in a table. *Alaska Family Medicaid Manual Addendum 2* Division personnel properly calculated the Claimant's household net monthly income to determine eligibility for Family Medicaid.

The record contained evidence that the income of the Claimant and Ms. [REDACTED] varies or changes. During the hearing the Claimant's representative stated that the Division did not take into account that their income varied. However, the record clearly shows that pursuant to regulation,

the Division properly averaged the previously received income of the Claimant and Ms. [REDACTED] to arrive at an estimate of the household monthly income. 7 AAC 100.168(d) (Ex.2.1) The Claimant did not challenge how the income was averaged.

Aside from income averaging, the Division also applied a \$90 work deduction for each working individual in the household - the Claimant and Ms. [REDACTED]. The Claimant is entitled to one work expense deduction of \$90 for each working individual in his household. 7 AAC 100.184(1). The Division properly applied the work deduction pursuant to regulation. The Claimant objected to only subtracting \$90.00 as allowable expenses because he has "other expenses." (Ex. 4.0) The pertinent regulations allow only \$90 for work expenses and does not allow for other expenses the Claimant may have.

After income averaging and applying the work expense deduction (total \$180), the Division calculated the net monthly income to be \$2,541.79 for the Claimant and \$1,271.17 for Ms. [REDACTED]. This resulted in a net household monthly income for nine persons (household including the Claimant, Ms. [REDACTED] and seven children) of \$3,812.96 (\$2,541.79 plus \$1,271.17).<sup>5</sup> (Ex. 2.5) In order to qualify for Family Medicaid, a household of nine persons cannot receive more than \$2,308 in net monthly income. 7 AAC 100.180; 7 AAC 100.190; *Alaska Family Medicaid Manual*, Addendum 2. Accordingly, the Claimant's household net monthly income of \$3,812.96 exceeded the maximum allowed household net monthly income of \$2,308 for a nine person household. Thus, the Division's denial of the Claimant's March 5, 2008 application for Family Medicaid was appropriate.<sup>6</sup>

Even if the Claimant's girlfriend had been excluded from the household, the household net monthly income would still exceed the 2008 Family Medicaid Income Standard. After income averaging and applying the work expense deduction of \$90, the Claimant's net monthly income is \$2,541.79 (Ex. 19 and 21) However, the maximum countable (net) monthly income he could make pursuant to the 2008 Family Medicaid Income Standards, and still qualify for Family Medicaid, is \$2,154.00. 7 AAC 100.180; 7 AAC 100.190; *Alaska Family Medicaid Manual*, Addendum 2. (Adult Included) (Ex.12) In other words, an eight person household (which would exclude Ms. [REDACTED]) with net monthly income of \$2,541.79, exceeds the Family Medicaid Income Standard of \$2,154.00 for a family of eight.

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<sup>5</sup> The March 5, 2008 Division notice shows that Ms. [REDACTED]'s income was included to calculate household net monthly income. However, even if her income had been excluded, it would have no effect on the outcome of the case because the Claimant's net monthly income still exceeds the 2008 Family Medicaid Income Standards.

<sup>6</sup> As previously stated in the Findings of Facts, the seven minor children in the household receive Medicaid benefits through the Denali Kid Care program. (Ex. 4.0)

In his request for a hearing, the Claimant objected to the Division's denial because he has "a large family and large expenses... It seems to me that my caseworker just wants to denied (sic)

*my* benefits just based on my income." (Ex. 4.2) However, the Division correctly calculated the net income for the Claimant's household size as explained above.

During the hearing Ms. [REDACTED] set forth the following objections to the denial of Family Medicaid benefits: 1) friends who are both working and have the same hours receive Family Medicaid benefits; 2) other families with the same number of members and the same income receive Family Medicaid benefits.<sup>7</sup> The Division considers each case on its own merit. The evidence shows in this case that the Division applied the appropriate regulations in making its decision on the Claimant's application. General allegations that the Division's decision was not made correctly because others in similar circumstances receive benefits are not sufficient to render the Division invalid. In addition, these general allegations do not meet the Claimant's burden of proof.

### **CONCLUSIONS OF LAW**

1. The Division correctly applied the \$90 working expense deduction for each working person in the Claimant's household.
2. The Claimant's household net monthly income was calculated correctly by the Division.
3. The Claimant's household net monthly income exceeded the maximum allowable net monthly income for the Family Medicaid Income Standards.

### **DECISION**

The Division was correct when it denied the Claimant's March 4, 2008 application for Family Medicaid benefits because his household net monthly income exceeded the maximum allowed under the 2008 Family Medicaid Income Standards.

### **APPEAL RIGHTS**

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<sup>7</sup> As previously stated in the Findings of Fact, the Claimant's representative argued that the Division did not take into consideration that their income is varied. However, as stated earlier in this section, the record shows that the Division took this fact into consideration and properly averaged their incomes.

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, the Claimant must 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

An appeal 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 July, 2008.


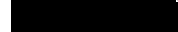
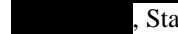
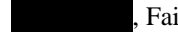
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Elizabeth Vazquez  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 15th day of July, 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

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Al Levitre  
Law Office Assistant I

