



## SUMMARY OF DECISION

On April 12, 2011, the Division was correct to deny Claimant's application for Family Medicaid and Chronic and Acute Medical Assistance benefits because Claimant's monthly income exceeded the income eligibility limits for each program.

## FINDINGS OF FACT

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

1. Claimant has arthritis of her shoulder, is not working, and has applied for Social Security. (Claimant's testimony) When she applied for Social Security, the federal worker told her she would be eligible for assistance from the state. (Claimant's testimony)
2. On April 11, 2011, Claimant submitted an application seeking Family Medicaid and Chronic and Acute Medical Assistance (CAMA) benefits for her four person family consisting of herself and her husband and two children of elementary school age.<sup>1</sup> (Ex. 1; Exs. 2.2-2.12) On her application, Claimant disclosed her income came solely from her husband who worked full time (32 hours) per week and was paid bi-weekly. (Ex. 2.4-2.5) Claimant's application was supported by a copy of her husband's March 20, 2011 earnings statement. (Ex. 2.12) This March 20, 2011 earnings statement showed a bi-weekly pay period with income and deductions as follows:

Earnings:

Regular pay:	\$ 614.87
Overtime	\$ 38.87
Reported tips in	\$1,085.43

Deductions/Taxes: \$ 374.34

Adjustments to Net Pay: Reported Tips out \$1,085.43

Net Pay: \$ 279.40

(Ex. 2.12)

3. On April 11, 2011 the Division's Eligibility Technician and Claimant participated in an eligibility interview. (Ex. 2.0) During the interview, the Eligibility Technician learned that Claimant's husband's employer was attributing to Claimant's husband 100% of the tip income the employer deemed tipped for the pay period, based on the husband's gross sales. This

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<sup>1</sup> Claimant also applied for General Relief Assistance with rent or utilities. (Ex. 2.2) General Relief Assistance is not at issue in this case.

attributed tip income was shown as “reported tips in” on his earnings statements. (Ex. 2.0) At the same time, the employer was paying 3.5% of the husband’s gross sales as tips to other employees a) without showing the reduced amount in the tip income that her husband actually received on the husband’s earnings statement; and b) without providing an off-set for the increased taxes paid by Claimant’s husband as a consequence of over-reporting the tip income (i.e., tip income he did not receive.) (Ex. 2.0; Hearing Representative’s testimony; Claimant’s testimony)

4. The Eligibility Technician discussed this information with the employer’s representative who confirmed a) that the earnings statement “reported tips in” was not the actual amount of tip income received by Claimant’s husband; b) that 3.5% of Claimant’s husband’s gross sales of \$9,000 for the pay period ending March 20, 2011 was determined to be \$315 and this amount was paid to other employees; and c) that Claimant’s husband had not actually received the “reported tips in” amount of \$1,085.43 but he actually received \$1,085.43 less the \$315 paid to other employees for a total actual tip income of \$770.43. (Ex. 2.0)

5. The Eligibility Technician calculated the husband’s actual, prospective, gross monthly tip income as follows, using the March 20, 2011 earnings statement (Ex. 2.0):

Reported tip income of \$1,085.43

Less the \$315 the employer reported as paid to other employees and not received by the husband ( $\$1,085.43 - \$315 = \$770.43$ )

Equals \$770.43 actually received tip income

Multiplied by 2.15 because bi-weekly pay is subject to a 2.15 multiplier to get a true, full year average tip income. ( $\$770.43 \times 2.15 = \$1,656.42$ )

Resulted in prospective actual gross tip income per month of \$1,656.42.

6. The Eligibility Technician calculated Claimant’s husband’s regular wage income using the information from Claimant’s April 11, 2011 application (Ex. 2.4) and the wage rate from the March 20, 2011 earnings statement (Ex. 2.12):

Weekly hours of 32 hours

Multiplied by the husband’s wage rate of \$8.75 per hour

Multiplied by 4.3 because every month is attributed 4.3 weeks to get a true, full year average wage ( $32 \times \$8.25 \times 4.3 = \$1,135.20$ )

Resulted in prospective average gross income per month of \$1,135.20.

