

Office of Hearings and Appeals
3601 C Street, Suite 1322
P. O. Box 240249
Anchorage, AK 99524-0249
Phone: (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-350
)
Claimant.) DPA Case No. [REDACTED]
_____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

Mr. [REDACTED] (Claimant) completed and signed an application for Family Medicaid Program benefits on August 30, 2010 (Exs. 4.0 – 4.9). The State of Alaska Department of Health and Social Services, Division of Public Assistance (DPA or Division) received the Claimant’s application on September 2, 2010 (Ex. 4.0). On October 1, 2010, the Division mailed to the Claimant a notice stating that his household’s application for Family Medicaid benefits had been denied (as to the Claimant only) because his countable monthly household income exceeded the Family Medicaid Program’s applicable maximum income limit (Ex. 7.1). The Claimant submitted a Fair Hearing Request to the Division on October 7, 2010 (Ex. 8.1).

This Office has jurisdiction to resolve this dispute pursuant to 7 AAC 49.010.

The Claimant’s hearing was held on December 1, 2010 before Hearing Examiner Jay Durych. The Claimant attended the hearing in person, represented himself, and testified on his own behalf. The Claimant’s wife, [REDACTED], also attended the hearing in person and testified on behalf of her husband. [REDACTED], a Public Assistance Analyst with the Division, attended the hearing in person and represented and testified on behalf of the Division. The parties’ testimonies were received and all exhibits submitted were admitted into evidence.

At the end of the hearing the record was closed except for certain written submissions concerning the Division’s financial eligibility calculations. The Division filed its post-hearing submission on December 1, 2010. No post-hearing submission was received from the Claimant.

ISSUE

Was the Division correct when, on October 1, 2010, it denied the Claimant's recertification application for Family Medicaid Program benefits dated August 30, 2010, based on the assertion that the Claimant's household's monthly income exceeded the Family Medicaid Program's applicable maximum monthly income limit?

SUMMARY OF DECISION

The Division was correct to credit the Claimant with a portion of his wife's income pursuant to 7 AAC 100.178(a)(1). The Division was also correct to prospectively estimate the Claimant's child support income based on an average of the child support actually received by the Claimant's wife during the two most recent months. Finally, the Division's financial eligibility calculations were mathematically correct, and the Division applied the correct income standards. Accordingly, the Division was correct when, on October 1, 2010, it denied the Claimant's recertification application for Family Medicaid Program benefits dated August 30, 2010, because the Claimant's household's monthly income exceeded the Family Medicaid Program's applicable maximum monthly income limit.

FINDINGS OF FACT

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

1. The Claimant and his wife [REDACTED] are legally married (Ex. 6.0). They have no common children (Ex. 3.0). The Claimant has three biological children from a prior relationship (two minors and one adult), and one biological grandchild, who are members of the Claimant's household (Ex. 5). The Claimant's wife has two (other) minor biological children from prior relationships who are also members of the Claimant's household (Ex. 5).
2. The Claimant's household thus consists of a total of eight (8) persons (Ex. 5). However, only five (5) persons – the Claimant, the Claimant's three children, and a grandchild – are members of the household for purposes of his Family Medicaid application (Exs. 1, 4.1).
3. On August 30, 2010 the Claimant completed and signed an application for Family Medicaid and certain other benefits not at issue in this case (Exs. 4.0 – 4.9). The Claimant's application was received by the Division on September 2, 2010 (Ex. 4.0).
4. The income counted by the Division, in determining the Claimant's financial eligibility for family Medicaid, was as follows (Exs. 2.0, 5, DPA Hearing Representative's testimony):
 - a. His wife's unemployment insurance benefits in the gross amount of \$370.00 per week (\$1,591.00 per month).¹
 - b. His two minor children's Social Security survivor's benefits in the gross amount of \$655.00 each (\$1,310.00 per month total).²

¹ The figures used by the Division with regard to the amount of unemployment insurance benefits received by the Claimant's wife are accurate based on records obtained from the State of Alaska Department of Labor (Ex. 6.2).

c. Child support received by the Claimant's wife in the average gross amount of \$660.40 per month.³

5. Based on the income referenced in Paragraph 4, above, the Division calculated that the Claimant's total gross monthly household income was \$3,561.40 (Exs. 2.0, 5, DPA Hearing Representative's testimony).

6. During the 2010 calendar year, the Family Medicaid gross income limit for a family consisting of one adult and three children was \$3,009.00 (DPA Hearing Representative's testimony, *citing* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2. Accordingly, the Claimant's total gross monthly household income of \$3,561.40 exceeded the applicable Family Medicaid gross income limit by \$552.40.

