

Office of Hearings and Appeals
3601 C Street, Suite 1322
P. O. Box 240249
Anchorage, AK 99524-0249
Phone: (907) 334-2239
Fax: (907) 334-2285

**STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF PUBLIC ASSISTANCE
ADMINISTRATIVE DISQUALIFICATION HEARING**

In the Matter of

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) OHA Case No. 09-FH-004
) Division Case No. ██████████

FAIR HEARING DECISION

STATEMENT OF THE CASE

██████████ (hereinafter “Claimant”) applied for Food Stamps, Alaska Temporary Assistance, and Medicaid on December 1, 2008. (Ex. 1). The Division of Public Assistance (hereinafter “Division”) approved the Claimant’s Food Stamp benefits. However, on January 2, 2009, the Division denied Claimant’s Application for Temporary Assistance and Medicaid benefits. (Ex. 6.0-6.01). On January 6, 2009, the Claimant requested a fair hearing. (Ex. 7.1). Pursuant to the Claimant’s request, a hearing was held on February 4, 2009. The Applicant attended the hearing telephonically and represented himself. ██████████, Public Assistance Analyst with the Division, attended in person to represent and testify for the Division. ██████████, Eligibility Technician II, testified for the Division.

STATEMENT OF THE ISSUES

Was the Division correct to deny Claimant’s December 1, 2008 Alaska Temporary Assistance and Medicaid Benefits Application for failing to provide the requested information?

FINDINGS OF FACT

1. The Claimant signed and submitted an Application to the Division for Food Stamp, Alaska Temporary Assistance, and Medicaid benefits on December 1, 2008. His household consisted of himself and his minor daughter. (Ex. 2).

2. At a December 17, 2008 interview, Claimant reported his wife, who had recently passed away, had created a trust fund. The Claimant's daughter, a household member, was one of the recipients of the trust. (Ex. 4.1). Trust funds are exempt for Food Stamps, therefore, Claimant's application for Food Stamp benefits was granted. Claimant's application for Alaska Temporary Assistance and Medicaid benefits were held, pending a copy of the trust. (Ex. 4.1).

3. On December 19, 2008, the Division sent notice to the Claimant that his Alaska Temporary Assistance and Medicaid Benefits were pended. The notice stated the following items needed to be sent: "You told us that your deceased spouse set up a trust fund for your daughters. We need to see a copy of the trust document so that we can look at potential resources. Please provide this to our office." The notice further stated Claimant had until December 29, 2008 to provide the information. (Ex. 4.3).

4. Claimant never provided the information. Claimant never contacted the Division to request additional time to provide the information. (Testimony of McCaffrey).

4. On January 2, 2009, the Division denied Claimant's Medicaid and Alaska Temporary Assistance Benefits for failing to provide a copy of the trust document. (Ex. 6.0-6.1)

5. The Claimant testified at the February 4, 2009 hearing and stated the following:

a. He was never told at the December 17, 2008 interview that he needed to provide the trust documents.

b. He first learned of his need to provide the information from the notice sent on December 19, 2008. By the time Claimant received the notice, he only had a week to obtain the documentation, which was not sufficient time.

c. He did not know very much about the trust, as his wife had created the trust fund through her employer. He further stated it took him two weeks just to find the right person to contact regarding this trust.

d. He now has a phone number for the Division. He had been advised by the Division to reapply for benefits.

PRINCIPALS OF LAW

"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). The standard of proof in an administrative proceeding is a "preponderance of the evidence," unless otherwise stated. *Amerada Hess Pipeline Corp. v. Alaska Public Utilities Com'n*, 711 P.2d 1170, 1183 (Alaska 1986). "Where one has the burden of proving asserted facts by a preponderance of the evidence, he must induce a belief in the minds of the triers of fact that the asserted facts are probably true." *Robinson v. Municipality of Anchorage*, 69, P.3d 489, 493) Alaska 2003).

The Division is authorized to request verification that an applicant (or recipient) meets the eligibility requirements for the Temporary Assistance and Medicaid programs, and if the applicant (or recipient)

refuses to provide the requested verification, the agency is authorized to deny eligibility. 7 AAC 100.016(a) and (b) (Medicaid); 7 AAC 45.175(a) (Temporary Assistance). An applicant/recipient's income, derived from employment or trust, is a factor used in determining if an individual is eligible for Temporary Assistance and Medicaid. 7 AAC 45.275(b) (Temporary Assistance); 7 AAC 100.102(c) (Family Medicaid).

Claimant's qualification for Medicaid would be that he is on Alaska Temporary Assistance. If his Alaska Temporary Assistance is denied, then his Medicaid would also be denied. 7 AAC 100.002.

To be eligible of Alaska Temporary Assistance, a person cannot have resources in excess of \$2,000.00. 7 AAC 45.280.

ANALYSIS

This case presents a narrow issue, whether or not the Division can deny Claimant's Application for Alaska Temporary Assistance and Medicaid benefits because he did not timely comply with the Division's December 19, 2008 request for information regarding a trust fund. Since Claimant is the party wishing to change the status quo, he has the burden of proof by a preponderance of the evidence.

It is undisputed that Claimant did not respond to the Division's December 19, 2008 written request for information. The Division's request for information was for a valid purpose – finding information regarding the resources of the household. The trust may have been a factor in determining the resources owned by the household. The Claimant admits he was aware of his need to provide information regarding the trust when he received the December 19, 2008 letter. He testified that by the time he received the letter, he only had a week to comply, which was not sufficient time. However, he did not call the Division to request an extension of time or explain his circumstances. Under these circumstances, the Claimant's failure to respond, regardless of his allegation of insufficient time, was grounds for denial of his Alaska Temporary Assistance and Medicaid benefits.

CONCLUSIONS OF LAW

The Claimant has failed to meet his burden of proof by a preponderance of the evidence that the Division acted improperly by denying his December 1, 2008 Alaska Temporary Assistance and Medicaid Benefits Application because of his failure to provide the requested information.

DECISION

The Division's denial of Claimant's December 1, 2008 Alaska Temporary Assistance and Medicaid Benefits Application is affirmed.

APPEAL RIGHTS

If the Applicant is dissatisfied with this decision for any reason, the Applicant has the right to appeal by requesting a review by the Director. To do this, send a written request directly to:

Director, Division of Public Assistance
Department of Health and Social Services

PO Box 110640
Juneau, AK 99811-0640

If the Applicant appeals, the Applicant must send the request within 15 days from the date the Applicant receives this letter. Filing an appeal with the Director could result in the reversal of the Hearing Authority's decision.

Dated: April ____, 2009.

Patricia Huna-Jines
Hearing Authority

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CERTIFICATE OF SERVICE

I certify that on this __ day of April, 2009, true and correct copies of the foregoing document were sent to the Claimant via certified mail, return receipt requested, and to the remainder of the service list by e-mail, as follows:

Claimant – Certified Mail, Return Receipt Requested.

██████████, Director
██████████, Policy & Program Development
██████████, Staff Development & Training
Office of Fair Hearing Representative
██████████, Administrative Assistant II
██████████, Eligibility Technician I

Al Levitre
Law Office Assistant I