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

In the Matter of)	
)	
██████████,)	OHA Case No. 10-FH-201
)	
Claimant.)	Division Case No. ██████████
_____)	

FAIR HEARING DECISION

STATEMENT OF THE CASE

██████████ (Claimant) was a recipient of Adult Public Assistance and Medicaid benefits. (Ex. 1) On June 8, 2010, the Division of Public Assistance (Division) sent the Claimant notice his monthly Adult Public Assistance and Medicaid benefits would end after June 30, 2010. (Ex. 3) The Claimant requested a fair hearing on June 14, 2010 only with regard to the Medicaid benefits. (Ex. 5)

This Office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to Claimant's request, a hearing was held on July 14 and August 11, 2010. The Claimant attended the hearing telephonically; he represented himself and testified on his own behalf. ██████████, Public Assistance Analyst with the Division, attended in person; she represented the Division and testified on its behalf.

The record was left open until August 18, 2010 for the Claimant to submit correspondence he had received from the federal Social Security Administration and the Division's written response, both of which were received.

ISSUES

The Division argued that it was required to terminate the Claimant's Medicaid benefits after June 30, 2010 because he wasn't receiving Supplemental Security Income benefits, and because his countable monthly income was greater than the Adult Public Assistance limit for his household size.

The Claimant argued that he should continue to receive Medicaid because he had received correspondence from the federal Social Security Administration that said he would continue to receive Medicaid benefits.

The resulting issue is:

Was the Division correct when, on June 8, 2010, it sent notice to the Claimant that his Medicaid benefits would be terminated after June 30, 2010?

FINDINGS OF FACT

1. The Claimant is a 59 year old (birthdate [REDACTED]) Adult Public Assistance recipient who resides by himself. (Ex. 1)
2. The Claimant is a former Supplemental Security Income (Title XVI) recipient who now receives Social Security (Title II) income. ([REDACTED] testimony; Ex. 2.4) The Claimant receives Social Security income (Title II) income in the gross monthly amount of \$362.00. (Ex. 2.4)
3. Since April 5, 2010, the Claimant has been receiving weekly unemployment benefit payments in the amount of \$261.00. (Ex. 2.6)
4. On June 7, 2010, a Division employee was informed the Claimant was receiving unemployment benefits. (Ex. 2.0; [REDACTED] testimony) That employee determined that the Claimant's unemployment income, combined with his Social Security income, caused him to exceed the income limit for Adult Public Assistance, and that the Claimant was no longer eligible for either Adult Public Assistance or Medicaid benefits. *Id.*
5. On June 8, 2010, the Division of Public Assistance (Division) sent the Claimant notice his monthly Adult Public Assistance and Medicaid benefits would end after June 30, 2010, because his monthly income was over the Adult Public Assistance monthly income limit. (Ex. 3)
6. The Division calculated that the Claimant's total gross monthly income is \$1,520.30. (Exs. 2.2 – 2.3) The Claimant did not disagree with this amount. (Claimant testimony)
7. On March 15, 2010, the Claimant received correspondence from the federal Social Security Administration that stated, in pertinent part:

If you get Medicaid, it will usually continue as long as you get SSI. If your SSI stops because you begin earning too much money, you can often keep getting Medicaid as long as the following are true:

- you continue to be disabled or blind under our rules; and
- you can't pay your medical bills without Medicaid.

(Ex. A)

8. On July 15, 2010, the Claimant received correspondence from the federal Social Security Administration that informed him his July 1, 2010 application for Supplemental Security Income (SSI) benefits was denied because he had too much income. (Ex. B, p. 1) That same correspondence stated that “If you need medical assistance or have any questions about your eligibility for Medicaid, you should get in touch with the district office of the Alaska Division of Public Assistance.” (Ex. B, p. 2)

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. Medicaid Eligibility Factors.

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).

A Medicaid applicant, who is an adult, disabled, or over the age of 65, who does not have children in his home, is still subject to the same income requirements as Adult Public Assistance.¹ 7 AAC 100.002(b), (d), and (e); 7 AAC 100.400(a)(17).

B. Adult Public Assistance Income Eligibility Requirements.

Adult Public Assistance is a monthly financial benefit paid to recipients. Eligibility for Adult Public Assistance is dependent upon “financial need with respect to income,” in addition to other factors. 7 AAC 40.090(8).

¹ While there are some exceptions to this general rule, they are not applicable to this case. *See* 7 AAC 100.416 (ineligibility due to Social Security (Title II) cost of living increases); 7 AAC 100.420 (disabled or blind before the age of 22 and ineligible due to an increase in Social Security (Title II) benefits received as the child of a Social Security (Title II) recipient); 7 AAC 100.424 (disabled child living in a parent or legal guardian’s home).

For Adult Public Assistance purposes, “income means any property, money, or services received by an applicant, together with the applicant’s spouse under 7 AAC 40.240, which can be used, directly or indirectly to meet the applicant’s need for food and shelter.” 7 AAC 40.300(a)(1).

In order to qualify for Adult Public Assistance based on income, the countable monthly income for one person household, where the applicant resides in his own home, cannot exceed \$1,252.00. 7 AAC 40.310(a)(5) and (c); *Alaska Adult Public Assistance Manual Addendum 1*.

Countable monthly income for Adult Public Assistance purposes is calculated by totaling an applicant’s gross monthly income, whether earned income or unearned income, and then subtracting allowable income deductions. 7 AAC 40.310(a); 7 AAC 40.350. Wages and self-employment income are both classified as earned income. 7 AAC 40.300(a)(2). Social Security income and unemployment income are both classified as unearned income. 7 AAC 40.300(a)(3).