7. Because the Claimant's wife is a step-parent, not all of her income is counted towards the Claimant's Family Medicaid maximum *net income limit* (DPA Hearing Representative's testimony). During 2010 there was a "step-parent deduction" (exemption from gross income) in the amount of \$814.00 pursuant to 7 AAC 100.178(a)(2) and Addendum 2, Family Medicaid Manual (*Id.*; *see also* DPA letter dated December 1, 2010).

8. Accordingly, to determine the Claimant's *net* income, the Division would take the Claimant's total *gross* monthly household income of \$3,561.40, and then subtract the \$814.00 deduction / exemption referenced above (DPA Hearing Representative's testimony; *see also* DPA letter dated December 1, 2010). This would result in *total monthly net income* of \$2,747.40.

9. During the 2010 calendar year, the Family Medicaid *net income limit* for a household consisting of one adult and three children was \$1,627.00 (DPA Hearing Representative's testimony; *citing* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2). Accordingly, the Claimant's total net monthly household income of \$2,747.40 exceeded the applicable Family Medicaid net income limit by \$1,120.40.

10. On October 1, 2010 the Division mailed a notice to the Claimant stating that his household's application for Family Medicaid Program benefits had been approved in part and denied in part (Ex. 7.1). The notice stated in relevant part as follows [text format condensed for brevity]:

Your Medicaid application received on August 9, 2010 is approved effective 1 October 2010. If you remain eligible, coverage will continue through 30 September 2010. The following people are eligible for Medicaid: [REDACTED]

* * * * *

² The figures used by DPA as to the amount of Social Security survivor's benefits received by the Claimant's children are accurate based on records obtained from the United States Social Security Administration (Exs. 6.3, 6.4).

³ The figures used by the Division with regard to the amount of child support received by the Claimant's wife are conservative based on records obtained from the State of Alaska Child Support Enforcement Division (Ex. 6.1). Those records indicate that the Claimant's wife received payments totaling \$1,411.52 during the month of August 2010, and \$1,124.92 during the month of September 2010. *Id.* Averaging these payments results in an average monthly payment of \$1,268.22. This is almost twice the amount of child support counted by the Division.

This action is supported by Family Medicaid Manual Section 5005-6 . . . and 7 AAC 100.018 . . . [REDACTED] was not included in the Medicaid case due to [REDACTED] income was [deemed] to him which put him over the income limit for this program.

11. On October 7, 2010 the Claimant completed and signed a Fair Hearing Request with regard to the Division's termination of his Family Medicaid benefits (Ex. 8.1); this was received by the Division that same date (Ex. 8.1).
12. At the hearing of December 1, 2010 the Claimant credibly testified that he needs financial help with his medical expenses so that he is able to have back surgery. If that surgery is successful, he will be able to go back to work about six months later. *Id.*
13. At the hearing of December 1, 2010 the Claimant's wife credibly testified in relevant part that:
 - a. She receives child support inconsistently. Sometimes she will not receive any support for two months. Accordingly, she believes it is appropriate to average her child-support income over several months.
 - b. The amount of their child support has gone down since they re-applied for Family Medicaid. Also, her unemployment will end effective December 31, 2010. She anticipates that this will result in a \$1,300.00 - \$1,400.00 decrease in the household's income.
14. At the hearing of December 1, 2010 the Division's Hearing Representative credibly testified in relevant part that, although the Claimant is not financially eligible for Family Medicaid benefits, his minor children remain eligible for Denali KidCare benefits.

PRINCIPLES OF LAW

I. Burden of Proof and Standard of Proof.

The party seeking a change in the status quo normally bears the burden of proof.⁴ In this case the Division is attempting to change the status quo or existing state of affairs by terminating the Claimant's previously existing Family Medicaid benefits. Accordingly, the Division bears the burden of proof in this case.

The regulations applicable to this case do not specify any particular standard of proof. Therefore, the "preponderance of the evidence" standard is the standard of proof applicable to this case.⁵ This standard is met when the evidence, taken as a whole, shows that the facts sought to be proved are more probable than not or more likely than not.⁶

⁴ *State of Alaska Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985).

⁵ A party in an administrative proceeding can assume that preponderance of the evidence is the applicable standard of proof unless otherwise stated. *Amerada Hess Pipeline Corp. v. Alaska Public Utilities Commission*, 711 P.2d 1170, 1179 (Alaska 1986).

