

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-328
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) completed an application for Food Stamp and Medicaid benefits on July 13, 2010. (Exs. 2.0 – 2.9) The Division of Public Assistance (Division) received her application on July 14, 2010.¹ (Ex. 2.0)

On July 26, 2010, the Division of Public Assistance (Division) notified the Claimant in writing she was being provisionally approved for Food Stamp benefits and that if she wished to continue receiving those benefits, she needed to provide the Division with additional information by August 10, 2010. (Ex. 6.1) On September 1, 2010, the Division sent the Claimant a notice that it still required additional information from her before it could finish processing her Food Stamp application, and that the deadline for providing the information was September 16, 2010. (Ex. 10.3)

On July 26, 2010, the Division notified the Claimant in writing that it needed additional information before it could continue processing her Medicaid application, and that the deadline for providing the information was August 10, 2010. (Ex. 6) On September 1, 2010, the Division sent the Claimant a notice that it still required additional information from her before it could finish processing her Medicaid application, and that the deadline for providing the information was September 16, 2010. (Exs. 10 – 10.2)

¹ For ease of reference, the Claimant’s Food Stamp and Medicaid application will be referred to as her July 14, 2010 Food Stamp and Medicaid application, the date it was received by the Division.

On September 20, 2010, the Division notified the Claimant, in writing, that her application for both Food Stamp and Medicaid benefits was denied because she did not provide the Division with the information it requested by September 16, 2010. (Exs. 12 – 12.1) The Claimant requested a fair hearing on September 24, 2010. (Exs. 14 – 14.3)

This Office has jurisdiction pursuant to 7 AAC 49.010.

The Claimant's hearing was held on October 26 and November 9, 2010. The Claimant attended the hearing telephonically; she represented herself and testified on her own behalf. [REDACTED], Public Assistance Analyst with the Division, attended the hearing in person; he represented the Division and testified on its behalf. [REDACTED], an interpreter with InSync Interpreters, attended telephonically and provided interpretation services on October 26, 2010. [REDACTED], an interpreter with InSync Interpreters, attended telephonically and provided interpretation services on November 9, 2010.

ISSUES

1. Was the Division correct to deny the Claimant's July 14, 2010 Food Stamp application on September 20, 2010 because she allegedly did not comply with the Division's request for information?²
2. Was the Division correct to deny the Claimant's July 14, 2010 Medicaid application on September 20, 2010 because she allegedly did not comply with the Division's request for information?

SUMMARY OF DECISION

1. The Division was correct to deny the Claimant's July 14, 2010 Food Stamp application on September 20, 2010 because she refused to comply with the Division's request for information, specifically its request for proof of her rental expenses and proof of her daughter's income for the months of July and August 2010.
2. The Division was correct to deny the Claimant's July 14, 2010 Medicaid application on September 20, 2010 because she refused to comply with the Division's request for information, specifically its request for proof that her [REDACTED] State Medicaid case had been

² The Division's September 20, 2010 notice sent to the Claimant actually states that "[y]our Food Stamp case is closed and you will get no food stamps after July 31, 2010 because you did not give us the information we asked for." (Ex. 12.1) The case closure date is clearly a clerical error, since the Division is required to provide a Food Stamp recipient with "written notice to the client at least 10 days before the date the division intends to take action denying, suspending, reducing, or terminating assistance." 7 AAC 49.060.

In addition, the context of this case makes it clear that the Division's action, even though posited as a Food Stamp case closure in its September 20, 2010 notice, was actually a denial of the Claimant's July 14, 2010 Food Stamp application. This is because the Claimant's July 14, 2010 Food Stamp application was approved on an expedited basis, and that continued receipt of her Food Stamp benefits was contingent upon her providing additional information to the Division. *See* Ex. 6.1.

closed, proof that she had applied for or was not eligible for unemployment benefits, and proof of her daughter's income for the months of July and August 2010.

