

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

In the Matter of:)
)
 F T) OAH No. 13-0454-APA
) DPA Case No.

DECISION

I. Introduction

The issue in this case is whether the Division of Public Assistance (Division) correctly calculated the amount of Mr. F T's Adult Public Assistance (APA) benefits. This decision concludes that the Division correctly calculated that Mr. T's monthly APA benefit payment should be \$1.00 per month. Accordingly, the Division's decision setting Mr. T's APA benefit level at that amount is affirmed.

II. Facts

Mr. T, age 62, is married and living with his wife D (age 56) and an adult daughter in a single family home.¹ He has received Social Security Disability Insurance (SSDI) from the Social Security Administration (SSA) since at least 2008, and was receiving \$507.00 per month in SSDI as of February 2013.² However, because SSA temporarily suspended these benefits to recoup a prior overpayment, Mr. T did not receive SSDI payments for March, April, or May 2013.³

From February 2013 through April 2013 Mr. T and his wife were each receiving extended unemployment insurance benefits (UIB).⁴ Mr. T received \$144.00 per week from February through May 2013, while his wife received \$190.00 per week during the same period.⁵ As of March 2013 Mr. T's household was also receiving \$427.00 per month in Food Stamp benefits, which decreased to \$293.00 per month beginning in June 2013.⁶

On March 5, 2013 Mr. T applied for Adult Public Assistance and APA-related Medicaid.⁷ His application was initially denied on March 22, 2013, and again on April 2,

¹ Ex. 1, 2.1, C, undisputed hearing testimony.
² Ex. 3.2, undisputed hearing testimony.
³ Ex. X, undisputed hearing testimony.
⁴ Exs. 3, 3.1, 3.4.
⁵ Ex. 3; D T hearing testimony.
⁶ Exs. N, P.
⁷ Exs. 2.0 - 2.9, Exs. R, S, W.

2013, but was subsequently approved on May 2, 2013.⁸ The amount of Mr. T's monthly APA benefit was set at \$1.00 per month.⁹

On April 30, 2013 the Division notified Mr. T that he appeared to be eligible for Social Security, that he was required to apply for it, and that his Medicaid benefits might be terminated if he did not.¹⁰ On May 2, 2013 the Division notified Mr. T that, in order to remain eligible for APA, he needed to apply to SSA for "Social Security Disability Benefits."¹¹ It was later determined that he had done so.¹²

Mr. T originally requested a hearing on April 1, 2013 to contest the Division's denial of his application for Adult Public Assistance and APA-related Medicaid.¹³ However, Mr. T's application was subsequently approved, and during the hearing process the issue became whether the *amount* of Mr. T's monthly APA benefits was correct.

Mr. T's hearing was held on May 1 and June 4, 2013. Mr. T and his wife participated by phone and testified on Mr. T's behalf. Public Assistance Analyst Jeff Miller participated by phone and represented the Division. At hearing it was confirmed that Mr. T and his wife were each receiving UIB through May 28, 2013, but that Mr. T *was not* receiving SSDI during that month.¹⁴ It was also confirmed that Mr. T received a \$1.00 per month APA payment (and APA-related Medicaid benefits) from March 2013 forward.¹⁵ Accordingly, the parties agreed that the relevant facts were no longer in dispute, and that the only remaining issue was whether the Division had correctly calculated the amount of Mr. T's monthly APA benefits based on income consisting only of UIB benefits. The record closed at the end of the hearing.

⁸ Exs. 4, 7, R, S, W. The application was originally denied because the Division had counted \$507.00 per month in SSDI, which Mr. T was not actually receiving, as income (Ex. 6).

⁹ Ex. S.

¹⁰ Ex. V. By the time the issues were clarified through the hearing process, this was no longer in dispute.

¹¹ Since the Division knew that Mr. T was already receiving SSDI from SSA, it appears that the Division's notice was actually referring to another SSA disability program called Supplemental Security Income (SSI). Generally, disabled persons receive *either* SSDI, *or* SSI, but not both.

¹² Mr. T had applied for SSI on March 21, 2013, and his application was denied on April 8, 2013, prior to the Division's mailing of its notice (Ex. 3.3).

¹³ Ex. 5.1

¹⁴ Mr. T's extended UIB ended in May, while his wife's extended UIB continued.

¹⁵ Although it is not clear from the record, the March 1, 2013 APA benefit start date was apparently assigned retroactively in May 2013. Retroactive benefits are authorized by 7 AAC 40.383.