⁶ *Black's Law Dictionary* at 1064 (West Publishing, 5th Edition, 1979).

II. Family Medicaid – In General.

Medicaid was established in 1965 by Title XIX of the Social Security Act to provide medical assistance to certain needy individuals and families. 42 USC § 1396 et. seq. It is a cooperative federal-state program that is jointly financed with federal and state funds. *Wilder v. Virginia Hospital Association*, 496 U.S. 498, 501, 110 S.Ct. 2510, 110 L.Ed.2d 455 (1990).

On the federal level, the Secretary of the U.S. Department of Health and Human Services (“HHS”) administers the program through the Health Care Financing Administration (“HCFA”). In Alaska, the Department of Health and Social Services (“DHSS”) administers the Medicaid program in accordance with applicable federal and state laws and regulations.

Because Medicaid is a federal program, many of its requirements are contained in the Code of Federal Regulations (CFRs) at Title 42, Part 435 and Title 45, Part 233. The Medicaid Program’s general eligibility requirements are set forth at 42 CFR Sections 435.2 – 435.1102.

The State of Alaska’s statutes implementing the federal Medicaid Program are set forth at AS 47.07.010 – AS 47.07.900. The State of Alaska’s regulations implementing the Medicaid program are set forth in the Alaska Administrative Code at Title 7, Chapters 43 and 100.

The Medicaid Program has a large number of eligibility groups because it covers needy individuals in a variety of circumstances. See 7 AAC 100.002. One of the Medicaid Program’s eligibility groups provides medical coverage for financially eligible households that include minor children. See 7 AAC 100.002(a)(1)(B); 7 AAC 100.100. This type of Medicaid coverage is known as Family Medicaid. *Id.*

III. Family Medicaid – Financial Eligibility Requirements.

7 AAC 100.102(c), titled “Determining Eligibility,” provides in relevant part as follows:

(c) A household is financially eligible if (1) the total amount of the resources available to meet the financial needs of the household under 7 AAC 100.132 and 7 AAC 100.134 does not exceed the resource limitation of 7 AAC 100.130; (2) the total monthly income available to meet the financial needs of the household does not exceed the 185 percent qualifying income standard established in 7 AAC 100.190 for the household's size and type; and (3) the countable monthly income available to meet the financial needs of the household, after certain amounts are disregarded or deducted under this chapter, does not exceed the need standard [of] 7 AAC 100.190 for the household's size and type.

7 AAC 100.104, titled “Mandatory Members of the Household,” provides in relevant part:

(a) Unless otherwise provided in this chapter, the following individuals are mandatory members for the household for the purposes of determining Family Medicaid eligibility if they are living in the same home (3) a parent of a dependent child under (1) of this subsection

7 AAC 100.114, titled “Family Medicaid Household Combinations,” provides in relevant part:

(e) The department will include a stepparent in the household only if the (1) stepparent is the natural or adoptive parent of at least one child in the household; (2) parent and the

stepparent have a common child living in the home; or (3) stepparent is the caretaker relative when the other parent is not included in the household because the other parent is (B) an SSI or APA recipient.

7 AAC 100.116, titled “Optional Members of the Household,” provides in relevant part:

(b) If adults are living together in the same dwelling, each with that adult's own dependent child or children, the department will determine if two or more Family Medicaid households are living under the same roof and, if so, whether to provide eligibility for each household separately.

7 AAC 100.120, titled “Inclusions and Exclusions from the Family Medicaid Eligibility Determination,” provides in relevant part as follows:

(a) The financial needs, income, or resources of the following individuals are not included in a Family Medicaid eligibility determination even if the individual is living in the same home as a dependent child (3) a stepparent and the stepparent's own children, if including them in an existing household would cause another child in the home who is deprived by reason of death or continued absence of a parent to lose eligibility if the stepparent's income and resources were counted....

7 AAC 100.150(a), titled “Availability of Income,” provides in relevant part as follows:

(a) In determining eligibility for Family Medicaid benefits, the only money the department will consider to be income to a Family Medicaid household is money that is (1) received or anticipated to be received by an individual included in the household; or (2) available or anticipated to be available to meet the financial needs of an individual included in the household in the month for which the department is determining need.