FINDINGS OF FACT

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

1. The Claimant and her family reside in [REDACTED]. (Ex. 2) She applied for Food Stamp and Medicaid benefits on July 14, 2010 for her 9 person household that consisted of herself, her husband, and 7 children under the age of 21. (Exs. 2 – 2.9)
2. The Claimant attended an in-person interview along with [REDACTED], her 17 year old daughter, on July 15, 2010. (Ex. 3) During that interview, the Claimant informed the Eligibility Technician conducting the interview that [REDACTED] was enrolled fulltime at the University of Alaska Fairbanks for the fall semester. *Id.* The Eligibility Technician's July 16, 2010 casenote indicates that [REDACTED] was not eligible for Food Stamp benefits starting in September 2010. *Id.* Delta Junction, where the Claimant resides is approximately 95 miles southeast of Fairbanks.³
3. The Claimant had been employed in [REDACTED] prior to moving to Alaska. The last day she actually received employment wages was on March 26, 2010; however, she was on unpaid medical leave until June 2010, when she quit her job to move to Alaska. (Ex. 5) A July 21, 2010 computer printout furnished to the Division confirmed that the last date the Claimant received wages was March 26, 2010. (Exs. 4 – 4.2)
4. On July 26, 2010, the Division sent the Claimant notice that her Food Stamp benefits had been approved on an expedited basis, but that in order for her to continue receiving Food Stamp benefits, she needed to provide the Division with the following information by August 10, 2010:
 - a. Proof that the home and land she owned in [REDACTED] was not "available as an asset."
 - b. Proof of her rent expenses, consisting of a rental agreement or a statement from her landlord.
 - c. Proof that she was liable for electric bills.
 - d. Proof that her [REDACTED] State Food Stamp case had been closed and the date of the closure.
 - e. Proof the Claimant was not medically able to work as of June 9, 2010, when her job in [REDACTED] ended.

(Ex. 6.1)

5. On July 26, 2010, the Division sent the Claimant notice that it required information to process her Medicaid application, and that she needed to provide the Division with the following information by August 10, 2010:

³See http://www.commerce.state.ak.us/dca/commdb/CIS.cfm?Comm_Boro_Name=Delta+Junction

- a. Proof that the home and land she owned in [REDACTED] was not “available as an asset.”
- b. Proof of the relationship between [REDACTED] and [REDACTED] and other household members, which could consist of birth certificates showing that the Claimant and her husband were their parents.
- c. Proof that her [REDACTED] State Medicaid case had been closed and the date of the closure.
- d. Proof the Claimant had either applied for unemployment benefits or was not eligible for them.

(Ex. 6)

6. The July 26, 2010 notices sent to the Claimant were returned to the Division as undeliverable. (Exs. 8 – 8.2) The Claimant, however, furnished part of the information requested by the Division in its two July 26, 2010 notices:

- a. Proof her [REDACTED] home was not available as an asset because it was scheduled for a court ordered foreclosure sale. (Ex. 9 – date stamped as received by the Division on August 16, 2010)
- b. Proof of her liability for electric expenses as demonstrated by an electricity bill dated August 6, 2010. (Ex. 9.2 – date stamped as received by the Division on August 16, 2010)
- c. Proof that her [REDACTED] State Food Stamp case was closed as of July 31, 2010. (Ex. 9.3 – date stamped as received by the Division on August 13, 2010)
- d. A rental receipt dated August 5, 2010, indicating the Claimant had paid \$300 for August 2010 rent. (Ex. 9.4 – date stamped as received by the Division on August 16, 2010) This was a form receipt, with no identification of the landlord other than a scrawled illegible signature. *Id.* The rental receipt did not contain language indicating whether the rental payment was full or partial. *Id.*

7. On August 13, 2010, the Claimant telephoned a Division Eligibility Technician and notified her that her daughter [REDACTED] had a job. (Ex. 7)

8. The Claimant reported to the Division that [REDACTED] had moved out of the household. (Claimant testimony) The Claimant could not recall the exact date, stating that it occurred in September or maybe August. *Id.*

9. On September 1, 2010, the Division sent the Claimant notice that her Food Stamp benefits had been approved on an expedited basis, but that in order for her to continue receiving Food Stamp benefits, she needed to provide the Division with the following information by September 16, 2010:

- a. Proof of [REDACTED]'s university enrollment, how many credit hours she was taking, her tuition, housing, and other education costs, and any financial aid information.

- b. Proof of ██████'s income during the months of July, August, and September 2010.
- c. Proof of the Claimant's total rent expenses; the Division considered the rental receipt previously provided as inadequate because "the rent receipt you gave us only shows how much you paid, not what your monthly obligation is."
- d. Proof the Claimant was not medically able to work as of June 9, 2010, when her job in ██████ ended.

