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. 12-FH-87
)
Claimant.) Division Case No. [redacted]
)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[redacted] (Claimant) was receiving Medicaid benefits in January 2012. (Ex. 2) She applied to renew her Medicaid benefits on January 30, 2012. (Ex. 3 – 3.3) On March 2, 2012, the Division of Public Assistance (Division) sent the Claimant written notice that her application was denied. (Ex. 7)

The Claimant requested a Fair Hearing on March 8, 2012. (Ex. 8)

This Office has jurisdiction pursuant to 7 AAC 49.010.

The Claimant's hearing was held on April 10, 2012. The Claimant appeared in-person; she represented herself and testified on her own behalf. [redacted], a Public Assistance Analyst with the Division, appeared in person; he represented the Division and testified on its behalf.

STATEMENT OF ISSUES

Was the Division correct when it denied the Claimant's January 30, 2012 Medicaid application?

FINDINGS OF FACT

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

1. The Claimant is an adult woman, under 65 years of age, who resides with her two children (ages 17 and 20 at the time of her January 30, 2012 Medicaid application). (Ex. 3) The Claimant is not disabled, not pregnant, and does not have either breast or cervical cancer. (Claimant testimony) She has ongoing medical treatments for Thyroid cancer, and while she has health insurance, it does not cover all of her medical bills. *Id.*

2. The Claimant received Family Medicaid benefits through January 2011. (Ex. 23) She then began receiving Medicaid under the Transitional Medicaid category in February 2011. *Id.* Her Transitional Medicaid benefits expired at the end of January 2012. (Ex. 2)

3. The Claimant applied to renew her Medicaid benefits on January 30, 2012. (Exs. 3 – 3.3)

4. The Claimant is the only source of income for her household. (Exs. 3.1 - 3.2) Her only income is from her job. *Id.* She is paid every two weeks. (Ex. 6.1) On February 22, 2012, the Claimant's employer provided the Division with the following pay information for the Claimant:

Paycheck	Gross Wages
January 13, 2012	$ 539.60
January 13, 2012	$1,074.40
January 27, 2012	$ 975.12
February 10, 2012	$1,041.69

(Ex. 6.2)

5. On March 1, 2012, the Division reviewed the pay information it had regarding the Claimant. It determined that the Claimant had received the four checks listed above, totaling $3,630.81 in gross wages. (Ex. 6) It then divided the total gross wages by three to arrive at an average biweekly pay rate of $1,210.27. *Id.* It then multiplied the average biweekly pay rate of $1,210.27 by 2.15 to arrive at an average monthly income of $2,602.08. *Id.* The Division then determined the Claimant was not financially eligible to receive Medicaid benefits. *Id.*

6. On March 2, 2012, the Division sent the Claimant written notice that her January 30, 2012 Medicaid application was denied because her "Medicaid countable income" of $2,602.08 was greater than the $2,491.00 "Medicaid income limit for [her] household size." (Ex. 7)

7. The Claimant provided additional pay information as follows:

Paycheck	Gross Wages
February 24, 2012	$1,073.20
March 9, 2012	$1,061.62
Pay Period Ending March 18, 2012	$1,073.20
Pay Period Ending April 1, 2012	$1,138.36

(Exs. A, A1 – A2)

8. The Division recalculated the Claimant's gross monthly income, excluding the January 13, 2012 $539.60 paycheck since that was for work only in December 2011, at $2,215.37.[1] (Ex. 25) The Division then provided the Claimant with one deduction, a $90 work expense deduction, to arrive at a net income of $2,125.37. (Ex. 29) The Division then concluded the Claimant was not eligible for Medicaid benefits because her countable income of $2,125.37 exceeded the Medicaid program's countable income limit of $1,516 for a three person household. *Id.*

PRINCIPLES OF LAW

A party who is seeking a change in the status quo has the burden of proof. *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). The normal standard of proof in an administrative proceeding, unless otherwise stated, is the preponderance of the evidence standard. *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 Alaska Medicaid program contains a variety of coverage categories. *See* 7 AAC 100.002 Each of these categories has varying eligibility requirements. A person who is under the age of 65, who is not disabled, not receiving Social Security Supplemental Security Income benefits, not pregnant, and who does not have either breast or cervical cancer, is potentially eligible only for Family Medicaid benefits. This Medicaid category 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 parent or parents or other caregivers that reside with them. 7 AAC 100.104. Among the financial eligibility requirements for the Family Medicaid program is one that a three person household may not make more than $2,804 per month in gross income and may not make more than $1,516 in countable income (gross income less applicable income disregards/deductions). 7 AAC 100.180; 7 AAC 100.190(a)(1); *Family Medicaid Eligibility Manual* Addendum 2.

The Division determines an applicant's income "by using the actual income received or anticipated to be received in the month for which the [eligibility] determination is being made." 7 AAC 100.168(a). The Division may average previous monthly income in making this determination. 7 AAC 100.168(c). When an applicant is paid biweekly, the biweekly pay amount is multiplied by 2.15 in order to arrive at the monthly pay figure. 7 AAC 100.168(d).

