

Office of Hearings and Appeals
3601 C Street, Suite 1322
P. O. Box 240249
Anchorage, AK 99524-0249
Ph: (907)-334-2239
Fax: (907)-334-2285

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

In the Matter of)
)
 [REDACTED]) OHA Case No. 10-FH-208
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) applied for Chronic and Acute Medical Assistance (CAMA) on April 22, 2010. (Ex. 2-2.9) On June 10, 2010, the Division of Public Assistance (Division) sent him notice approving CAMA coverage for the months of May 2010 through October 2010. (Ex. 9) On June 16, 2010, Claimant requested a Fair Hearing stating he wanted the benefit start date adjusted. (Ex. 10.1)

This Office has jurisdiction pursuant to 7 AAC 49.010.

A hearing was scheduled for July 27, 2010. The hearing was rescheduled and held on August 18, 2010. The Claimant attended the hearing telephonically; he represented himself and testified on his own behalf. [REDACTED] Public Assistance Analyst with the Division, attended the hearing in person; he represented the Division and testified on its behalf.

ISSUE

Claimant argues he should be entitled to CAMA benefits for six months, starting from June 18, 2010, the date of the eligibility determination. The Division argues it acted properly in providing benefits from May 2010 through October 2010. The issue is:

Was the Division correct on June 10, 2010 when it approved Claimant's CAMA benefits from May 2010 through October 2010?

FINDINGS OF FACT

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

1. On April 22, 2010, Claimant submitted an application for CAMA benefits. (Ex. 2 – 2.9)
2. On June 10, 2010, the Division sent Claimant notice that his application for CAMA benefits had been approved. That notice stated: “CAMA coverage is approved for the month(s) of: May, 2010 through October 2010. . . Coverage that is approved for more than one month is not guaranteed.” (Ex. 9)
3. On June 10, 2010 Claimant requested a fair hearing because he wanted his benefit start date adjusted. (Ex. 10.1) He testified at hearing that he had previously applied for benefits and been approved for six months.
4. The Division Hearing Representative testified that, depending on the situation, the Division will approve CAMA benefits for up to six months. (Testimony of ██████████)

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).

The CAMA program is designed to pay health care providers who provide covered medical services to eligible chronically ill, needy persons suffering from certain chronic or acute medical conditions who are not eligible for Medicaid under AS 47.07. 7 AAC 48.500

“The first calendar month of CAMA eligibility is the calendar month following the calendar month that an eligibility determination is made under 7 AAC 48.510.” 7 AAC 48.515(b) “The period of CAMA eligibility is one calendar month, unless the department, in its discretion, extends the eligibility period.” 7 AAC 48.515(a)

The Division’s Chronic and Acute Medical Assistance Eligibility Manual, (Second Edition) states: “CAMA eligibility is issued one month at a time, but may be authorized for up to six months. CAMA eligibility is not available for the month of application.” § 960-1

ANALYSIS

This case presents the issue of whether the Division was correct when, on June 10, 2010 it approved Claimant’s CAMA benefits from May 2010 through October 2010.

Because this case involves the Division denying benefits, Claimant seeks to change the status quo. Accordingly, he has the burden of proof in this case 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).

CAMA eligibility begins in the calendar month following the calendar month that an eligibility determination is made. The period of CAMA eligibility is one calendar month, unless the Division, in its discretion extends the eligibility period. 7 AAC 48.515 The Division determined eligibility in this case on June 10, 2010. Therefore, the Division was required to provide benefits to the Claimant only from July 1, 2010 to July 30, 2010.

The Division has discretion to extend the eligibility period, but for no longer than six consecutive months. 7 AAC 48.515 There is nothing in the regulations and policy manuals that state this discretion can only extend to the time period after eligibility. The Division used its discretion by granting benefits to Claimant from May 2010 through October 2010, a six-month period. This provided Claimant with five additional months that were not required by the requirements of the regulations. There is no evidence the Division abused its discretion in providing these additional benefits.

The Division's Policy Manual states CAMA eligibility is issued one month at a time, but may be authorized for up to six months. (CAMA Eligibility Manual § 960-1) The Division followed this policy.

Therefore, the Division was correct when it issued benefits to the Claimant from May 2010 to October 2010.

CONCLUSIONS OF LAW

1. The period of CAMA eligibility is one month, starting from the first calendar month following the calendar month that eligibility is determined. 7 AAC 48.515.
2. The Division may, in its discretion, extend the eligibility period for up to six consecutive calendar months. 7 AAC 48.515(a)
3. The Claimant failed to meet his burden of proof by a preponderance of the evidence that he was entitled to CAMA benefits for six months starting from the June 10, 2010 date of the eligibility determination. As a result, the Division's action in providing benefits from May 2010 through October 2010 was correct.

DECISION

The Division acted properly in providing Claimant CAMA benefits from May 2010 through October 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, 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 6th day of October 2010.

[REDACTED]

Patricia Huna
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 6th day of October 2010, true and correct copies of the foregoing were sent to:
Claimant by Certified Mail, Return Receipt Requested

and to other listed persons by e-mail:

- [REDACTED] Public Assistance Analyst
- [REDACTED] Director
- [REDACTED], Policy & Program Development
- [REDACTED] Staff Development & Training
- [REDACTED], Administrative Assistant II
- [REDACTED] Eligibility Technician I
- [REDACTED] Chief of Field Services

[REDACTED]
J. Albert Levitre, Jr.
Law Office Assistant I