7. The arithmetic total is \$1,135.20 of wages + \$1,656.42 of tips = \$2,791.42 gross monthly income.<sup>2</sup> (Ex. 2.0; *see* Exhibit 3.0) The Eligibility Technician determined Claimant was not financially eligible for Family Medicaid or CAMA benefits because her family's total monthly income exceeded the eligibility limits for both Family Medicaid and CAMA.<sup>3</sup> (Ex. 2.0; Ex. 3.0-3.1)

8. On April 12, 2011, the Division sent a written notice informing Claimant her application for Family Medicaid had been denied because her family's "Medicaid countable income" was "\$2701.62" which exceeded the \$1,627.00 "Medicaid income limit for your household size." (Ex. 3.0)

9. On April 12, 2011, the Division sent a written notice informing Claimant her application for Chronic and Acute Medical Assistance (CAMA) had been denied because "\$2791.00 is your household's net countable income"<sup>4</sup> which exceeded the \$600.00 "CAMA income limit for your household size of 4." (Ex. 3.1)

10. The March 20, 2011 earning statement showed income for overtime work but this income was not included in calculating the husband's income by the Eligibility Technician. (Exs. 2.0, 2.12) The inclusion of income from overtime work would not have changed the determination that Claimant's family had monthly income in excess of the amount allowed to be eligible for either Family Medicaid or CAMA. (Hearing Representative's testimony)

11. In preparing this case for the Fair Hearing, the Division's Hearing Representative learned Claimant's husband had been working at another job not disclosed on Claimant's April 11, 2011 application or during Claimant's eligibility interview on April 11, 2011. (Hearing Representative's testimony) Further investigation revealed Claimant's husband had been paid on April 3, 2011 the sum of \$123 for 10.25 hours work and on April 10, 2011 the sum of \$181 for 14.25 hours work. (Ex. 5.1) Claimant's husband earned this money working "on-call" for **Kelly Services, Inc.** The work hours were unpredictable, and he worked these hours in addition to his full-time, regular employment because the family needed money. (Claimant's husband's testimony) The inclusion of income from the second job would not have changed the determination that Claimant's monthly income exceeded the maximum allowed for a family of four for both the Family Medicaid and CAMA programs. (Hearing Representative's testimony)

12. In addition, the Hearing Representative spoke with Claimant on April 25, 2011 and learned Claimant's husband had increased his work hours from 32 hours weekly to 35 hours weekly. (Hearing Representative's testimony) The inclusion of income from the additional hours of work would not have changed the determination that Claimant's family income

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<sup>2</sup> The Eligibility Technician's case note does not reflect the total income on which her determination was based, only the separately identified wage and tip income. (Ex. 2.0)

<sup>3</sup> The Eligibility Technician's case note shows only that the application was denied for "EG", which is understood to mean excessive gross income. (Ex. 2.0) This is incorrect, as discussed below. The notices of April 12, 2011 did not specify if it was Claimant's gross or net income that made her not eligible. (*See* Ex. 3.0, 3.1)

<sup>4</sup> In fact, \$2,791.00 is the family's gross monthly income.

exceeded the maximum allowed for a family of four for both the Family Medicaid and CAMA programs. (Hearing Representative's testimony)

## **PRINCIPLES OF LAW**

### **Burden of Proof and Standard of Proof**

“Ordinarily the party seeking a change in the status quo has the burden of proof.” *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). The standard of proof in an administrative proceeding is a “preponderance of the evidence,” unless otherwise stated. *Amerada Hess Pipeline Corp. v. Alaska Public Utilities Com’n*, 711 P.2d 1170, 1183 (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).

### **Family Medicaid**

Medicaid was established by Congress in 1965 by Title XIX of the Social Security Act to assist qualifying low income individuals and families to obtain medical assistance by providing financial payment for certain medically related needs. 42 USC § 1396 *et. seq.* Regulations concerning Medicaid are found in the Code of Federal Regulations (C.F.R.) at Title 42, Part 435 and Title 45, Part 233. The Medicaid Program's general eligibility requirements are in regulations 42 C.F.R. §§ 435.2 – 435.1102.

The State of Alaska, through the Department of Health and Social Services (DHSS), provides medical assistance to needy persons who are eligible. AS 47.07.010; AS 47.07.020. It does this, in part, by participating in the national medical assistance program provided by 42 U.S.C. 1396 – 1396p, (Title XIX of the Social Security Act), which provides grants to states for medical assistance programs, including Medicaid. Alaska regulations implementing the federal Medicaid programs are found at 7 Alaska Administrative Code Chapters 43 and 100 (7 AAC 43 and 7 AAC 100).