(Ex. 10.3)

10. On September 1, 2010, the Division sent the Claimant notice that it required information to process her Medicaid application, and that she needed to provide the Division with the following information by September 16, 2010:

- a. Proof of the relationship between ██████ and ██████ and other household members, which could consist of birth certificates showing that the Claimant and her husband were their parents.
- b. Proof that her ██████ State Medicaid case had been closed and the date of the closure.
- c. Proof the Claimant had either applied for unemployment benefits or was not eligible for them or that she was medically unable to work.
- d. Proof of ██████'s income during the months of July, August, and September 2010.
- e. Proof of ██████'s university tuition, housing, and other education costs, and any financial aid information.

(Exs. 10 – 10.1)

11. On September 1, 2010, the Division received an email from the State of ██████ informing it that the Claimant still had an open Medicaid case in the State of ██████. (Exs. 13 – 13.2)

12. The Claimant did not provide the Division with the information requested in its September 1, 2010 notices for either the Medicaid case or the Food Stamp case by the September 16, 2010 deadline. (Ex. 11)

13. The Division sent the Claimant notice on September 20, 2010 that her Food Stamp case was closed after July 31, 2010 because she did not provide it with the following information:

- a. Proof of ██████'s university enrollment, how many credit hours she was taking, her tuition, housing, and other education costs, and any financial aid information.
- b. Proof of ██████'s income during the months of July, August, and September 2010.

- c. Proof of the Claimant's total rent expenses; the Division considered the rental receipt previously provided as inadequate because "the rent receipt you gave us only shows how much you paid, not what your monthly obligation is."
- d. Proof the Claimant was not medically able to work as of June 9, 2010, when her job in [REDACTED] ended.

(Ex. 14.2)

14. The Division sent the Claimant notice on September 20, 2010 that her July 14, 2010 Medicaid application was denied because she did not provide it with the following information:

- a. Proof of the relationship between [REDACTED] and [REDACTED] and other household members, which could consist of birth certificates showing that the Claimant and her husband were their parents.
- b. Proof that her [REDACTED] State Medicaid case had been closed and the date of the closure.
- c. Proof the Claimant had either applied for unemployment benefits or was not eligible for them or that she was medically unable to work.
- d. Proof of [REDACTED]'s income during the months of July, August, and September 2010.
- e. Proof of [REDACTED]'s university tuition, housing, and other education costs, and any financial aid information.

(Ex. 14)

15. The Claimant testified that she provided the Division with copies of translated birth certificates for [REDACTED] and [REDACTED], however, the Claimant is found to not have provided those to the Division. This factual finding is based upon Division's physical review of the Claimant's original Public Assistance file at the hearing, where copies of birth certificates for the Claimant's other children were present in that file; however only naturalization paperwork for [REDACTED] and [REDACTED], not their birth certificates, was present in the file. (Miller testimony) The naturalization paperwork did not state who [REDACTED] and [REDACTED]'s parents were. *Id.*

16. The Claimant did not apply for unemployment benefits until approximately the end of October 2010. (Claimant testimony)

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).

Food Stamps

Food Stamps is a federal program administered by the State. 7 CFR 271.4(a). The rules that control an applicant's eligibility and the application process are set out in the Code of Federal Regulations (CFR). The Alaska State implementation of the federal Food Stamp regulations, including its adoption of state optional Food Stamp requirements, is set out in 7 Alaska Administrative Code 46.010 *et. seq.*

When determining an applicant's financial eligibility for the Food Stamp program, the Division is required to anticipate a household's income and determine what income a household is "reasonably certain will be received." 7 CFR 273.10(c)(1)(i). The income of "all household members" and shelter costs (rent, utilities) are used in determining a household's net income and benefit amount. 7 CFR 273.10(e)(1)(i)(A) and (H). A Food Stamp household consists of those individuals "who live together and customarily purchase food and prepare meals together for home consumption." 7 CFR 273.1(a)(3).

The Division is required to verify a household's gross income on an initial application. 7 CFR 273.2(f)(1)(i). The Division is required to verify a household's shelter charges (e.g. rent/mortgage) on an initial application. 7 AAC 46.021(a)(4)(C). It is also required to verify a Food Stamp applicant's questionable information:

The State agency shall verify, prior to certification of the household, all other factors of eligibility which the State agency determines are questionable and affect the household's eligibility and benefit level.

