

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of: )  
                                          )           OAH No. 13-0179-APA  
                                          )           Agency No.  
                                          )  
U J  
\_\_\_\_\_)

**DECISION**

**I. Introduction**

U J’s application for Adult Public Assistance and Medicaid was denied by the Division of Public Assistance (Division) because the Social Security Administration denied Mr. J’s application for Supplemental Security Income (SSI). The Division also denied Interim Assistance benefits to Mr. J. Mr. J appealed. A telephonic hearing was held on March 6, 2013, at which Mr. J represented himself and Terri Gagne represented the Division of Public Assistance.

After consideration of the evidence and the arguments of the parties, the Division’s decisions are affirmed because (1) Mr. J is not eligible for Adult Public Assistance disability benefits and its accompanying Medicaid benefits unless he has been approved for Supplemental Security Income disability benefits, and (2) Mr. J is not eligible for Interim Assistance benefits because he did not provide the Division with the necessary information to process his application.

**II. Facts**

U J is an Alaska resident who lives on the Kenai Peninsula.<sup>1</sup> On October 16, 2012, Mr. J applied for Adult Public Assistance and Medicaid benefits.<sup>2</sup> Mr. J believed he was eligible for disability assistance. Mr. J’s application stated he was also applying for “Social Security Disability.”<sup>3</sup> Mr. J filled out, but did not sign, the release of information form that is part of the application.<sup>4</sup>

The Division treated Mr. J’s application as an application for both Adult Public Assistance, which is aid to the permanently and totally disabled, and for Interim Assistance, which is aid that can be provided to applicants while their eligibility for Adult Public Assistance is being determined. On October 24, 2012, the Division conducted a telephonic interview with

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<sup>1</sup> Division Exhibit 2.0-2.1.  
<sup>2</sup> Division Exhibit 1.  
<sup>3</sup> Division Exhibit 2.3.  
<sup>4</sup> Division Exhibit 2.8.

Mr. J to determine whether Mr. J would be eligible for Interim Assistance while his application for Adult Public Assistance was pending.<sup>5</sup>

On October 25, 2013, the Division determined that it needed additional information to determine Mr. J's eligibility, and sent a request to Mr. J for the following:

1. proof that he applied for Supplemental Security Income; the Division provided a phone number for the social security office;
2. a completed preliminary medical examination form, which was sent in a different mailing along with a Medicaid authorization to cover the cost of the exam;
3. a "reimbursement" form, which was also sent to him;
4. signed medical release forms for each of his medical providers; the Division sent five of these forms;
5. a "vocational and disability report," the form for which was also sent to Mr. J.<sup>6</sup>

The Division also informed Mr. J that "to be eligible for Adult Public Assistance, you must be found eligible for supplemental security income."<sup>7</sup>

On November 29, 2013, the Division informed Mr. J that he was not eligible for Interim Assistance because the Division had not received the requested preliminary medical examination and medical release forms.<sup>8</sup> The Division also informed Mr. J again that his application for Adult Public Assistance was being held until a decision is made on his application for Supplemental Security Income benefits because "[w]e need the SSI decision before we can determine APA eligibility."<sup>9</sup>

On January 24, 2013, the Social Security Administration denied Mr. J's claim for Supplemental Security Income.<sup>10</sup> The reason for the denial was "failure by applicant to cooperate on development of claim."<sup>11</sup>

On February 4, 2013, the Division denied Mr. J's application for Adult Public Assistance and Medicaid because an applicant is not eligible for Adult Public Assistance disability payments if the applicant has been denied Supplemental Security Income.<sup>12</sup>

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<sup>5</sup> Division Exhibit 2.10.

<sup>6</sup> Division Exhibit 2.11.

<sup>7</sup> *Id.*

<sup>8</sup> Division Exhibit 2.13.

<sup>9</sup> *Id.* The notice mistakenly identified the date of the APA application as January 4, 1993.

<sup>10</sup> Division Exhibit 2.15.

<sup>11</sup> *Id.*

On February 13, 2013, Mr. J appealed the denial and requested a fair hearing. On his appeal form he stated that the reason he requested a fair hearing was “I am Disabled.”<sup>13</sup>

On March 6, 2013, the parties appeared at a hearing. At the hearing, neither party presented any witnesses or additional documents. The Division relied on the exhibits it had already filed with the Office of Administrative Hearings, and asked that the exhibits be entered into the record. Mr. J did not wish to testify, and he did not dispute that he had been denied Supplemental Security Income, or that the law required that he be granted Supplemental Security Income in order to be eligible for Adult Public Assistance. Mr. J stated that he had expected to be represented by Disability Law Center, but he did not request a continuance of the hearing. He stated that he was disabled, and that he had been disabled for a long time. Ms. Gagne advised that “at this time, Mr. J may reapply for Adult Public Assistance and Medicaid services through our agency, however the requirements will apply for social security disability.”

