

relative continues to reside in the home. Mr. O would like for the property to remain in his family and would prefer not to sell it.

III. Discussion

Mr. O's application was denied because the division determined he had excess financial resources. An individual is not eligible for Adult Public Assistance and Medicaid if he has more than \$2,000 in non-excludable resources.⁷ Resources include any real or personal property that can be converted to cash to be used for the individual's support.⁸ Total resources are counted as of the first day of the calendar month.⁹ If Mr. O's resources exceed the allowable limit at any time during that day, he would not be eligible for assistance.¹⁰

When he lived on the No Name property, it was excluded as a countable resource. Now that it is no longer his primary residence, the property can be converted to cash and used for his support.

Mr. O does not dispute that he owned the property on August 1, 2012 or that its total fair market value exceeds \$2,000. Rather, he believes that the No Name property should not be counted as a resource because it needs repair, and because his decision to leave his home was based upon medical advice.

Regarding Mr. O's first argument, while it needs repair, the property does have value. The value of the building should be adjusted to reflect the cost of repair, if the repairs affect its fair market value. However, even if adjusted to reflect the cost of repairs it is more likely than not that the fair market value of the property, as of August 1, 2012, exceeded \$2,000. Even if the building had no market value, the real property alone is valued in excess of \$2,000.

Mr. O's second argument raises the question whether the home is an excludable resource. The regulation at 7 AAC 40.280 provides an exclusion for "the home of the applicant if used as his principal place of residence."¹¹ The specific issue in this case is whether a home *remains* a person's "principal place of residence" if the person has had to leave it by medical necessity. The Adult Public Assistance and Medicaid programs

⁷ 7 AAC 40.270(a)(1); 7 AAC 100.400(a)(14).

⁸ 7 AAC 40.260; 7 AAC 100.400(a)(13).

⁹ 7 AAC 40.270(b).

¹⁰ *Id.*

¹¹ 7 AAC 40.280(a)(1).

recognize that benefit recipients often intend to return to a home from which he or she is temporarily absent, and will consider a home no longer physically occupied by an individual to be that person's principal place of residence if he or she intends to resume living in it, or if a spouse or dependent relative continues to live there while the individual is institutionalized. Mr. O is not institutionalized. The weight of the evidence supports a finding that it is more likely than not that Mr. O does not intend to resume living in the No Name house. Therefore, it does not meet the requirements for exclusion and the house and property are included as a countable resource.

Therefore, On August 1, 2012, Mr. O had access to resources in excess of the limit set out in 7 AAC 40.270. Accordingly, the division correctly determined that he was not eligible for assistance.

IV. Conclusion

Alaska law strictly limits the total available resources a person may have and still qualify for Adult Public Assistance and Medicaid benefits. Mr. O's available resources exceed that amount. Accordingly, the division's determination is upheld.

Dated this 28th day of December, 2012.

Signed

Rebecca L. Pauli
Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 11th day of January, 2013.

By: *Signed*

Name: Rebecca L. Pauli
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]