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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. 10-FH-95  
 )  
 Claimant. ) Division Case No. [REDACTED]  
 )  
 \_\_\_\_\_ )

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

[REDACTED] (Claimant) was receiving Adult Public Assistance and Medicaid benefits in March 2010. (Ex. 1) On March 19, 2010, the Division of Public Assistance (Division) informed the Claimant it was terminating her Adult Public Assistance and Medicaid benefits and that she would no longer receive Adult Public Assistance and Medicaid benefits after March 31, 2010. (Ex. 4) The Claimant requested a fair hearing on March 31, 2010. (Ex. 5.1)

This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, the hearing began on April 22, 2010. The Claimant attended the hearing telephonically and represented herself. [REDACTED], Public Assistance Analyst with the Division, attended in person and represented the Division. At the Claimant's request, the hearing was postponed until May 20, 2010.

The Claimant attended the May 20, 2010 hearing telephonically. She represented herself and testified on her own behalf. [REDACTED] Public Assistance Analyst with the Division, attended in person; she represented the Division and testified on its behalf.

**ISSUE**

Was the Division correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits after March 31, 2010?

## **SUMMARY OF DECISION**

The Claimant's eligibility for Adult Public Assistance and Medicaid required that she be receiving Supplemental Security Income assistance. Because the Social Security Administration terminated her Supplemental Security Income assistance, the Division was required to and was correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits after March 31, 2010.

## **FINDINGS OF FACT**

The following facts were proven by a preponderance of the evidence:

1. The Claimant is currently under 65 years of age. (Ex. 1) She applied to the Division for Adult Public Assistance and its related Medicaid benefits on December 21, 2009. *Id.* She had applied to the federal Social Security Administration for Social Security Supplemental Security Income benefits on December 22, 2009 and been approved for Supplemental Security Income benefits on a presumptive basis beginning with the month of January 2010. (Exs. 2.1, 3.1) As a result, the Division approved the Claimant's application for Adult Public Assistance and Medicaid benefits on January 12, 2010. (Ex. 2.2) The Claimant's Medicaid benefits were approved beginning with the month of January, 2010. *Id.* Her Adult Public Assistance benefits were approved beginning with the month of February 2010. *Id.*

2. On March 10, 2010, the Social Security Administration terminated the Claimant's Supplemental Security Income assistance. (Ex. 3.1) The reason for the termination was code "N35," (Ex. 2.1) The "N35" code stands for "Non-pay/Impairment is severe at time of adjudication but not expected to last 12 months - no visual impairment." (Ex. 3.2) The Claimant has appealed the Social Security decision. (Ex. 3.1)

3. On March 18, 2010, the Division was informed that the Claimant's Supplemental Security Income assistance had been terminated. (Ex. 3.0) The Division then sent the Claimant written notice on March 19, 2010 that her Adult Public Assistance and Medicaid benefits were terminated effective March 31, 2010. (Ex. 4)

4. The Claimant has a diagnosis of mantle cell lymphoma. (Ex. A) She was treated with a stem cell transplant and chemotherapy. (Exs. B and C) As of May 19, 2010, she was "doing relatively well" but was at "very high risk for disease recurrence." (Ex. C)

## **PRINCIPLES OF LAW**

This case involves the question of whether or not the Division was correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits. Because this case involves the termination of benefits the Division has the burden of proof<sup>1</sup> by a preponderance of the evidence.<sup>2</sup>

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<sup>1</sup> "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)

A person who is eligible to receive Social Security Supplemental Security Income benefits is also eligible to receive Adult Public Assistance benefits from the State of Alaska, if she also satisfies other State of Alaska eligibility criteria. 7 AAC 40.030. A person who is receiving Supplemental Security Income or who has been approved for Adult Public Assistance is automatically eligible for Medicaid benefits. 7 AAC 100.002(b)(1) and (d)(1); 7 AAC 100.410(a) and (b).

If a recipient of both Adult Public Assistance benefits and Supplemental Security Income benefits has her Supplemental Security Income benefits terminated by the Social Security Administration, the State of Alaska is required to terminate her Adult Public Assistance benefits. The Alaska regulation reads:

(c) If an applicant is receiving SSI benefits and is determined by the Social Security Administration to be ineligible, except as provided in (d) and (e) of this section, the division will terminate assistance in accordance with 7 AAC 49.060, regardless of whether the applicant files an appeal with the Social Security Administration.

7 AAC 40.060(c).<sup>3</sup>

When the Division terminates a recipient's Medicaid coverage under one category, it is required to determine if the recipient is eligible for coverage under another Medicaid category: "[t]he agency must – . . . (b) Continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible." 42 CFR 435.930.

### **ANALYSIS**

The facts in this case are not disputed. The Claimant was receiving Adult Public Assistance from the State of Alaska because the Social Security Administration approved her for Supplemental Security Income benefits. She received Medicaid coverage because she was receiving Adult Public Assistance and Supplemental Security Income. The Social Security Administration terminated the Claimant's Supplemental Security Income because it determined her impairment was not expected to last 12 months (Code N35). The Claimant appealed the Social Security Administration decision.

As the facts are not in dispute, this case presents a purely legal issue. Was the Division correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits because her Supplemental Security Income benefits had been terminated by the Social Security Administration?

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<sup>2</sup> 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 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)

<sup>3</sup> The exceptions to the termination rule contained in 7 AAC 40.060(c) refer to Supplemental Security Income termination due to either excess income or a disposal of resources for less than fair market value. 7 AAC 40.060(d) and (e).

The Alaska regulation pertaining to the domino effect of a Supplemental Security Income benefit termination, 7 AAC 40.060(c), is clear. Termination of Supplemental Security Income benefits requires that State Adult Public Assistance benefits be terminated. Even if the Social Security Administration's decision to terminate Supplemental Security Income benefits is wrong or under appeal with the Social Security Administration, the Division does not have leeway to ignore the termination requirement. *See* 7 AAC 40.060(c). Once the Social Security Administration terminated the Claimant's Supplemental Security Income benefits because it determined her severe impairment was not expected to last 12 months (Code N35), the Division, by regulation, was required to and correctly terminated her State Adult Public Assistance.

The Claimant's eligibility for Medicaid coverage required her to be a recipient of either State Adult Public Assistance or Supplemental Security Income benefits. There is no evidence in the record demonstrating her eligibility for Medicaid coverage in any of the other eligibility categories: pregnancy, medical institutionalization, home and community based waiver approval, or breast or cervical cancer. 7 AAC 100.002(a)(4), (c)(7), (d)(4), d(7), and (d)(8). As a result, when the Claimant lost both her Supplemental Security Income and her Adult Public Assistance benefits, she also lost her Medicaid coverage.

### **CONCLUSIONS OF LAW**

1. The Division was required by the explicit terms of its regulation, 7 AAC 40.060(c), to terminate the Claimant's Adult Public Assistance benefits when the Social Security Administration terminated her Supplemental Security Income benefits.
2. Because the Claimant's eligibility for Medicaid coverage depended on her being eligible for either Adult Public Assistance or Supplemental Security Income, the Division was correct when it terminated her Medicaid coverage.

### **DECISION**

The Division was correct when it terminated the Claimant's Adult Public Assistance and Medicaid benefits after March 31, 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, 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 filed within 15 calendar days from the date of receipt of this Decision.  
Filing an appeal with the Director could result in the reversal of the Hearing Authority's decision.

DATED this 22nd day of July, 2010.

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*/Signed/*  
Larry Pederson  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 22nd day of July 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