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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-148
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) applied for Medicaid on March 4, 2010. (Ex. 2) On March 10, 2010, the Division of Public Assistance (Division) sent Claimant notice denying her application because she was over the income limit for the program. (Ex. 4.0). On May 10, 2010, Claimant's father requested a fair hearing on behalf of his daughter. (Ex. 6 – 6.1) On June 7, 2010, the Division sent Claimant a corrected notice with the proper calculation of income. (Ex. 4.1) This Office has jurisdiction pursuant to 7 AAC 49.010.

On June 7, 2010, the Division also submitted a Petition to Deny Fair Hearing Request arguing Claimant's fair hearing request was untimely. A hearing was held on June 10, 2010. That hearing was continued until July 20, 2010.

The Claimant's father, [REDACTED], attended the hearings telephonically, representing his daughter and testified on her behalf. [REDACTED], Public Assistance Analyst with the Division, attended the hearing in person, testified on the Division's behalf and represented the Division. Claimant did not appear.

At the July 10, 2010 hearing, the Division's Petition to Deny Fair Hearing Request was denied because the May 10, 2010 fair hearing request was made within the regulatory time limits of the June 7, 2010 corrected denial notice.

ISSUES

Was the Division correct to deny Claimant's March 4, 2010 application for Medicaid benefits because she was over the income limit?

SUMMARY OF DECISION

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

1. On March 4, 2010, Claimant applied for Medicaid benefits. (Ex. 2) Her household consisted of herself and her father. (Ex. 2.1) At the time of her application, Claimant was ■ years old. *Id.*
2. The household income consists of Claimant's father's income from a pension and from the Social Security Administration. The Social Security income is \$1,337.50 and the pension is \$544.18. (Ex. 3.2 and 3.5) Claimant does not have any income herself. (Ex. 2.2 – 2.3) The parties do not dispute that the total gross household income is \$1,881.68. However, Claimant's father testified his pension check is typically \$258.00 because health premiums reduce the amount. (Testimony at hearing)
3. On March 10, 2010, the Division sent Claimant notice her application was denied because the countable household income was \$1,301.00, which exceeded the Medicaid income limit of \$1,337.50. (Ex. 4)
4. On June 7, 2010, the Division sent Claimant an amended notice stating her application was denied because the countable household income was \$1,881.68, which exceeded the Medicaid income limit of \$1,301.00. (Ex. 4.1)

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).

Medicaid provides Medicaid benefits to individuals under 21 year old who meet other qualifying requirements and who is: A Medicaid household consists of an individual under 21 years of age who is: "1) living with one or more parents; 2) married and living with the individual's spouse; 3) living independently of parent or spouse or determined under (c) of this section; or 4) a minor living independently. . ." 7 AAC 100.252(a); 7 AAC 100.002(c)

The Under-21 Medicaid program has financial eligibility requirements. In order for a household of two people to qualify for Under-21 Medicaid, among other criteria, the household's monthly countable income cannot exceed \$1,301.00. 7 AAC 100.190(a)(1); *Alaska Family Medicaid*

Eligibility Manual Addendum 2. The household income includes the income of a parent who resides with the under 21 Medicaid applicant. 7 AAC 100.150(b)(1).

The household countable income is calculated by totaling together the household's gross income less all applicable deductions and disregards from income under 7 AAC 100.184 and 7 AAC 100.186. 7 AAC 100.180(b). The Medicaid program classifies income as either earned income, self-employment income, or unearned income. 7 AAC 100.158. There are no deductions for unearned income. 7 AAC 100.184. The income disregard mentioned in 7 AAC 100.186 is available only "as a necessary cost of earning income, the anticipated cost for the care of a child or incapacitated adult." 7 AAC 100.186(a)

ANALYSIS

The issue in this case is whether the Division was correct to deny Claimant's March 4, 2010 application for Medicaid benefits because she was over the income limit. "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). Accordingly, Claimant has the burden by a preponderance of the evidence of proving Division's denial was incorrect.

The undisputed facts show that Claimant's household consisted of two people, herself and her father. (Ex. 2.1) Claimant argues that the income is reduced because of a health care premium that reduces her father's pension. However, because the Claimant's father's income is entirely unearned (Social Security and pension), there are no applicable deductions and disregards that apply to this case. 7 AAC 100.158(d); 7 AAC 100.184; and 7 AAC 100.186. Therefore, Claimant's gross household income is \$1,881.68 per month. (Ex. 3.2 and 3.5) In order for a household of two people to qualify for Under-21 Medicaid, the household's gross income cannot be more than \$1,301.00. Accordingly, Claimant's household's income was over the income limit for the Medicaid program.

The Division was therefore correct to deny Claimant's March 4, 2010 application for Medicaid benefits because she was over the income limit.

CONCLUSIONS OF LAW

Claimant has failed to prove by a preponderance of the evidence that her household income was within the income limit of the Medicaid program. Therefore, the Division was correct to deny her March 4, 2010 application for Medicaid benefits because she was over the income limit.

DECISION

The Division was correct to deny Claimant's March 4, 2010 application for Medicaid benefits because she was over the income limit.