Medicaid funds provide benefits to needy and low income persons through a variety of programs. See 7 AAC 100.002. Financially eligible households that include minor children may qualify to obtain Family Medicaid benefits. See 7 AAC 100.002(a)(1)(B); 7 AAC 100.100-100.199. Regulation 7 AAC 100.102, titled “Determining Eligibility,” provides in relevant part:

(c) A household is financially eligible if . . . (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 established in 7 AAC 100.190 for the household's size and type; . . .

7 AAC 100.150(b), titled “Availability of Income,” provides in relevant part that, “Except as otherwise provided in this chapter, the department will determine the availability of income to a Family Medicaid household as follows: (1) the income of a parent who resides with that parent’s dependent child is available to the dependent child . . . .”

7 AAC 100.158(b) specifies that “earned income is gross income . . . before any deductions are made for the cost of earning that income, including taxes, child care, or transportation expenses. . . .” Subsection (d) specifies that “unearned income is gross income” that is not included in earned or self-employment income and includes “social security payments, . . . unemployment compensation, . . . child support, . . . [and] payments from any type of cash assistance program. . . .”

7 AAC 100.160 lists types of income which are exempt or not-counted for purposes of the Family Medicaid Program. None of the types of exempt income are applicable to the facts of this case.<sup>5</sup>

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

(c) . . . In determining the amount of income anticipated to be received, the department may average the monthly income received from the source in previous months.

(d) If income from a source is received on a weekly or biweekly basis, the department will estimate the anticipated monthly income by multiplying weekly amounts by 4.3 and biweekly amounts by 2.15.

7 AAC 100.180, “Income eligibility determinations” provides in relevant part:

(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.<sup>6</sup>

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<sup>5</sup> Claimant testified she had applied for “Social Security” but did not testify she was receiving benefits from Social Security. If Claimant received or was receiving Supplemental Security Income payments, these payments would not be included in the household income. 7 AAC 100.162(b)(2). In this case, the calculation of household income did not include income from Social Security in any form. See Exhibits 2.12; Finding of Fact numbers 2-7, 10.

(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 100.184, titled "Deductions from income," provides in relevant part:

In calculating a household's countable income under 7 AAC 100.180(b), the department will deduct (1) \$90 from the total gross monthly earned income of each individual included in the household who is employed . . . .

7 AAC 100.199 provides definitions in relevant part:

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;

(3) "earned income" means nonexempt gross income earned as an employee;

. . .

(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.

During the 2011 calendar year, the Family Medicaid gross income limit for a family of four (including at least one adult) is \$3,009.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Ex. 15)(*See also* <http://dpaweb.hss.state.ak.us/manuals/fam-med/fmem.htm>). During the 2011 calendar year, the Family Medicaid net income limit for a family of four (including at least one adult) is \$1,627.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Ex. 15) )(*See also* <http://dpaweb.hss.state.ak.us/manuals/fam-med/fmem.htm>).

#### Chronic and Acute Medical Assistance (CAMA)

Persons who are not eligible for Family Medicaid benefits may be eligible for Chronic and Acute Medical Assistance (CAMA) benefits. The CAMA program provides limited medical care for individuals with specifically covered medical conditions. 7 AAC 48. 500 - 48.598. The purpose of the CAMA program is to "pay health care providers who provide covered medical services to eligible chronically ill, needy persons suffering from certain chronic or acute medical conditions who are not eligible for Medicaid. . . ." 7 AAC 48.500.

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<sup>6</sup> Regulation 7 AAC 100.186 pertains to a deduction for the "anticipated cost for the care of a child or incapacitated parent whose financial needs are included in the Family Medicaid eligibility determination" subject to specified limitations. This regulation does not apply to the facts of this case.