7 CFR 273.2(f)(2)(i).

The Food Stamp program has a work requirement. A person receiving or applying for Food Stamp benefits is required to be employed, looking for employment, or training for employment, unless that person is exempt from the work requirement. 7 CFR 273.7(a)(1). Persons who are "physically or mentally unfit for employment" are exempt from the work requirement. 7 CFR 273.7(b)(1)(ii).

As part of the work requirement, a person may "not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week." 7 CFR 273.7(a)(1)(vii). The Division is responsible for determining "good cause" which includes such causes as illness. 7 CFR 273.7(i)(1) and (2).

A person who quits a job within the 60 day time period immediately before her Food Stamp application is subject to a penalty. 7 CFR 273.7(j)(2). The penalty for the first violation of the work requirement disqualifies a person from receiving Food Stamp benefits for one month. 7 CFR 273.7(f)(2)(i)(B).

A refusal to cooperate with the Division is grounds for denial of a Food Stamp application; a mere *failure to cooperate* is not:

(d) *Household cooperation.* (1) To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by paragraph (c)(5) of this section.

7 CFR 273.2(d)(1).

Medicaid

The Medicaid program has numerous eligibility categories. *See* 7 AAC 100.002. Among those eligibility categories is one referred to as Family Medicaid, which provides medical coverage for financially eligible households that have minor children in them. 7 AAC 100.002(a)(1); 7 AAC 100.100. A Family Medicaid household consists of the dependent children in the household and the caretaker relative(s) who reside with them. 7 AAC 100.104; 7 AAC 100.110(a). A “caretaker relative” is a “biological or legally adoptive relative of the dependent child to the fifth degree of consanguinity.” 7 AAC 100.990(11).

If the Division cannot verify the relationship between a dependent child and his or her caretaker relative, the Division is required to deny Medicaid coverage to the child lacking verification, but is to provide Medicaid benefits to other eligible children in the household. 7 AAC 100.104(b) and (c).

The Division is authorized to request verification that an applicant meets the eligibility requirements for the Medicaid program, and if the applicant refuses to provide the requested verification, the agency is authorized to deny eligibility. 7 AAC 100.016(a) and (b).

An applicant’s income and the income of household members, derived from employment or otherwise, is a factor used in determining if an individual is financially eligible for Medicaid. 7 AAC 100.102(c). Household members are required to, if eligible, apply for and accept unemployment benefits. 7 AAC 100.032(a)(7).

An applicant for Alaska Medicaid benefits who is receiving Medicaid benefits from another state may not receive Alaska Medicaid benefits unless the other state’s Medicaid benefits are terminated. 7 AAC 100.062(a)

ANALYSIS

There are two separate issues in the case, both of which pertain to the Claimant's alleged refusal to provide the Division with information the Division requested. Those issues, each of which is discussed separately below, are:

1. Was the Division correct to deny the Claimant's July 14, 2010 Food Stamp application on September 20, 2010 because she allegedly did not comply with the Division's request for information?⁴
2. Was the Division correct to deny the Claimant's July 14, 2010 Medicaid application on September 20, 2010 because she allegedly did not comply with the Division's request for information?

Because this case involves the Claimant having applied for benefits, she seeks to change the status quo. Accordingly, she has the burden of proof on both issues 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). Therefore in order to prevail, the Claimant must prove, by a preponderance of the evidence, that the Division was either not entitled to request the information at issue, or that she provided it.

1. Was the Division correct to deny the Claimant's July 14, 2010 Food Stamp application on September 20, 2010 because she allegedly did not comply with the Division's request for information?

After receiving the Claimant's July 14, 2010 Food Stamp application, the Division sent the Claimant a notice on July 26, 2010 that her Food Stamp application was approved on an expedited basis and in order to continue receiving benefits, she needed to provide the Division with additional information. That notice was returned to the Division. A Division Eligibility Technician then had telephonic contact with the Claimant on August 13, 2010. The Claimant subsequently provided the Division with additional information.

The Division then, on September 1, 2010, sent the Claimant an additional notice that her Food Stamp benefits had been approved on an expedited basis, but that in order for her to continue receiving Food Stamp benefits, she needed to provide the Division with the following information by September 16, 2010:

- a. Proof of ██████'s university enrollment, how many credit hours she was taking, her tuition, housing, and other education costs, and any financial aid information.
- b. Proof of ██████'s income during the months of July, August, and September 2010.

⁴ See fn. 2 above.

