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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. 09-FH-610
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

STIPULATED DECISION AND ORDER

STATEMENT OF THE CASE

[REDACTED] (Claimant) was receiving Adult Public Assistance and Medicaid benefits in November 2009. (Ex. 1) On November 17, 2009, the Division of Public Assistance (Division) sent the Claimant written notice that her Adult Public Assistance and Medicaid benefits would be suspended for up to a three month period, beginning with the month of December 2009, i.e. the Claimant would not receive Adult Public Assistance and Medicaid benefits beginning with the month of December 2009. (Ex. 4.3)

The Claimant requested a fair hearing on November 23, 2009. (Ex. 4.4) This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, a hearing was held on January 20, 2010. The Claimant was represented by [REDACTED], Esq., of the Disability Law Center, who appeared telephonically. The Claimant also appeared telephonically; she did not testify. [REDACTED], a Public Assistance Analyst with the Division, appeared in person; she represented the Division and testified on its behalf.

ISSUE

This case presented two issues:

1. Was the Division correct when it suspended the Claimant's Adult Public Assistance and Medicaid benefits for up to a three month period, beginning with the month of December 2009?
2. Did the Division's November 17, 2009 notice, informing the Claimant of her benefit suspension, satisfy procedural due process standards?

STIPULATIONS

At the hearing, the parties agreed and stipulated to the following, which completely resolve this case.

A. Benefit Suspension

1. The Claimant received Alaska Native Corporate Dividends in the month of December 2009. Those Alaska Native Corporate Dividends caused her to be financially not eligible to receive Adult Public Assistance and Medicaid benefits for the month of December 2009.
2. The Claimant, however, was financially eligible to receive Adult Public Assistance and Medicaid benefits beginning with the month of January 2010.
3. The Division was therefore correct to suspend the Claimant's Adult Public Assistance and Medicaid benefits for the month of December 2009 only.
4. Because the Claimant received Adult Public Assistance and Medicaid benefits during the month of December 2009, while she was not eligible to receive those benefits, the Division has an overpayment claim against the Claimant. This Decision does not resolve the issue of the overpayment claim. The parties agree to cooperate on resolving the overpayment issue.

B. Notice

1. The Division's November 17, 2009 notice is legally deficient. However, the Claimant, through counsel, has explicitly waived this issue.

DECISION

The Division was correct to suspend the Claimant's Adult Public Assistance and Medicaid benefits for the month of December 2009 only. She was financially eligible to receive Adult Public Assistance and Medicaid benefits beginning with the month of January 2010.

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 25th day of January 2010.

/Signed/
Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 25th day of January 2010, true and correct copies of the foregoing were sent to:

██████████ Esq., DLC, for the Claimant by USPS First Class Certified Mail, Return Receipt Requested and email.

And to the following by email:

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

J. Albert Levitre, Jr., Law Office Assistant I