(b) Except as otherwise provided in this chapter, the department will determine the availability of income to a Family Medicaid household as follows (7) subject to the provisions of 7 AAC 100.114(e) and 7 AAC 100.178, the income of a married stepparent is available to that stepparent's stepchild if the stepparent (A) resides with the stepchild and the other members of the household; and (B) does not receive SSI, APA, or Family Medicaid benefits

7 AAC 100.152, titled “Income Period,” provides in relevant part as follows:

The department will determine, on a monthly basis, eligibility for Family Medicaid benefits and when income is considered available to the applicant or recipient. The department will consider all income that is received or may be reasonably anticipated to be received in a month to actually be available . . . in that month.

7 AAC 100.154, titled “Prospective Eligibility Determination,” provides in relevant part:

The department will determine the prospective eligibility of a household by making . . . its best estimate of income, resources, and other circumstances that are anticipated to exist for the household during the month for which eligibility is being determined. To determine what it anticipates to exist with respect to resources and other circumstances

of the household, the department will consider the (1) circumstances of the preceding month and the current month that will affect . . . eligibility; and (2) household's estimate of what is likely to change during the month for which eligibility is being determined.

7 AAC 100.158, titled "Types of Income," provides in relevant part as follows:

(b) Earned income is gross income paid in cash or in kind as wages, salary, or commissions, and that is earned by an employee in exchange for the performance of services by the employee, before any deductions are made for the cost of earning that income, including taxes, child care, or transportation expenses

(c) Self-employment income is the amount the self-employed individual receives from the production or sale of goods or services

(d) Unearned income is gross income that is not earned income under (b) of this section or self-employment income under (c) of this section. Unearned income includes . . . (2) social security payments (4) unemployment compensation (6) child support....

7 AAC 100.160 lists types of income which are exempt or non-countable for purposes of the Family Medicaid Program. However, none of the types of income counted in this case are included.

7 AAC 100.168, titled "Best Estimate of Prospective Income," provides in relevant part:

(a) For the purpose of determining the eligibility of a household for Family Medicaid benefits under 7 AAC 100.154, the department will make a best estimate of the prospective income for a household by using the actual income received or anticipated to be received in the month for which the determination is being made.

(b) If receipt of income from a source cannot reasonably be anticipated in a month for which a determination is being made, the department will not include income from that source in the estimate of income.

(c) If income from a source can reasonably be anticipated to be received in a month for which a determination is being made but the monthly amount is uncertain, the department will include in the estimate of income only that amount that can be anticipated with reasonable certainty. In determining the amount of income anticipated to be received, the department may average the monthly income received from the source in previous months.

7 AAC 100.178, titled "Income of a Stepparent, Grandparent, [etc.]" provides in relevant part:

(a) Except as provided in (c) of this section, when determining the income eligibility of a Family Medicaid household, the department will include in the household's total monthly income the income of the stepparent who is living in the household, after applying the following deductions to the stepparent's income: (1) the first \$90 of the earned income of the stepparent in the month; (2) an additional amount for the support of the stepparent and any other individual who is living in the home, but whose financial needs are not taken into account in making the Family Medicaid eligibility determination and who is or could be claimed by the stepparent as a dependent for

purposes of determining the stepparent's federal personal income tax liability; this deducted amount equals the need standard in 7 AAC 100.190(a) for a household of the same size as a household comprised of the stepparent and the number of dependents supported; if the stepparent does not support dependents outside the household, the monthly deduction is \$729, adjusted each year as specified in 7 AAC 100.190(b)

* * * * *

(c) If counting the income available to the household under (a) or (b) of this section results in making a dependent child ineligible for Family Medicaid, the child's eligibility for Family Medicaid must be redetermined excluding the need, income, and resources of the stepparent, grandparent, or sibling. *The income of a stepparent is still considered available to the dependent child's caretaker relative.* [Emphasis added].

7 AAC 100.180 provides in relevant part as follows:

(a) Before determining eligibility under (b) of this section, the department will first determine if a household's (2) total monthly income is equal to, or less than, the applicable 185-percent standard established in 7 AAC 100.190.

(b) For a household that qualifies under (a) of this section, the department will determine if that household meets the applicable need standard established in 7 AAC 100.190 by determining that household's countable income. Countable income is the total monthly income less all applicable deductions and disregards from income under 7 AAC 100.184 and 7 AAC 100.186.

(c) The department will determine a household to be income eligible for Family Medicaid if (1) that household's countable income is equal to, or less than, the applicable need standard in 7 AAC 100.190; and (2) each individual included in the household meets all other eligibility requirements of this chapter.