III. Discussion

A. Overview of APA Regulations Governing Calculation of Benefit Amount

Alaska's Adult Public Assistance (APA) program provides cash assistance to needy aged, blind, and disabled Alaskans. APA recipients are also eligible for Medicaid benefits.¹⁶

In general, the lower the APA recipient's income, the higher the monthly APA benefit amount received by the recipient.¹⁷ The income counted for purposes of determining eligibility is everything received during a given month that can be used to meet basic needs, except that certain receipts are excluded and do not "count" toward the total.¹⁸ Examples of these exclusions include the value of any social services furnished to the applicant by a governmental or private agency (in this case, the T household's Food Stamp benefits), income tax refunds, and foodstuffs obtained through subsistence activities. There is also a \$20.00 exclusion under 7 AAC 40.320(a)(23) applicable to "the first \$20 per month of income, earned or unearned, other than unearned income based on need."¹⁹

The income and resources of an APA applicant or recipient's spouse are generally considered the income and resources of the applicant or recipient when the spouses live together.²⁰ There are some limited exceptions for income, such as Senior Benefits Program payments, but none of the exceptions are applicable to this case.²¹

In 2013, in order to be found eligible or remain eligible for APA, the applicant or recipient's total monthly income, including the countable income of the applicant's spouse, after all exclusions, may not exceed \$1,584.00 for an individual living independently with a spouse (like Mr. T) or residing with a spouse in an assisted living home.²²

When an individual is found eligible for APA, the amount of benefits to which the person is entitled is calculated as follows.²³ First, the "maximum APA payment standard" for the household type is determined based on a table which is updated annually based on

¹⁶ See APA program description on the Division's website at <http://dhss.alaska.gov/dpa/Pages/apa/default.aspx> (accessed on August 9, 2013).

¹⁷ 7 AAC 40.370.

¹⁸ 7 AAC 40.300 – 330.

¹⁹ Because the UIB income received by the T household is not need-based, the Division should have applied a \$20.00 income exclusion under this regulation. The exclusion will be made below.

²⁰ See 7 AAC 40.240(a), 7 AAC 40.300(a)(1).

²¹ See 7 AAC 40.330(a); 7 AAC 40.320.

²² See 7 AAC 40.310(a)(1) and the Adult Public Assistance Manual, Addendum 1 (Ex. 9.1).

²³ See 7 AAC 40.370.

inflation.²⁴ Next, the applicant / recipient's total monthly income is subtracted from the first number. If the result is a positive number greater than one, the resulting number is the monthly APA benefit amount. If the result is zero or less than zero, then the monthly APA benefit amount is \$1.00.²⁵

B. Was the Division Correct to Set Mr. T's Monthly APA Payment at \$1.00?

In order to determine whether the benefit amount determined by the Division is correct, all that is necessary is to apply the rules set forth in the preceding section to the facts of this case, which are no longer in dispute.

During the months at issue, Mr. T's only countable income consisted of the weekly unemployment insurance benefits received by him and his wife. Mr. T received \$144.00 weekly, and his wife \$190.00 per week. Together their payments total \$334.00. Because there are generally 4.3 weeks per month, the weekly payments are then multiplied by 4.3.²⁶ This results in \$1,436.20 per month. From this amount, 7 AAC 40.320(a)(23) provides for an exclusion for the first \$20.00, as noted above. This results in gross income of \$1,416.20, which is then rounded to \$1,416.00.

The last step is to subtract Mr. T's countable / net income from the applicable "maximum APA payment standard." The maximum APA payment standard for a recipient living independently with an eligible spouse is \$1,231.00.²⁷ Mr. T's countable monthly income is \$1,416.00. Subtracting \$1,416.00 from \$1,231 results in a number less than zero. When the number resulting from this formula is less than zero, the recipient is eligible for an APA cash benefit of \$1.00 per month. Accordingly, the Division was correct to set Mr. T's monthly APA benefit payment at \$1.00.

IV. Conclusion

The Division was correct when it determined that Mr. T is eligible for \$1.00 per month in Adult Public Assistance benefits. Accordingly, the Division's decision setting Mr. T's APA benefit amount at \$1.00 per month is affirmed.

Dated this 14th day of August, 2013.

Signed _____
Jay Durych
Administrative Law Judge

²⁴ See table in the Adult Public Assistance Manual, Addendum 1 (Exs. 9.1 - 9.2).

²⁵ For detailed explanations and examples, see the Adult Public Assistance Manual at Section 452.

²⁶ See Adult Public Assistance Manual at Section 440-4.

²⁷ See table in the Adult Public Assistance Manual, Addendum 1 (Exs. 9.1 - 9.2).

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 23rd day of August, 2013.

By: Signed
Name: Jay D. Durych
Title: Administrative Law Judge, DOA/OAH

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