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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-707
)	
Claimant.)	Division Case No. ██████████
_____)	

FAIR HEARING DECISION

STATEMENT OF THE CASE

██████████ (Claimant) was receiving Medicaid coverage under the Family Medicaid program. On September 12, 2008, the Division of Public Assistance (Division) sent the Claimant notice his Medicaid benefits would be terminated effective October 1, 2008 because he no longer had an eligible child living in his home. (Ex. 2.1) The Claimant requested a fair hearing on October 1, 2008. (Ex. 3) This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to Claimant's request, a hearing was held on December 2, 2008. The Claimant attended the hearing telephonically and testified on his own behalf. ██████████, Public Assistance Analyst with the Division, attended in person to represent and testify on behalf of the Division.

ISSUE

The Division argued it was required to terminate the Claimant's Family Medicaid coverage because he no longer satisfied the program's eligibility requirement that he have a minor child residing with him. The Claimant did not dispute the fact he no longer had a minor child residing with him. Instead, he argued that because the Medicaid program had paid for him to have surgery on his finger, which left pins sticking out of his finger, that his Medicaid coverage should have continued until his surgery on his finger was fully completed. This resulting issue is:

Was the Division correct to terminate the Claimant's Family Medicaid coverage effective October 1, 2008 despite the fact his medical treatment, begun under Medicaid, had not been completed?

FINDINGS OF FACT

1. The Claimant has a minor son who stays with him during the summer. (Claimant testimony) The Claimant applied for Medicaid coverage under the Family Medicaid category on July 28, 2008. (Ex. 1) At the time, his household consisted of himself and his minor son. *Id.* He was approved for Medicaid coverage under the Family Medicaid category effective July 1, 2008. *Id.*

2. The Claimant's minor son left his home in September 2008 to return to his mother's home for the school year. On September 11, 2008, the Claimant notified the Division his son had left the home. (Ex. 2.0)

3. On September 12, 2008, the Division sent the Claimant written notice his Medicaid coverage would be terminated after September 30, 2008 (i.e. effective October 1, 2008) because he no longer had a minor child in the home. (Ex. 2.2) The Claimant did not dispute receiving the notice.

4. The Claimant does not dispute that he no longer had a minor child residing with him as of September 2008. (Claimant testimony)

5. The Claimant, while he still had Medicaid coverage, had surgery performed on his finger on September 22, 2008. That surgery left him with pins in his finger. (Claimant testimony) He thought, from his discussions with his doctor, he would receive Medicaid coverage to complete his treatment. *Id.*

6. As of the effective date of the Claimant's Medicaid coverage termination, Claimant still required medical care to complete the surgery, i.e. remove the pins from his finger. (Claimant testimony)

7. The Claimant does not claim he is disabled. (Claimant testimony) He is currently [REDACTED] years old (birthdate [REDACTED]). (Ex. 1)

PRINCIPLES OF LAW

This case involves the termination of benefits by the Division. When the Division seeks to terminate or modify benefits, the Division has the burden of proof¹ by a preponderance of the evidence.²

¹ "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)

² Preponderance of the evidence is the normal standard of proof in an administrative proceeding. *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). Preponderance of the evidence is defined as "[e]vidence which is of greater weight or more convincing

The Medicaid program provides medical coverage for financially eligible households that have minor children in them. 7 AAC 100.002(a)(a); 7 AAC 100.100. A Family Medicaid household consists of the dependent children in the household and the parent or parents or other caregivers that reside with them. 7 AAC 100.104.

ANALYSIS

The issue in this case is whether or not the Division was correct when it terminated the Claimant's Family Medicaid coverage effective October 1, 2008 despite the fact his medical treatment, begun under Medicaid, had not been completed.

The chief prerequisite for Family Medicaid coverage is the presence of a minor child in a household. If there is not a minor child in the household, then a household is not eligible for Family Medicaid coverage. On its face, as soon as the Claimant's son left his home, the Claimant lost his Family Medicaid eligibility.³

The Claimant argued he thought Medicaid would pay to finish his finger surgery, i.e. remove the pins from his finger, since it paid for him to have the initial surgery. He said his doctor told him Medicaid would pay to finish the treatment. However, the regulations for the Family Medicaid program do not contain a "carryover" exception to complete medical treatment begun under Medicaid coverage. Further, a physician's statement to a patient, stating that Medicaid would pay to finish his treatment, does not create an exception.

The Division was therefore correct when it terminated the Claimant's Medicaid coverage effective October 1, 2008.

CONCLUSIONS OF LAW

1. The Claimant only qualified for Medicaid coverage because he had a minor child residing with him in his home. As a result, when the Claimant's minor child left him to reside with the child's mother, the Claimant no longer qualified for Medicaid coverage.
2. The Medicaid program does not contain an exception allowing a person to continue to receive Medicaid coverage to complete medical treatments began while a person had Medicaid coverage.

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)

³ It should be noted that the Claimant is a ■ year old male, who is not disabled. Given his age (under 65), and his lack of disability, his only eligibility category for Medicaid coverage would be Family Medicaid, which requires there be a dependent child in the household. See 7 AAC 100.002 for a complete list of the Medicaid coverage categories.

3. The Division was therefore correct to terminate the Claimant's Medicaid coverage effective October 1, 2008, regardless of the fact he had not yet completed the medical treatment initiated while he had Medicaid coverage.

DECISION

The Division was correct to terminate the Claimant's Family Medicaid coverage effective October 1, 2008 despite the fact his medical treatment, begun under Medicaid, had not been completed.

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 12th day of January 2009.

Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 12th day of January 2009, 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