7 AAC 100.199 provides in relevant part as follows:

In 7 AAC 100.100 - 7 AAC 100.199, unless the context requires otherwise, (1) "countable income" means total monthly income less all applicable deductions and disregards from income under 7 AAC 100.184 and 7 AAC 100.186 (7) "total monthly income" means the sum of a household's nonexempt earned income, self-employment income, and unearned income that is received or anticipated to be received in a month; (8) "unearned income" means income that is not earned income or self-employment income

During the 2010 calendar year, the Family Medicaid *gross income limit* for a family consisting of one adult and three children was \$3,009.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2. During the 2010 calendar year, the Family Medicaid *net income limit* for a household consisting of one adult and three children was \$1,627.00. *Id.* During the 2010 calendar year the amount of the "step-parent deduction" (exemption from gross income) provided by 7 AAC 100.178(a)(2) and Addendum 2 to the Family Medicaid Manual was \$814.00.

ANALYSIS

Introduction: Definition of Issues.

The Division asserts that the Claimant is over-income for the Family Medicaid Program. In response, the Claimant asserts that (a) he has a great need for Medicaid benefits; (b) that the Division should not have credited him with a portion of his wife's income; and (c) that the amount of child support which the Division counted for purposes of its eligibility determination may have been overstated. The Claimant did not, however, assert that the Division's mathematical calculations regarding the Claimant's household's countable monthly income were in any way incorrect; or that the Division applied an incorrect income standard in making its Family Medicaid income eligibility determination. Accordingly, there are three issues to be decided in this case:

1. Did the Claimant's countable monthly gross income exceed the Family Medicaid Program's applicable monthly gross income limit?
2. Was the Division correct to credit the Claimant with a portion of his wife's income?
3. Was the amount of child support which the Division counted for purposes of its eligibility determination overstated?

These issues will be addressed separately in the order stated above. Because the Division is the party attempting to change the status quo by terminating pre-existing benefits, the Division bears the burden of proof on all factual issues (see Principles of Law, above).

I. Did the Claimant's Countable Monthly Gross Income Exceed the Family Medicaid Program's Applicable Monthly Gross Income Limit?

The Division denied the Claimant's application for Family Medicaid Program benefits based on the assertion that the Claimant's household's gross income exceeded the Family Medicaid Program's applicable gross income limit. To determine whether this decision was correct, the Claimant's household's income must be analyzed according to the applicable regulations.

The procedure for determining financial eligibility under the Family Medicaid Program has two (2) steps. First, the applicant must first meet the gross income test. *See* 7 AAC 100.102(c) and 7 AAC 100.180. If the applicant meets the gross income test, he or she must then satisfy the net income test. *Id.* Thus, an applicant is only eligible for Family Medicaid if he or she satisfies *both* the gross income test *and* the net income test. *Id.* Finally, if the applicant fails the gross income test, *the applicant is denied at that point without determining whether the applicant satisfies the net income test. Id.*

In this case, the Division counted the following in making its gross income determination:

1. The Claimant's wife's unemployment insurance benefits in the gross amount of \$370.00 per week (\$1,591.00 per month);
2. The Claimant's two minor children's Social Security survivor's benefits in the gross amount of \$655.00 each (\$1,310.00 per month total).

3. The child support received by the Claimant's wife in the average gross amount of \$660.40 per month.

Based on these three sources of income, the Division calculated that the Claimant's total gross monthly household income was \$3,561.40 (Exs. 2.0, 5, DPA Hearing Representative's testimony). As discussed in Analysis Section III, below, the Division's total gross income figure was conservative (i.e. it understated the total actual income).

During the 2010 calendar year, the Family Medicaid gross income limit for a family consisting of one adult and three children was \$3,009.00 (*see* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2). Accordingly, the Claimant's total gross monthly household income of \$3,561.40 exceeded the applicable Family Medicaid gross income limit of \$3,009.00 by \$552.40.

II. Was The Division Correct To Credit the Claimant With a Portion of his Wife's Income?

The next issue is whether the Division was correct to credit the Claimant with a portion of his wife's income. On this topic, 7 AAC 100.178(a)(1) provides in relevant part that, "when determining the income eligibility of a Family Medicaid household, the department will include in the household's total monthly income the income of the stepparent who is living in the household" In addition, 7 AAC 100.178(c) provides in relevant part that "[t]he income of a stepparent is still considered available to the dependent child's caretaker relative." Thus, the general rule is that the income of a step-parent is included in determining a household's financial eligibility for Family Medicaid as long as the step-parent lives with the other household members.

