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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-147
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) was receiving Adult Public Assistance and Medicaid benefits in May 2010. (Ex. 1) On May 12, 2010, the Division of Public Assistance (Division) verbally notified the Claimant that her Adult Public Assistance and Medicaid benefits would be terminated. (Exs. 6, 7) The Claimant verbally requested a fair hearing on May 12, 2010. (Exs. 6, 6.1, 7) The Division subsequently sent the Claimant written notice on May 26, 2010 that her Adult Public Assistance and Medicaid benefits would be closed after June 30, 2010 and that she would no longer receive Adult Public Assistance and Medicaid benefits after that date. (Ex. 9)

This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, the hearing began on June 3, 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 June 9, 2010.

The Claimant attended the June 9, 2010 hearing telephonically. She represented herself and testified on her own behalf. [REDACTED], Public Assistance Analyst with the Division, attended in person; he 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 June 30, 2010?

SUMMARY OF DECISION

The Claimant's eligibility for Adult Public Assistance and Medicaid required that she be financially eligible for Supplemental Security Income assistance. Because the Social Security Administration determined that she was not financially eligible for Supplemental Security Income assistance, the Division was required to and was correct to terminate the Claimant's Adult Public Assistance and Medicaid benefits after June 30, 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 was receiving Adult Public Assistance and Medicaid benefits in February 2010. (Exs. 1, 2) In February 2010, the Division required the Claimant to apply for Supplemental Security Income assistance, because her income had changed. (Ex. 3)
2. On or about May 4, 2010, the Division became aware the Claimant's Supplemental Security Income application had been denied by the Social Security Administration because she owned too much in the way of resources. (Ex. 5) The excess resource owned by the Claimant is a cabin, which the Claimant has not lived in for 6 years, but to which she intends to return. (Ex. 6; Claimant testimony)
3. Although the Kenai Peninsula property tax records show the Claimant is the sole owner of the cabin, she, in fact, as demonstrated by the chain of title documents she submitted into evidence, is actually only an owner of an undivided one-half interest in the property. (Exs. 10, B1 – B4) The owner of the remaining undivided one-half interest in the property is her mother, who died in 1997. (Ex. B1; Claimant testimony)
4. The Kenai Peninsula Borough values the cabin and land, for tax purposes, at \$54,900. (Ex. 10)
5. The Claimant experiences a number of health conditions (diabetes, macular degeneration, inflammatory arthritis, chronic back pain, spinal, hip, elbow, shoulder, knee and ankle pain, psoriasis, sleep apnea), which make her unable to live in the cabin in its current condition. (Ex. A)
6. The Division verbally notified the Claimant, on May 12, 2010, that her Adult Public Assistance and Medicaid benefits would be denied because the Social Security Administration had denied her Supplemental Security application. (Ex. 6)
7. On May 26, 2010, the Division notified the Claimant, in writing, that it was terminating her Adult Public Assistance and Medicaid benefits after June 30, 2010 because she was "ineligible for SSI due to resources and thus we follow suit." (Ex. 9)

PRINCIPLES OF LAW

A party who is seeking a change in the status quo has the burden of proof by a preponderance of the evidence. *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). “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, 495 (Alaska 2003).

A person who is eligible to receive Social Security Supplemental Security Income benefits is also eligible to receive Adult Public Assistance and Medicaid benefits from the State of Alaska, if she also satisfies other State of Alaska eligibility criteria. 7 AAC 40.030. “An applicant must meet the eligibility requirements of the SSI program.” 7 AAC 40.030(a).¹ The term “applicant” includes not only applicants for Adult Public Assistance but also persons who receive Adult Public Assistance. 7 AAC 40.900(a).

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).

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. Alaska Medicaid eligibility categories for persons under the age of 65 years, who are not receiving Supplemental Security Income benefits or Adult Public Assistance benefits are: 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).

ANALYSIS

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 is the party seeking to change the status quo. The Division therefore has the burden of proof by a preponderance of the evidence.

The facts in this case are not disputed. The Claimant was receiving Adult Public Assistance and Medicaid assistance from the State of Alaska. The State of Alaska required her to apply for Supplemental Security Income benefits. The Social Security Administration denied the Claimant’s application for Supplemental Security Income benefits because it determined she owned too much in the way of resources (i.e. the cabin which is not her residence). The Division then terminated the

¹ The Adult Public Assistance program contains an exception to the Supplemental Security Income program’s financial eligibility rules. The Adult Public Assistance program has a higher income limit than the Supplemental Security Income program. *See* 7 AAC 40.310.

Claimant's Adult Public Assistance and Medicaid benefits as a result of the Supplemental Security Income denial.

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 application was denied by the Social Security Administration?

The Alaska regulation on Adult Public Assistance program eligibility is clear. "An applicant must meet the eligibility requirements of the SSI program." 7 AAC 40.030(a). This regulation also applies to Adult Public Assistance recipients, as well as applicants. *See* 7 AAC 40.900(a). This means that the Claimant had to be financially eligible to receive Supplemental Security Income benefits in order to receive Adult Public Assistance benefits. Because the Social Security Administration found that she was not financially eligible for Supplemental Security Income benefits due to resource ownership (the cabin), the Claimant was also not financially eligible for Adult Public Assistance benefits.² Because the Claimant was not financially eligible for Adult Public Assistance benefits, the Division was therefore correct when it terminated her Adult Public Assistance benefits.

The Claimant has argued that she is not the sole owner of the cabin, and that she intends to return to live in the cabin, but cannot currently live in it because of her medical conditions. She is essentially arguing that the Social Security Administration made an error when it found she was not eligible for Supplemental Security Income benefits. However, this Office only has the power to hear State of Alaska cases. It does not have the legal ability to overrule federal Social Security decisions. As a result, because the Alaska Adult Public Assistance program regulation requires that an applicant/recipient "must meet the eligibility requirements of the SSI program," the Division is required to follow the Supplemental Security Income decision, even if the Claimant believes that decision was made in error.

The Claimant's eligibility for Medicaid coverage required her to be a recipient of either State Adult Public Assistance or Supplemental Security Income benefits. She does not receive Supplemental Security Income benefits. She no longer financially qualifies for Adult Public Assistance 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's application for Supplemental Security Income was denied and she lost her Adult Public Assistance benefits, she also lost her Medicaid coverage.

CONCLUSIONS OF LAW

1. The Division was required by its regulation, 7 AAC 40.030(a), to terminate the Claimant's Adult Public Assistance benefits when her application for Supplemental Security Income was denied due to resource ownership.

² As provided in footnote 1 above, there is an exception to the Supplemental Security Income financial eligibility rules in the case of income. However, since this case involves resources and not income, that exception does not apply.

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 June 30, 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 11th day of August, 2010.

/Signed/

Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 11th day of August 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

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