Regulation 7 AAC 48.540 provides that eligibility for CAMA benefits depends on meeting 7 general factors of eligibility, including strict financial and resource limits, and other requirements. 7 AAC 48.525. An applicant for CAMA benefits “shall demonstrate financial need in accordance with 7 AAC 47.150(b)-(c) and 7 AAC 47.155....<sup>7</sup>”

Regulation 7 AAC 47.150(b) provides that a family of 4 persons does not meet the “need standard” if their monthly net income exceeds \$600. (*See also* Exhibit 8; [http://dpaweb.hss.state.ak.us/main/manual/cama/cama\\_man2.pdf](http://dpaweb.hss.state.ak.us/main/manual/cama/cama_man2.pdf)) “Monthly net income” is determined by

(1) counting all income earned or unearned, from any source, except payments from the Alaska Native Claims Settlement Act, received during the calendar month in which application is made, and all income reasonably expected to be received in time to meet the specific needs (income received weekly is multiplied by 4.3, that received every two weeks by 2.15, ....);

(2) subtracting all payroll deductions required by the employer...and ... voluntary health insurance premiums which are paid for persons included in the household....

### General Legal Principles

“Administrative agencies are bound by their regulations just as the public is bound to them.” *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851(Alaska 2010).

The authority of the Office of Hearings and Appeals is limited by regulation 7 AAC 49.170, providing, in relevant part:

Except as otherwise specified in applicable federal regulations ... the role of the hearing authority is limited to the ascertainment of whether the laws, regulations, and policies have been properly applied in the case and whether the computation of the benefit amount, if in dispute, is in accordance with them.

## ANALYSIS

### I. Issue

On April 12, 2011, was the Division correct to deny Claimant’s application for Family Medicaid benefits and for Chronic and Acute Medical Assistance (CAMA) benefits because Claimant had income in excess of the amount allowed to be eligible for benefits in each program?

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<sup>7</sup> Regulation 7 AAC 47.155 pertains to general relief medical assistance and is not applicable to the facts of this case.



## II. Burden of Proof and Standard of Proof

Claimant has the burden of proof by a preponderance of the evidence because she is applying for benefits and therefore seeking to change the status quo.

## III. Calculations of Claimant's Income

Claimant is an unemployed adult in a two parent, two child family whose husband is the sole source of income. The Eligibility Technician used Claimant's husband's earnings statement dated March 20, 2011, adjusted by the information supplied by Claimant and Claimant's husband's employer, to determine the family's income. The Eligibility Technician applied the family's income to the maximum monthly income eligibility limit for the Family Medicaid and CAMA programs. Each program has different rules governing financial eligibility for program benefits.

### A. Calculation of gross monthly income.

The Eligibility Technician used Claimant's husband's March 20, 2011 earnings statement as the basis for determining the family's prospective monthly gross income. The earnings statement showed two sources of income: tips and wages. The Eligibility Technician's calculation of these two<sup>8</sup> income sources resulted in a total prospective gross monthly family income of \$2,791.42. The Eligibility Technician correctly applied this prospective gross monthly income to determine Claimant's ineligibility for Family Medicaid and CAMA benefits.

#### 1. Tip income

Claimant informed the Eligibility Technician that her husband's tip income as shown on the earnings statement was not actually received and therefore was overstated. The Eligibility Technician adjusted the information on the earnings statement after talking with Claimant's husband's employer and verifying that the reported tip income was inaccurate. The employer calculated that Claimant's husband was not paid \$315 of the reported tip income.

The Eligibility Technician calculated the husband's actual tip income by deducting \$315 from the reported tip income of \$1,085.43 and attributing to the husband \$770.43 of actual tip income.

The Eligibility Technician then used the \$770.43 of actually received tip income as the basis for prospectively determining gross monthly tip income. After adjusting the actually received tip income by the multiplier of 2.15 for the bi-weekly pay period, the Eligibility Technician determined Claimant's actual monthly tip income to be \$1,656.42.

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<sup>8</sup> The Eligibility Technician omitted the overtime wages from the income because she calculated income by multiplying regular hours per week worked by hourly wage.

## 2. Wage income

The Eligibility Technician determined wage income by calculating the hours per week worked (32) multiplied by the wage per hour (\$8.75) and multiplied by the multiplier of 4.3 for the weekly pay period to yield prospective gross monthly wage income of \$1,135.20. (Exhibit 2.0)

The Eligibility Technician determined the family's total prospective gross monthly income to be the sum of actual tips of \$1,656.42 plus regular wage income of \$1,135.20 for a total income of \$2,791.42.

