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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-544  
 )  
 Claimant. ) Division Case No. [REDACTED]  
 )  
 \_\_\_\_\_ )

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

[REDACTED] (Claimant) was a recipient of Family Medicaid. (Ex. 1) On June 18, 2008, the Division sent the Claimant written notice informing the Claimant her Family Medicaid was being terminated and changed to Post Medicaid (Four month extension of Family Medicaid benefits) because she was over income. (Ex. 2.4) The Claimant requested a fair hearing on August 6, 2008. (Ex. 3) This office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, a hearing was held on September 9, 2008. The Claimant attended the hearing telephonically and represented herself. [REDACTED], a Public Assistance Analyst with the Division, attended in person and represented the Division.

**ISSUE**

Whether the Division was correct when it changed the Claimant's Family Medicaid benefits to Post Medicaid, as of July 1, 2008.

**FINDINGS OF FACT**

1. The Claimant and her two minor children were recipients of Family Medicaid. On June 19, 2008, the Division sent Claimant notice her benefit was changing to Post Medicaid due to increased payment of child support. The Notice also told her Post Medicaid allowed Claimant to maintain medical coverage for four months, despite the increase in income. (Ex. 2.4)

2. The Claimant testified at the September 9, 2008 hearing that she began receiving child support of \$374.46 per month in April 2008. She expects her daughter's father to maintain his employment and continue paying child support indefinitely.

3. The parties do not dispute the Claimant is also receiving unemployment benefits of \$1204.00 per month. This income, with her child support income, totals \$1578.46 per month.

4. Mr. [REDACTED] reports Claimant's unemployment benefits will be discontinued soon, thus making her eligible for Family Medicaid again.

5. During the hearing the Claimant argued her benefit status should not change because she had a meeting in May of 2008 with her Eligibility Technician, and was told at the time her Family Medicaid benefits would continue despite the increase in child support.

### **PRINCIPLES OF LAW**

This case involves a change of benefits. When benefits are changed, the Division has the burden of proof<sup>1</sup> by a preponderance of the evidence.<sup>2</sup>

State Regulation 7 AAC 100.154 states:

The department will determine the prospective eligibility of a household by making, under 7 AAC [100.168](#), its best estimate of income, resources, and other circumstances that are anticipated to exist for the household during the month for which eligibility is being determined. To determine what it anticipates to exist with respect to resources and other circumstances of the household, the department will consider the

(1) circumstances of the preceding month and the current month that will affect Family Medicaid eligibility; and

(2) household's estimate of what is likely to change during the month for which eligibility is being determined.

For the purpose of determining Family Medicaid eligibility, the Division must consider child support as income. 7 AAC 100.158(d)(6). \$50.00 of a child support payment received by a Claimant from the parent is considered exempt income. 7 AAC 100.166(b).

The income eligibility standard for a household of three is \$1,384.00. *Alaska Family Medicaid Manual*, Addendum 2.

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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> *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, 1179 n. 14 (Alaska 1986).

Preponderance of the evidence is evidence which as a whole shows the fact sought to be proved is more probable than not.

A household that loses Family Medicaid eligibility because of increase of child support may become eligible for a four month extension of Family Medicaid benefits. 7 AAC 100.210.

### **ANALYSIS**

The issue in this case is whether the Claimant's child support should be counted as income when calculating eligibility for Family Medicaid benefits. State Regulation 7 AAC 100.158(d)(6) is clear; child support must be included as income when calculating eligibility for Family Medicaid. It is undisputed the Claimant is receiving \$1,578.46 per month in unemployment income. With the addition of child support, the Claimant's monthly income is \$1,578.46 (unemployment income + child support). \$50.00 is reduced from that amount as a pass through, pursuant to 7 AAC 100.166. Therefore, her total countable monthly income is \$1,528.46. This countable income is well over the \$1,354.00 need standard for a household of three. Therefore, Claimant lost her Family Medicaid eligibility, and should be transferred to four months Post Medicaid benefits pursuant to 7 AAC 100.210. The Division met its burden of proof by a preponderance of the evidence and properly included child support payments as income when determining the Claimant's eligibility for Family Medicaid.

### **CONCLUSIONS OF LAW**

The Division met its burden of proof and properly adhered to regulation when it changed the Claimant's benefits from Family Medicaid to Post Medicaid (four month extension of Family Medicaid benefits) as of July 1, 2008.

### **DECISION**

The Division was correct when it changed the Claimant's Family Medicaid benefits to Post Medicaid as of July 1, 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, 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 \_\_\_\_\_ day of October, 2008.

Patricia Huna-Jines  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this \_\_\_\_ day of October 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