In this case, the step-parent (i.e. the Claimant's wife) resides in the same household with the Claimant and his children (see Findings of Fact at Paragraphs 1-2, above). Accordingly, the Division was correct to attribute the income of the Claimant's wife to the Claimant's household.

There is a deduction from the step-parent's income which applies in cases (like this one) in which the step-parent's income is attributed to the applicant. See 7 AAC 100.178(a)(2) and Family Medicaid Manual, Addendum 2. During the 2010 calendar year the amount of this "step-parent deduction" (exemption from gross income) was \$814.00. However, the record is clear that, *even with this deduction*, the Claimant's total monthly net income of \$2,747.40 still exceeds the applicable Family Medicaid income limit of \$1,627.00. See Findings of Fact at Paragraphs 7-9, above.

III. Was the Amount of Child Support Which the Division Counted for Purposes of its Eligibility Determination Overstated?

The last issue is whether the Division erred by over-stating the amount of child support received by the Claimant's wife at times relevant to the Claimant's application.

Initially, it should be noted that, under Family Medicaid, an applicant's income is *estimated prospectively* using the best information available to the Division. See 7 AAC 100.150, 7 AAC 100.152, 7 AAC 100.154, and 7 AAC 100.168 (set forth in the Principles of Law, above). Accordingly, an applicant's *estimated income* for a given month under the Family Medicaid Program may be somewhat higher or lower than the applicant's *actual income* for that month because the Division takes past income levels into account when estimating a Claimant's future income.

In this case, the amount of child support received by the Claimant varied substantially during August and September 2010 (Ex. 6.1). Those records of the State of Alaska Child Support Enforcement Division indicate that the Claimant's wife received payments totaling \$1,411.52 during the month of August 2010, and \$1,124.92 during the month of September 2010. *Id.* Averaging these payments results in an average monthly payment of \$1,268.22.

The figure used by the Division with regard to the average amount of child support received by the Claimant's wife during August and September 2010 was \$660.40 per month (*see* Exs. 2.0, 5, and DPA Hearing Representative's testimony). Thus, far from overstating the amount of child support received by the Claimant's wife, the figure used by the Division actually *understated* the amount of child support by almost half.

IV. Summary.

The Division was correct to credit the Claimant with a portion of his wife's income pursuant to 7 AAC 100.178(a)(1) and 7 AAC 100.178(c). The Division was also correct to prospectively estimate the Claimant's child support income based on an average of the child support actually received by the Claimant's wife during the two most recent months. Finally, the Division's financial eligibility calculations were mathematically correct, and the Division applied the correct income standards. The Division was therefore correct when, on October 1, 2010, it denied the Claimant's application for Family Medicaid benefits dated August 30, 2010 because the Claimant's gross monthly income exceeded the applicable maximum monthly gross income limit for the Family Medicaid Program.

CONCLUSIONS OF LAW

1. The Division carried its burden and proved, by a preponderance of the evidence, that:
 - a. The Division was correct to credit the Claimant with a portion of his wife's income pursuant to 7 AAC 100.178(a)(1) and 7 AAC 100.178(c).
 - b. The Division was correct, pursuant to 7 AAC 100.150, 7 AAC 100.152, 7 AAC 100.154, and 7 AAC 100.168, to prospectively estimate the Claimant's child support income based on an average of the child support actually received by the Claimant's wife during the two most recent months.
 - c. The Division applied the correct income eligibility standards pursuant to 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2.
2. Accordingly, the Division was correct when, on October 1, 2010, it denied the Claimant's recertification application for Family Medicaid Program benefits dated August 30, 2010, because the Claimant's household's gross monthly income exceeded the Family Medicaid Program's applicable maximum gross monthly income limit.

DECISION

The Division was correct when, on October 1, 2010, it denied the Claimant's recertification application for Family Medicaid Program benefits dated August 30, 2010, because the Claimant's household's gross monthly income exceeded the Family Medicaid Program's applicable maximum gross monthly income limit.

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, 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

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.

DATED this 22nd day of February, 2011.

(signed)

Jay Durych
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 22nd day of February 2011 true and correct copies of the foregoing document were sent to the Claimant via USPS mail, and to the remainder of the service list by secure / encrypted e-mail, as follows:

Claimant – Certified Mail, Return Receipt Requested

██████████, DPA Hearing Representative
██████████, DPA Hearing Representative

██████████, Policy & Program Development
██████████, Staff Development & Training
██████████, Administrative Assistant II
██████████, Eligibility Technician I

(signed)

By: _____
J. Albert Levitre, Jr.
Law Office Assistant I