- c. Proof of the Claimant's total rent expenses; the Division considered the rental receipt previously provided as inadequate because "the rent receipt you gave us only shows how much you paid, not what your monthly obligation is."
- d. Proof the Claimant was not medically able to work as of June 9, 2010, when her job in [REDACTED] ended.

a. University Enrollment and Financial Information.

The Claimant did not respond to item (a) above, pertaining to [REDACTED]'s university enrollment, tuition, costs, etc. If [REDACTED] was living at home, then the Division would have a valid reason to request this information, in order to properly determine the household member's income and expenses.

However, the Claimant testified that she told the Division [REDACTED] had moved out of the house. Additionally, the Division's August 30, 2010 casenote indicated that [REDACTED] was enrolled at the University of Alaska Fairbanks. The University of Alaska Fairbanks is located in Fairbanks, a distance of approximately [REDACTED] miles from the Claimant's home in [REDACTED], i.e. not commuting distance, especially in the winter months. Given the Claimant's testimony that she had informed the Division [REDACTED] had moved out of the house, which is consistent with her being enrolled at the University of Alaska Fairbanks, the Claimant established that the Division did not have a valid reason for requesting [REDACTED]'s university enrollment, credit hours, education costs and financial aid information. This is because [REDACTED]'s university enrollment and educational financial information was not relevant, since she was not a member of the Claimant's household while attending college.

b. [REDACTED]'s Income

The Claimant did not respond to item (b) above, pertaining to [REDACTED]'s income information for July, August, and September. The Division did have a valid reason to request this information for the time [REDACTED] was actually living in the Claimant's household, because the income of "all household members" is used in determining a household's net income and benefit amount. 7 CFR 273.10(e)(1)(i)(A). However, the Division's request was overbroad. The Division was entitled to request that income information for the time [REDACTED] was living in the home, which ended sometime in August 2010. The Division was therefore entitled to request the information for the months of July and August 2010, but not for the month of September 2010. The Claimant, however, did not provide this information.

c. Rent

The Claimant did not respond to item (c) above, pertaining to the Claimant's rent after the Division's September 1, 2010 notice. However, the Claimant had previously, on August 16, 2010, provided the Division with a rental receipt stating the Claimant had paid \$300.00 for rent for the month of August, 2010. (Ex. 9.4) That receipt did not say whether it was a partial or a complete payment. The Division is required to verify shelter costs on initial applications. 7 AAC 46.021(1)(4)(C). While the Claimant provided the receipt, it was not a complete response. The Division explained in its September 1, 2010 notice why it was not a complete response, being

that the receipt did not state whether the \$300.00 payment was a complete or partial rental payment. The Division's response was a reasonable one. The Claimant, however, did not submit any additional rental information.

d. Medical Ability to Work

Item (d) above, requested proof the Claimant was not medically able to work as of June 9, 2010, when her job in [REDACTED] ended. The Food Stamp program requires that persons who are not exempt from the Food Stamp program work requirements be employed, or looking for work. 7 CFR 273.7(a)(1). Persons who are "physically or mentally unfit for employment" are exempt from the work requirement. 7 CFR 273.7(b)(1)(ii). If the Claimant had quit her job on June 9, 2010 (within 60 days before her July 14, 2010 application) and had been medically capable of work, she would have been subject to a job quit penalty. 7 CFR 273.7(j)(2). The penalty for the first violation of the work requirement disqualifies a person from receiving Food Stamp benefits for one month. 7 CFR 273.7(f)(2)(i)(B).

The Division's request for information regarding the Claimant's medical ability to work was therefore related to the issue of whether she was subject to a job quit penalty. However, the job quit penalty only applies to a person who quits a job of thirty or more hours per week. 7 CFR 273.7(a)(1)(vii). In this case, the Claimant although ostensibly employed, had not actually worked since March 2010. *See* Finding of Fact 3 above. Her last pay date was March 26, 2010. *Id.* She was therefore not working a job of 30 or more hours per week within the 60 day time period immediately prior to her July 14, 2010 application. As a result, the Division was not justified in its request for information regarding the Claimant's medical ability to work because the Claimant did not quit a job of 30 or more hours per week within the 60 day time period immediately prior to her July 14, 2010 application.