The list of allowable deductions from an applicant’s income is provided in 7 AAC 40.320 and 7 AAC 40.330. An applicant is entitled to one deduction of \$20 from his income. 7 AAC 40.320(a)(23). Where an applicant has earned income, he is also entitled to a work/earned income deduction of “\$65 per month of any earned income plus one-half of the remainder.” 7 AAC 40.320(a)(20).

The term “applicant” as used in the Adult Public Assistance regulations includes both applicants for Adult Public Assistance and those already receiving Adult Public Assistance. 7 AAC 40.900(1).

C. Continuation of Medicaid Benefits.

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 issue in this case is whether or not the Division was correct when it terminated the Claimant’s Medicaid benefits after June 30, 2010. Because the Division is seeking to change the status quo by terminating existing benefits, it has the burden of proof.

The Claimant is not receiving Supplemental Security Income benefits. He is therefore not eligible for Medicaid as a Supplemental Security Income recipient. 7 AAC 100.002(b)(1)); 7 AAC 100.410(a). Because the Claimant is not receiving Supplemental Security Income benefits, in order to qualify for Medicaid he must either be receiving Adult Public Assistance benefits, or fall into a different Medicaid eligibility category.

Both the Adult Public Assistance and the Claimant's potential Medicaid coverage categories (adult with a disability and no children in the home) use the Adult Public Assistance financial eligibility criteria. *See* 7 AAC 100.002(b), (d), and (e); 7 AAC 100.400(a)(17). The Adult Public Assistance income limit is \$1,252.00 in countable income per month. 7 AAC 40.310(a)(5) and (c); *Alaska Adult Public Assistance Manual Addendum 1*.

The Division calculated the Claimant's countable monthly income was \$1,520.30. The Claimant did not dispute this amount. It is based on his unemployment income and his Social Security income. However, the Division's calculations use a Claimant's Social Security (Title II) income of \$398.00 per month. (Ex. 2.2) The June 28, 2010 Social Security benefit printout in the record shows the payment amount as being \$362.00. (Ex. 2.4) The Division's use of the \$398.00 Social Security figure resulted in the Claimant's total gross monthly income being over stated by \$36.00. However, even deducting this \$36.00, the Claimant's total gross monthly income is \$1,484.30, which is still well above the \$1,252.00 monthly income cap.

Claimant's gross monthly income of \$1,484.30 undisputedly exceeds the \$1,252.00 monthly income limit for Adult Public Assistance. The Claimant did not argue or claim that he was entitled to any deductions from his monthly gross income that would place him under the \$1,252.00 monthly Adult Public Assistance income cap. A review of the applicable regulations shows that he is potentially eligible for a \$20 general deduction from his income, because his entire income (Social Security and unemployment) is unearned. 7 AAC 40.320(a)(23). However, allowing that \$20 deduction results in a countable monthly income of \$1,464.30, which still exceeds the Adult Public Assistance monthly income limit of \$1,252.00.

As a result, the Claimant was not financially eligible for Adult Public Assistance. He was therefore not eligible for Medicaid as an Adult Public Assistance recipient. In addition, because the Claimant's other potential Medicaid assistance categories use the Adult Public Assistance income guidelines, he was also not eligible for other categories of Medicaid coverage.

The Claimant argued, regardless of the income guidelines, that the Division was required to provide him Medicaid benefits because the federal Social Security Administration told him, in writing, that he would receive Medicaid. He provided two pieces of correspondence from the federal Social Security Administration in support of his argument. *See Findings of Fact 7 and 8 above.*

The first piece of correspondence is dated March 15, 2010. It reads, in pertinent part:

If you get Medicaid, it will usually continue as long as you get SSI. If your SSI stops because you begin earning too much money, you can often keep getting Medicaid as long as the following are true:

- you continue to be disabled or blind under our rules; and

- you can't pay your medical bills without Medicaid.

(Ex. A) An examination of this document reveals that it does not assure the Claimant of Medicaid eligibility. Because he is not receiving Supplemental Security Income (SSI), it only says "you can often keep getting Medicaid." It is not an unequivocal promise. It does not guarantee the Claimant that he will continue receiving Medicaid.

The second piece of correspondence is dated July 15, 2010. It reads, in pertinent part: "If you need medical assistance or have any questions about your eligibility for Medicaid, you should get in touch with the district office of the Alaska Division of Public Assistance." (Ex. B, p. 2) This makes no assurance whatsoever. It merely directs the Claimant to the Division of Public Assistance.

In summary, Medicaid eligibility is based on a number of factors. One of those factors is receipt of Supplemental Security Income benefits. Because the Claimant does not receive Supplemental Security Income benefits, his eligibility requires that his countable monthly income not exceed the Adult Public Assistance cap of \$1,252.00. It undisputedly exceeds that cap. As a result he is not eligible to receive Medicaid benefits. The correspondence the Claimant received from Social Security with its general statements does nothing to change his eligibility status.

The Claimant was therefore no longer eligible for Medicaid benefits because he was not a Supplemental Security Income recipient, and because his countable monthly income was too high. As a result, the Division was correct to terminate his Medicaid benefits after June 30, 2010.

CONCLUSIONS OF LAW

1. The Division had the burden of proof by a preponderance of the evidence. It met its burden and demonstrated that the Claimant was no longer eligible to receive Medicaid benefits for the following reasons:

- a. He was not receiving Supplemental Security Income benefits;
- b. His monthly countable income was greater than the Adult Public Assistance monthly countable income limit of \$1,252.00, which made him financially not eligible for Medicaid benefits.

2. The Division was therefore correct when, on June 8, 2010, it sent notice to the Claimant that his Medicaid benefits would be terminated after June 30, 2010.

DECISION

The Division was correct when, on June 8, 2010, it sent notice to the Claimant that his Medicaid benefits would be terminated after June 30, 2010.

