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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-191
)
 Claimant.) Division Case No. [REDACTED]

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) applied for Medicaid benefits on June 4, 2010. (Ex. 2-2.9) On June 7, 2010, the Division sent Claimant a notice it denied her application because her monthly income exceeded the net income allowed for eligibility for Medicaid benefits. (Ex. 4) Claimant requested a fair hearing on June 10, 2010. (Ex. 5)

This office has jurisdiction pursuant to 7 AAC 49.010.

A hearing was held on July 8, 2010. The Claimant attended the hearing telephonically, represented herself and testified on her own behalf. [REDACTED], Public Assistance Analyst with the Division, attended the hearing in person, and testified on behalf of the Division.

ISSUE

Was the Division correct to deny Claimant's application for Medicaid benefits because Claimant's household monthly income exceeded the net income allowed for eligibility for Medicaid benefits, as stated in the notice the Division sent Claimant on June 7, 2010?

FINDINGS OF FACT

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

1. Claimant applied for Medicaid benefits on June 4, 2010. (Ex. 2-2.9) Claimant wrote the household had no employment income. (Ex. 2.2) Claimant also wrote that her minor child

received \$1,461.00 monthly income and that her mother, the child's grandmother, received \$1,157.00 monthly income.¹ (Ex. 2.3)

2. On June 4, 2010, Claimant participated in an eligibility interview. (Ex. 3) The Eligibility Technician determined that Claimant's minor child received \$1,461.00 monthly as survivor benefits through the Social Security Administration (SSA) and the household received no other income. (Ex. 3-3.1)

3. The Eligibility Technician determined that for a household of two persons, the gross income limit is \$2,406.00 and the net income limit for eligibility is \$1,301.00 as established by the Family Medicaid Income Standards published in the Family Medicaid manual. (Ex. 3.2, referencing:

http://dpaweb.hss.state.ak.us/manuals/fam-med/addenda/addendum-2_family_medicaid_in...)

4. The Eligibility Technician applied Claimant's household monthly income of \$1,461.00 (consisting entirely of the child's unearned SSA survivor benefits) to the gross income limit and net income limit of the Medicaid program.² (Ex. 3.3) This application resulted in a determination that Claimant's household did meet the gross income limit. (Ex. 3.3) However, the household's monthly income of \$1,461.00 was shown arithmetically to exceed the net monthly income limit for Medicaid eligibility by \$110. (Ex. 3.3)

5. The Division sent written notice on June 7, 2010 telling Claimant her application had been denied because her monthly income was more than the income allowed for eligibility for Medicaid and that it had used the \$1,461.00 of Social Security survivor benefits as the household income amount. (Ex. 4)

6. Claimant does not dispute the Division's calculations. She asserts she should be eligible because she is a single parent able to work only seasonally and the child's grandmother had to leave the household and therefore she needs help.

PRINCIPLES OF LAW

Burden of Proof

"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

¹ The Division did not include the mother/grandmother or her income in its calculations for purposes of determining the household's Family Medicaid eligibility. (Ex 3.3) The grandmother cares for the child when the mother is absent from the household. (Claimant's testimony) Family Medicaid pertains to a dependent child or children. 7 AAC 100.190. However, for the purpose of determining availability of income for Family Medicaid eligibility, the income of a person who is not legally or financially responsible for an individual in the household is not counted. 7 AAC 100.150(c). Therefore, the grandmother's income is not addressed further in this decision.

² Had the household received any earned income, the Eligibility Technician's determination would have required factoring in allowable deductions. (*See*, 7 AAC 100.184) However, all of the household's income was unearned and the availability of deductions was not at issue in the case either by law or at the request of Claimant. (Ex. 5) Consequently, a discussion of deductions potentially applicable to earned income is not included in this decision.

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, 495 (Alaska 2003)

Family Medicaid

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 that is received or anticipated to be received by an individual included in the household or available or anticipated to be available to meet the financial needs of an individual included in the household in the month for which need is being determined. 7 AAC 100.150(a)(1)-(2). The income of a dependent child who is a member of the household is available to the household and counted as income to the household. 7 AAC 100.150(b)(3). Income includes earned income, self-employment income and unearned income. 7 AAC 100.158(a). Unearned income includes social security payments. 7 AAC 100.158(d)(2). Regulation 7 AAC 100.160 lists all income that is exempt from consideration when calculating income, and survivor’s benefits paid by the Social Security Administration is not included on the list.

ANALYSIS

The issue in this case is whether the Division was correct to deny Claimant’s application for Family Medicaid benefits because her household had monthly income which exceeded the net monthly income allowed for eligibility.

Claimant has the burden of proof by a preponderance of the evidence because she is applying for benefits and therefore changing the status quo.

The parties do not dispute the Division’s determination of the household’s income.³ The Division accepted Claimant’s statement that the household’s income consisted only of the minor child’s survivor benefits, issued by the Social Security Administration in the amount of \$1,461.00 per month. There is no dispute this income placed the household over the net income limits of the Family Medicaid Program.

Therefore, there is no factual dispute. Moreover, it is clear the facts as applied to the law support the Division’s determination that Claimant is not eligible for Family Medicaid. Claimant argues the income limit should be flexed because of her need under the temporary circumstances she finds herself in presently. However, the Medicaid program has income limitations set by law and these cannot be adjusted or disregarded. Claimant’s household income exceeded the net income limit and therefore she cannot qualify for Medicaid. Claimant did not meet her burden of proving the Division was incorrect in its calculation of her income or mistaken in applying the monthly income to the applicable Family Medicaid standard.

³ See footnote 2.

CONCLUSIONS OF LAW

Claimant did not meet her burden of proving by a preponderance of the evidence that she met the income eligibility requirements of the Family Medicaid Program, as follows:

1. Claimant's household income consisted entirely of the unearned Social Security survivor benefits received by her child in the amount of \$1,461.00, a fact which was undisputed.
2. The Division correctly applied the Medicaid gross income limit of \$2,406.00 and the Medicaid net income limit of \$1,301.00 for a two-person household to determine that Claimant's two-person household income of \$1,461.00 exceeded the Medicaid net income limit by \$110.
3. Claimant did not provide any evidence that her household income did not exceed the Medicaid net income eligibility limit.

DECISION

The Division was correct to deny Claimant's June 4, 2010 application for Medicaid benefits on June 7, 2010 because Claimant's household income exceeded the Medicaid net income eligibility limit by \$110.

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

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 September 8, 2010.

/signed/
Claire Steffens
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 8th day of September 2010, true and correct copies of the foregoing were sent to:

Claimant –by U.S. Post, Certified Mail, Return Receipt Requested.

And by email to:

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

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