

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

**STATE OF ALASKA  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
OFFICE OF HEARINGS AND APPEALS**

In the Matter of	)	
	)	
██████████,	)	OHA Case No. 10-FH-87
	)	
Claimant.	)	Division Case No. ██████████
_____	)	

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

██████████ (Claimant), along with her husband ██████████ (Husband), applied for Medicaid benefits for their household, which consisted of the Claimant, her minor child, and the Husband, on February 16, 2010. (Ex. 2) On March 8, 2010, the Division of Public Assistance (Division) sent the Claimant notice Medicaid benefits were approved for her and her minor child, but that the Husband's application for Medicaid benefits was denied. (Ex. 5) The Claimant requested a fair hearing on March 12, 2010. (Ex. 7.1)

This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to Claimant's request, a hearing was held on April 28 and May 6, 2010. The Claimant did not participate in the hearing. The Husband<sup>1</sup> attended the hearing telephonically; he represented himself 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**

Was the Division correct when it denied the Husband's February 16, 2010 application for Medicaid benefits?

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<sup>1</sup> The Husband is the proper party in interest in this case, because he was the person denied Medicaid benefits.

## SUMMARY OF DECISION

The Husband was not eligible to receive Medicaid benefits because he was less than 65 years of age, he was not disabled or blind, nor receiving Supplemental Security Income or Adult Public Assistance benefits. He was also not eligible to receive Family Medicaid benefits because he was not the biological or legal parent of the only minor child in his household.

## FINDINGS OF FACT

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

1. The Claimant, along with the Husband, applied for Medicaid benefits for their household, which consisted of the Claimant, her one biological minor child, and the Husband, on February 16, 2010. (Ex. 2)
2. The Husband is currently 51 years old (birthdate [REDACTED]). (Ex. 2) He is not receiving Adult Public Assistance or Supplemental Security Income benefits. (Ex. 2) He is not disabled. (Ex. 6) He did not claim or present any evidence that he was legally blind.
3. The Husband is not the biological or legal parent of the minor child who resides in his household. (Husband testimony) He does not have any biological or legal children of his own residing with him. *Id.*
4. At the time of the February 16, 2010 application, the Claimant was not receiving either Adult Public Assistance or Supplemental Security Income benefits. (Exs. 1, 2.3)
5. The Division granted Medicaid benefits to the Claimant and her minor child. (Ex. 5). It did not grant Medicaid benefits to the Husband because he did not have a child of his own in the household. (Ex. 5; Miller testimony)

## PRINCIPLES OF LAW

The party who is seeking a change in the status quo has the burden of proof by a preponderance of the evidence. <sup>2</sup> *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985); *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986).

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<sup>2</sup> Preponderance of the evidence is defined as “[e]vidence which is of greater weight or more convincing 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)

Medicaid benefits are available to financially eligible adult men<sup>3</sup> who are blind, disabled, receiving Adult Public Assistance benefits, or Supplemental Security Income benefits. 7 AAC 100.002(b). In order to receive Adult Public Assistance benefits, the applicant must be over 65, blind, or disabled, in addition to meeting financial eligibility requirements. 7 AAC 40.090; 7AAC 40.120.

Medicaid benefits are also available for financially eligible households that have minor children in them. 7 AAC 100.002(a)(1); 7 AAC 100.100. A Family Medicaid household consists of the dependent children in the household and the parent or parents or other caretaker relatives that reside with them. 7 AAC 100.104.

A stepparent is included in the Family Medicaid household only if the:

- (1) stepparent is the natural or adoptive parent of at least one child in the household;
- (2) parent and the stepparent have a common child living in the home; or
- (3) stepparent is the caretaker relative when the other parent is not included in the household because the other parent is
  - (A) absent from the home; or
  - (B) an SSI or APA recipient.

7 AAC 100.114(e).

### ANALYSIS

The issue in this case is whether or not the Division was correct when it denied the Husband's February 16, 2010 application for Medicaid benefits. Because this case involves the Claimant and the Husband's application for benefits, they are the parties seeking to change the status quo. They therefore have the burden of proof by a preponderance of the evidence.

The undisputed facts in this case are as follows:

1. The Husband is under the age of 65. He is not disabled. He is not blind. He does not receive either Supplemental Security Income benefits or Adult Public Assistance benefits.
2. The Husband resides with his wife (the Claimant) and her minor child. He is not either the biological or legal parent of the minor child, and he does not have any minor biological or legal children of his own residing with him.

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<sup>3</sup> There are specific categories of Medicaid coverage available to women (pregnancy, breast or cervical cancer) and children that are not available to adult men. *See* 7 AAC 100.002.

3. The Claimant, who is the mother of the minor child in the home, resides in the home and does not herself receive either Supplemental Security Income or Adult Public Assistance benefits.

In order for a financially eligible adult male to receive Medicaid benefits, he must:

1. Be age 65 or older (i.e. eligible for Adult Public Assistance benefits);
2. Be medically disabled or blind;
3. Receive Adult Public Assistance benefits or Supplemental Security Income benefits; or
4. Be eligible for Family Medicaid benefits.

A review of the undisputed evidence shows that the Husband's only possible category for Medicaid coverage is Family Medicaid. This is because he is under the age of 65 years, he is not medically disabled or blind, and he does not receive either Supplemental Security Income or Adult Public Assistance benefits.

The chief prerequisite for an adult to receive Family Medicaid benefits is the presence of his biological or legally adopted minor child residing in the adult's household. There is one minor child who resides in the Husband's household. However, the minor child is not the Husband's biological or legally adopted child. He is the biological child of the Claimant, the Husband's wife. As such, the Husband is the minor child's stepparent.

In order for a stepparent to be eligible for Family Medicaid benefits as a caretaker relative, the biological parent, the Claimant, must be either physically absent from the home or be receiving Supplemental Security Income or Adult Public Assistance benefits. None of those circumstances exist in this case. The Claimant resides with her husband and the minor child, i.e. she is not absent from the home. The Claimant does not receive either Supplemental Security Income or Adult Public Assistance benefits.

The Husband, as the stepparent of a minor child, who resides with his wife, who is the mother of the minor child, is therefore not eligible for Family Medicaid benefits. As a result, the Division was correct to deny the Husband's February 16, 2010 application for Medicaid benefits.

### **CONCLUSIONS OF LAW**

1. The Husband does not qualify for Medicaid benefits under the age and disability Medicaid coverage categories (65 years or older, disabled or blind) or the Supplemental Security Income or Adult Public Assistance recipient Medicaid coverage categories.
2. The Husband also does not qualify for Family Medicaid benefits because he is not the biological or adoptive parent of the minor child in his household. He does not qualify

as a stepparent caretaker relative because the minor child's biological parent resides in the household and does not receive either Supplemental Security Income or Adult Public Assistance benefits.

3. The Division was therefore correct to deny the Husband's February 16, 2010 application for Medicaid benefits.

### **DECISION**

The Division was correct to deny the Husband's February 16, 2010 application for Medicaid benefits.

### **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 21st day of June, 2010.

/Signed/  
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Larry Pederson  
Hearing Authority

#### CERTIFICATE OF SERVICE

I certify that on this 21st day of June 2010, true and correct copies of the foregoing were sent to:  
Claimant – Certified Mail, Return Receipt Requested.

[REDACTED], Fair Hearing Representative - email  
[REDACTED], Director - email  
[REDACTED], Director's Office - email  
[REDACTED], Policy & Program Development - email  
[REDACTED], Policy & Program Development - email  
[REDACTED], Staff Development & Training – email  
[REDACTED], Chief of Field Services

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J. Albert Levitre, Jr.  
Law Office Assistant I