### **III. Discussion**

Under the regulations governing Adult Public Assistance, an applicant who has been denied Supplemental Security Income disability benefits is ineligible for Adult Public Assistance, aid to the permanently and totally disabled.<sup>14</sup> Here, Mr. J applied for Supplemental Security Income disability benefits, as required by 7 AAC 40.060(a), but the Social Security Administration denied his application.<sup>15</sup> Therefore, the Division had no choice but to deny Mr. J’s application for Adult Public Assistance. Because eligibility for Medicaid benefits requires

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<sup>12</sup> Division Exhibit 2.19.

<sup>13</sup> Division Exhibit 2.20.

<sup>14</sup> The governing regulation is 7 AAC 40.170(a): “(a) An applicant for aid to the permanently and totally disabled whose income is within SSI income standards must be found by the Social Security Administration to meet the definition of disability contained in Title XVI of the Social Security Act, as amended (42 U.S.C. 1382c(a)(3)).” *See also* 7 AAC 40.030 (“(a) An applicant must meet the eligibility requirements of the SSI program contained in Title XVI of the Social Security Act, as amended (42 U.S.C. 1381 - 1383) and in 20 C.F.R. Part 416, and the eligibility requirements set forth in this chapter.”).

<sup>15</sup> Under DHSS regulations, if an applicant was determined to be ineligible for SSI for reasons of income, the applicant could still be eligible for Adult Public Assistance if the applicant did not exceed the state income standards established under 7 AAC 40. 7 AAC 40.170(c). That regulation is not relevant here because Mr. J was not eligible for SSI for reasons other than income. As the Division argued at the hearing, Mr. J’s failure to cooperate with Social Security was a violation of the Adult Public Assistance regulations, which state that “[a]n applicant who is required to apply for SSI under 7 AAC 40.060 must comply with the Social Security Administration requirements at 20 C.F.R. 416.210 by applying for benefits for which he or she may be eligible.” 7 AAC 40.360(a). The regulation defines “apply” to mean “promptly and diligently pursue a claim and to accept the full amount of any benefits provided.” 7 AAC 40.360(d).

that an applicant be approved for either Adult Public Assistance or Supplemental Security Income benefits, Mr. J was also not entitled to receive Medicaid benefits .<sup>16</sup>

To the extent that Mr. J is appealing his denial for Interim Assistance, here, too, the Division acted properly in denying Mr. J's application. Under 7 AAC 40.050, in the absence of a determination of disability by Supplemental Security Income, a medical examination is a requirement for interim assistance under the aid to the permanently and totally disabled program. Although the Division provided Mr. J with notice that this examination was mandatory, and also provided him the examination form to complete and Medicaid authorization to cover the cost of the examination, Mr. J never provided the completed medical examination form. Because Mr. J did not follow through on providing the Division with the information it needed, the Division had no choice but to deny Mr. J's application for Interim Assistance.

#### **IV. Conclusion**

Mr. J did not return the forms necessary for the Division to process his Interim Assistance application. As a result, his Interim Assistance benefits were properly denied. Mr. J is not eligible for Adult Public Assistance and Medicaid benefits because he was rejected for Supplemental Security Income disability benefits by the Social Security Administration for reasons other than income eligibility. The Division's denial of Adult Public Assistance, Medicaid, and Interim Assistance benefits are affirmed.

Dated: June 21, 2013

*Signed* \_\_\_\_\_

Stephen C. (Neil) Slotnick  
Administrative Law Judge

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<sup>16</sup> 7 AAC 100.410. Although other Medicaid categories exist, *see* 7 AAC 100.002, Mr. J appears to be potentially eligible only under the disability categories.

## Adoption

Under a delegation from the Commissioner of Health and Social Services, I adopt this Decision as the final administrative determination in this matter, under the authority of AS 44.64.060(e)(1).

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 4<sup>th</sup> day of April, 2013.

By: Signed  
Name: Stephen C. Slotnick  
Title: Administrative Law Judge/DOA

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