In summary, the Division made two valid requests for information. Those requests were for proof of [REDACTED]'s income during July and August 2010, and for proof of the Claimant's total rent expenses. The Claimant had the burden of proof to demonstrate that she provided that information. She did not meet it. The facts show she did not provide that information. However, in order for the Division to deny the Claimant's application due to her not providing the requested information, the Claimant must have refused to provide the information, not merely failed to provide the information. 7 CFR 273.2(d)(1).

The facts of this case further demonstrate that the Claimant refused to provide the requested information. First, the Claimant did not provide [REDACTED]'s income. Second, the Claimant also did not provide proof of her total rent expenses. The Division explained to the Claimant why the rental receipt she provided was insufficient. However, the Claimant did not provide the Division with any additional information. Because the Claimant had the ability to provide the Division with the requested information ([REDACTED]'s income and the rent information) but did not do so, she refused to provide the information, and did not merely fail to cooperate.

A refusal to cooperate with the Division in completing an application and providing requested information is grounds for denying a Food Stamp application. 7 CFR 273.2(d)(1). The Division was therefore correct to deny the Claimant's July 14, 2010 Food Stamp application because she refused to comply with the Division's valid requests for information.

2. Was the Division correct to deny the Claimant's July 14, 2010 Medicaid application on September 20, 2010 because she allegedly did not comply with the Division's request for information?

After receiving the Claimant's July 14, 2010 Medicaid application, the Division sent the Claimant a notice on July 26, 2010 that it needed additional information before it could finish processing her Medicaid application. That notice was returned to the Division. The Division then had telephonic contact with the Claimant on August 13, 2010. The Claimant provided the Division with additional information.

The Division then, on September 1, 2010, sent the Claimant notice that it needed the following additional information by September 16, 2010 before it could finish processing her Medicaid application:

- a. Proof of the relationship between [REDACTED] and [REDACTED] and other household members, which could consist of birth certificates showing that the Claimant and her husband were their parents.
- b. Proof that her [REDACTED] State Medicaid case had been closed and the date of the closure.
- c. Proof the Claimant had either applied for unemployment benefits or was not eligible for them or that she was medically unable to work.
- d. Proof of [REDACTED]'s income during the months of July, August, and September 2010.
- e. Proof of [REDACTED]'s university tuition, housing, and other education costs, and any financial aid information.

(Exs. 10 – 10.1)

The Claimant did not provide any of these items. The Division then denied the Claimant's July 14, 2010 Medicaid application for failure to provide the information, as authorized by 7 AAC 100.016(a) and (b). Each of the items is discussed below.

It must first be noted that the Alaska Medicaid regulations authorize the Division to request verification that an applicant meets the eligibility requirements for the Medicaid program, and if the applicant refuses to provide the requested verification, the agency is authorized to deny eligibility. 7 AAC 100.016(a) and (b).

a. Proof of [REDACTED] and [REDACTED]'s Relationship To the Household

Item (a) above requested proof of the relationship between [REDACTED] and [REDACTED] and the other household members. This was a legitimate request, because for [REDACTED] and [REDACTED] to be members of the Claimant's Family Medicaid household, they had to be either biological or

adoptive relatives of the Claimant. 7 AAC 100.104; 7 AAC 100.110(a); 7 AAC 100.990(11). The Claimant, however, did not furnish proof of the biological or legal relationship of [REDACTED] and [REDACTED] to the Claimant. Instead, she furnished naturalization paperwork for [REDACTED] and [REDACTED] that did not state who their parents were.

The Division's denial of the Claimant's July 14, 2010 Medicaid application for the entire family, however, was not justified by the Claimant's failure to provide adequate proof of the relationship of [REDACTED] and [REDACTED]. The Alaska Medicaid regulation, 7 AAC 100.104(b) and (c), is clear that if the Division cannot verify the relationship between a dependent child and his or her caretaker relative, the Division is required to deny Medicaid coverage to the child lacking verification, but is to provide Medicaid benefits to other eligible children in the household. In other words, the Claimant's failure to provide proof that [REDACTED] and [REDACTED] were her biological or adoptive children was grounds only for excluding [REDACTED] and [REDACTED] from the Family Medicaid household, not grounds for denial of the entire application.

b. Proof of the [REDACTED] Medicaid Closure

Item (b) above requested proof that the Claimant's [REDACTED] Medicaid case had been closed. The Division was justified to request this information because an applicant for Alaska Medicaid benefits who is receiving Medicaid benefits from another state may not receive Alaska Medicaid benefits unless the other state's Medicaid benefits are terminated. 7 AAC 100.062(a). The Claimant did not provide this information. Indeed, as of September 1, 2010, the Claimant had an open Medicaid case in [REDACTED]. Because she refused to provide proof that her Medicaid case in [REDACTED] was closed, the Division was correct to deny the Claimant's July 14, 2010 Medicaid case for that reason.