A person who has not received Medicaid benefits during any of the four months preceding the application and who is receiving employment income is allowed a $90 work expense income deduction. 7 AAC 100.184(1). A person who has been receiving Medicaid benefits during any of the four preceding months is allowed an earned income deduction consisting of $150 plus 33 percent of

[1] The Division totaled the Claimant's three biweekly checks (January 13, 2012 - $1,074.40, January 27, 2012 - $975.12, February 10, 2012 - $1,041.69) to arrived at a figure of $3,091.21. It divided that amount by three to arrive at an average biweekly gross pay of $1,030.40. It multiplied the biweekly average gross pay by 2.15 to arrive at an average monthly income of $2,215.37. (Ex. 25)

the remaining earned income. 7 AAC 100.184(2). However, a person who has been receiving Transitional Medicaid during the preceding months is not considered a Medicaid recipient for the purposes of receiving the $150 plus 33 percent of the remaining earned income deduction. *Family Medicaid Eligibility Manual* § 5165-1B.

The Family Medicaid financial eligibility rules allow an income deduction for child support payments that are made by a household member. 7 AAC 100.184(3). In addition, if the household has childcare costs or costs for the care of an incapacitated parent who is a household member, the Family Medicaid financial eligibility rules allow some of those costs to be deducted (disregarded) when determining a household's countable income. 7 AAC 100.186.

Transitional Medicaid is a form of Medicaid which is provided to Family Medicaid recipients, who have lost their financial eligibility for Family Medicaid due to an increase in parent's (or other caregiver) earned income. 7 AAC 100.200(a). Transitional Medicaid benefits are limited to a 12 month period or less. *Id.*

ANALYSIS

The issue in this case is whether the Division was correct when it denied the Claimant's January 30, 2012 Medicaid application. Because this case involves the denial of an application, the Claimant is the party seeking to change the status quo, and she has the burden of proof by a preponderance of the evidence.[2] *State, Alcoholic 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).

The pertinent facts of this case are simple. The Claimant was a Family Medicaid recipient in 2011. She then became a Transitional Medicaid recipient in 2011, with her benefits set to expire at the end of January 2012. She applied for new Medicaid benefits on January 30, 2012.

When the Claimant applied for new Medicaid benefits on January 30, 2012, her only possible category of Medicaid coverage was the Family Medicaid category. This was because she had a minor child in her household. She was not potentially eligible for any other types of Medicaid coverage because she was not disabled, was under 65 years of age, was not pregnant, and did not experience either breast or cervical cancer. *See* 7 AAC 100.002 for a complete list of the various categories of Medicaid coverage.

The Claimant is employed. She is paid every two weeks. Her normal paychecks range from $975.12 to $1,138.36. Her average biweekly pay is $1,030.40.[3] When this biweekly pay is multiplied by the factor of 2.15, per 7 AAC 100.168(d), her gross monthly income was $2,215.37. Her gross monthly income passes the gross income test for a Family Medicaid household of three persons because her

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[2]The Claimant was receiving Transitional Medicaid benefits, which are time limited by definition. *See* 7 AAC 100.200(a). Her benefits expired at the end of January 2012. As a result, there is no presumption of continued eligibility. The Claimant was therefore an applicant for new Medicaid coverage.

[3] Excluding the $539.60 January 13, 2012 payment and including the $1,074.40 January 13, 2012 payment. (Ex. 25)

gross monthly income is less than $2,804 per month. 7 AAC 100.180; 7 AAC 100.190(a)(1); *Family Medicaid Eligibility Manual* Addendum 2.

The next step in determining financial eligibility for an applicant who passes the gross income test is to determine if the household's countable income is less than the countable income limit. The Family Medicaid countable income limit for a three person household is $1,516. 7 AAC 100.180; 7 AAC 100.190(a)(1); *Family Medicaid Eligibility Manual* Addendum 2. There are very limited income deductions allowed for Family Medicaid applicants. *See* 7 AAC 100.184 – 186. The only income deduction available to the Claimant was the $90 work expense deduction. *See* 7 AAC 100.184(1). She did not qualify for the earned income deduction because she was receiving Transitional Medicaid benefits during the four months immediately preceding her January 30, 2012 application. *See Family Medicaid Eligibility Manual* § 5165-1B. Applying the $90 work expense deduction to the Claimant's gross monthly income of $2,215.37, her countable income was $2,125.37. This amount exceeds the Family Medicaid countable monthly income limit of $1,516 for a three person household. As a result, the Claimant was not financially eligible to receive Family Medicaid coverage.

CONCLUSIONS OF LAW

1. The Claimant's countable monthly income of $2,125.37 was greater than the Family Medicaid countable monthly income limit of $1,516 for a three person household.

2. The Division was therefore correct when it denied the Claimant's January 30, 2012 application for Medicaid benefits.

DECISION

The Division was correct when it denied the Claimant's January 30, 2012 application for Medicaid benefits.

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. If the Claimant appeals, the 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. To appeal, 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

DATED this 25th day of May, 2012.

/Signed/
Larry Pederson
Hearing Authority

Certificate of Service

I certify that on this 25th day of May, 2012, true and correct copies of the foregoing were sent to:

Claimant by U.S.P.S First Class Certified Mail, Return Receipt Requested

and to the following by secure e-mail:

[redacted], Public Assistance Analyst
[redacted], Public Assistance Analyst
[redacted], Policy & Program Development
[redacted], Staff Development & Training
[redacted], Administrative Assistant II
[redacted] Policy & Program Development

J. Albert Levitre, Jr.
Law Office Assistant I