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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-635
)
 Claimant.) Division Case No. [REDACTED]
)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) was a recipient of Medicaid benefits. (Ex. 1). On October 5, 2009 the Claimant submitted a recertification application to the Division of Public Assistance (Division). (Ex. 2) The Division sent a December 2, 2009 notice of termination of benefits because his household was not eligible due to excess income. (Ex. 4) Claimant requested a fair hearing on December 9, 2009 (Ex. 5)

This office has jurisdiction pursuant to 7 AAC 49.010.

A hearing was held on February 3, 2010. The Claimant attended the hearing telephonically, represented himself and testified on his own behalf. [REDACTED] Public Assistance Analyst with the Division, attended the hearing in person, testifying and representing the Division.

ISSUE

Was the Division correct to terminate Claimant's Medicaid benefits¹ because his household was no longer eligible due to excess income, as stated in the notice Division sent Claimant on December 2, 2009?

FINDINGS OF FACT

The following facts are established by a preponderance of the evidence:

1. Claimant was a recipient of Medicaid benefits. (Ex. 1)

¹ Claimant's benefits would end on December 31, 2009, and his two children would receive benefits until January 31, 2010.

2. On October 5, 2009, Claimant submitted a recertification application for continuing services. (Ex. 2) In that document, Claimant declared his wife's income, but did not indicate the household was receiving any other income, either earned or unearned. (Ex. 2.1-2.2)
3. On December 1, 2009, the Division personnel reviewed the State of Alaska, Department of Labor data base and learned Claimant was receiving \$138.00/week in unemployment benefits and \$25.00/week in stimulus money. (Ex. 3.3) The \$25.00 in stimulus money was part of his unemployment benefits and was distributed by the Department of Labor. (Testimony of [REDACTED] and Claimant; and Ex. 3.3)
4. The Division calculated Claimant's household's net income to be \$2,053.09 (\$2,922.04 gross household income - \$868.95 in earned income deductions = \$2,053.09). The Division determined the household had excess income because the maximum net income for the Family Medicaid program is \$1,627.00. (Ex. 3.4) Claimant does not dispute these calculations or the program income limitation.
5. On December 2, 2009, the Division sent Claimant a notice which stated Claimant's unemployment put his family over the income limit to be eligible for Medicaid benefits. The notice further stated Claimant's two children would continue on Medicaid until January 31, 2010 but Claimant's benefits would terminate December 31, 2009. (Ex. 4)
6. The Claimant does not dispute the Division's calculations. He argues his household should not be punished for being over the income limits and receiving too much money.

PRINCIPLES 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)

To determine eligibility for Family Medicaid, the department will determine whether the household is financially eligible. 7 AAC 100.102(a)

Financial eligibility is based on income. 7 AAC 100.150 Income includes earned income, self-employment income and unearned income. 7 AAC 100.158(a) Unearned income includes unemployment compensation. 7 AAC 100.158(d) Regulation 7 AAC 100.160 lists all income that is exempt from consideration when calculating income.

ANALYSIS

The issue in this case is whether the Division was correct to terminate Claimant's Medicaid benefits² because his household was no longer eligible due to excess income, as stated in the notice Division sent Claimant on December 2, 2009.

Because this case involves ongoing benefits, the Division is the party seeking to change the status quo, therefore it has the burden of proof by a preponderance of the evidence.

The parties do not dispute the Division calculations. The Division calculated the household income by adding the Claimant's wife's employment earnings and Claimant's unemployment income, which included the stimulus money. There is no dispute this income placed the household over the income limits of the Medicaid program.

There is no factual dispute but Claimant argues he should not be punished by having his benefits terminated for having income in excess of the Medicaid program limit. The Medicaid program has income limitations. Claimant's household income exceeded these limitations, thus, he was no longer qualified for the program. The Division's action of terminating Claimant from the program because of his failure to qualify was not a punishment, but merely a reflection of his failure to meet program eligibility restrictions.

CONCLUSIONS OF LAW

The Division met its burden by a preponderance of the evidence and was correct to terminate Claimant's Medicaid benefits, pursuant to its notice sent December 2, 2009, because his household had excess income.

DECISION

The Division was correct to terminate Claimant's Medicaid benefits pursuant to a notice sent December 2, 2009.

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

² Claimant's benefits would end on December 31, 2009, and his two children would receive benefits until January 31, 2010.

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 24th day of February, 2010.



Patricia Huna
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 24th day of February 2010, true and correct copies of the foregoing were sent to:

Claimant – Certified Mail, Return Receipt Requested.

A copy sent via e-mail to the following:

- ██████████ Fair Hearing Representative
 - ██████████ DPA Director
 - ██████████ DPA Director's Office
 - ██████████, DPA director's Office
 - ██████████ Chief of Field Services
 - ██████████ Policy & Program Development
 - ██████████ Staff Development & Training
 - ██████████
- J. Albert Levitre, Jr.*
Law Office Assistant I