c. Proof of Unemployment Benefits or Application

Item (c) above requested proof that the Claimant had either applied for unemployment benefits or was not eligible for them or that she was medically unable to work. The Alaska Medicaid regulations require that Medicaid household members are required to, if eligible, apply for and accept unemployment benefits. 7 AAC 100.032(a)(7). The Division was therefore justified to request this information. The Claimant did not provide this information. Her refusal to provide this information was justification for denying her July 14, 2010 Medicaid application.

d. Proof of [REDACTED]'s Income

Item (d) above requested proof of [REDACTED]'s income for July, August, and September 2010. On its face, this is a valid request because one of the factors in determining financial eligibility for Medicaid benefits is the income received by all household members. 7 AAC 100.102(c). As discussed in the Food Stamp portion of this analysis above, [REDACTED] was not anticipated to be a household member for the month of September 2010 because she was enrolled in the University of Alaska Fairbanks. The Division was therefore correct request this information only for the months of July and August 2010. However, the Claimant did not provide [REDACTED]'s income information for the months of July and August 2010. Her refusal to provide this information was justification for denying her July 14, 2010 Medicaid application.

e. University Enrollment and Financial Information.

Item (e) above requested proof of [REDACTED]'s university tuition, housing, and other education costs, and any financial aid information. The Claimant did not provide this information. As discussed above in the Food Stamp portion of this analysis above, [REDACTED] was not anticipated to be a household member for the month of September 2010 because she was enrolled at the University of Alaska Fairbanks. The Division was therefore not correct to request this information. It therefore could not use the failure to provide the information as a basis for denying the Claimant's July 14, 2010 Medicaid application.

In summary, the Division was justified to request that the Claimant provide proof of items (a) [REDACTED] and [REDACTED]'s relationship to the household members, (b) closure of her [REDACTED] Medicaid case, (c) proof that she applied for or was not eligible for unemployment, and (d) of [REDACTED]'s income for July and August 2010. The Claimant did not meet her burden and demonstrate that she had provided this information. As a result, the Division was correct to deny the Claimant's Medicaid application due to the Claimant's refusal to provide proof of items for items (b) closure of her [REDACTED] Medicaid case, (c) proof that she applied for or was not eligible for unemployment, and (d) of [REDACTED]'s income for July and August 2010.⁵ See 7 AAC 100.016(a) and (b).

CONCLUSIONS OF LAW

1. The Claimant had the burden of proof by a preponderance of the evidence to establish that she complied with the Division's valid requests for information pertaining to her July 14, 2010 application for Food Stamp benefits. The Claimant did not satisfy her burden of proof. The facts of this case show that she refused to provide the information validly requested by the Division.
2. As a result, pursuant to federal Food Stamp regulation 7 CFR 273.2(d)(1), the Division was correct to deny the Claimant's July 14, 2010 Food Stamp application.
3. The Claimant had the burden of proof by a preponderance of the evidence to establish that she complied with the Division's valid requests for information pertaining to her July 14, 2010 application for Medicaid benefits. The Claimant did not satisfy her burden of proof. The facts of this case show that she refused to provide the information validly requested by the Division.
4. As a result, pursuant to Alaska Medicaid regulation 7 AAC 100.016(a) and (b), the Division was correct to deny the Claimant's July 14, 2010 Medicaid application.

⁵ As discussed above, the Division could not deny the Claimant's entire Medicaid application because of the failure to provide proof of item (a) [REDACTED] and [REDACTED]'s relationship to the household members. However, the Division Claimant's failure to provide the requested information in items (b), (c), and (d), the Division's denial of the July 14, 2010 Medicaid application was correct.

DECISION

1. The Division was correct to deny the Claimant's July 14, 2010 Food Stamp application on September 20, 2010 because she refused to comply with the Division's request for information.

2. The Division was correct to deny the Claimant's July 14, 2010 Medicaid application on September 20, 2010 because she did refused to comply with the Division's request for information.

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 7th day of December 2010.

/Signed/
Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE
I certify that on this 7th day of December , 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:

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

/Signed/
Larry Pederson