### B. Failure to include income from part-time employment and overtime.

The Division's calculation of actual income received by Claimant was understated to the extent that overtime pay and income from the husband's additional part-time job was not included in the totals. The Division's Hearing Representative argued that incorporating Claimant's husband's income from his additional, part-time job and his overtime income would not change the determination that Claimant's income exceeded the income limits for Family Medicaid and CAMA. This argument is correct. Even without considering overtime income or additional part-time income, Claimant's income exceeded the eligibility limits of both Family Medicaid and CAMA programs.

## IV. Family Medicaid

A family of four persons, as in this case, is not eligible for Family Medicaid benefits if the family's gross income exceeds \$3,009 per month or the family's "countable" income exceeds \$1,627 per month. 7 AAC 100.102(c); 7 AAC 100.180. "Countable income" under the facts of this case is the total monthly income less all applicable deductions and disregards from income under 7 AAC 100.184.

The Division must deduct \$90 from the monthly earned income of each employed person in the household. 7 AAC 100.184. Earned income is included in gross income. 7 AAC 100.158(b); 7 AAC 100.199.

The Eligibility Technician determined Claimant's gross monthly income to be \$2,791.42. In deriving the "countable" monthly income for purposes of eligibility for Family Medicaid benefits, a standard deduction of \$90 is applied for each employed person in the family. 7 AAC 100.184. Only Claimant's husband is working. The Eligibility Technician correctly determined that Claimant's prospective gross income of \$2,791.42 should be reduced by the \$90 standard deduction for purposes of determining Family Medicaid eligibility pursuant to 7 AAC 100.184. This resulted in a correct monthly "countable" income of \$2,701.42.

The April 12, 2011 notice informing Claimant her application for Family Medicaid had been denied because "your monthly countable income is more than the limit for this program" did not specify how the "countable" income amount was derived. However, the April 12, 2011 notice references the gross monthly income of \$2,791.42 less the \$90 standard deduction resulting in a balance of \$2,701.62. The Eligibility Technician correctly determined that \$2,701.62 exceeds

the \$1,627.00 Family Medicaid income limit for a family of four persons. 7 AAC 100.190; *see* Family Medicaid Income Standards for 2011 at Ex. 15.

Therefore, Claimant did not meet the income eligibility requirements to qualify for Family Medicaid.

#### V. Chronic and Acute Medical Assistance (CAMA).

The CAMA program benefits are not available to a family of four persons with net monthly income in excess of \$600 per month. 7 AAC 47.150.

When calculating an applicant's monthly income for purposes of eligibility for CAMA benefits, monthly net income must be determined. 7 AAC 47.150(b). Gross income includes all income from any source excluding only payments from the Alaska Native Claims Settlement Act. 7 AAC 47.150(c)(1). After the gross income has been determined, it must be reduced by all payroll deductions required by the employer and by the voluntary insurance premiums for persons in the household to determine monthly net income. 7 AAC 47.150(c)(2).

The April 12, 2011 notice informed Claimant she was not eligible for CAMA because "\$2,791.00 is your household's net countable income." This statement is not correct. The \$2,791.00 represents the household's prospective monthly gross income. The Eligibility Technician reached this total by calculating prospective tip income and adding the prospective gross wages earned by Claimant's husband. See Finding of Fact 5, 6, 7. The Eligibility Technician calculated the gross wage income as \$8.75 per hour multiplied by 32 hours per week multiplied by 4.3 weeks per month. This meets the requirement of 7 AAC 47.150(c)(1).

However, the Eligibility Technician did not calculate the family's net income, which is required to be compared with the CAMA family "need standard." 7 AAC 47.150(b),(c). Net income is derived by subtracting the deductions required by 7 AAC 47.150(c)(2) from the gross income of (c)(1). Otherwise stated, the Eligibility Technician did not subtract all payroll deductions required by the employer from the gross wages to correctly determine if the family's net income exceeded the "need standard."

The Eligibility Technician did not use the March 20, 2011 earnings statement net pay amount to calculate the family's net income and did not include the payroll deductions from that statement when determining eligibility. To derive a correct net monthly income, the Eligibility Technician also should have calculated the prospective equivalent tax and other payroll deductions applicable to the prospective gross wage income and deducted them from gross monthly income. This was not done. Instead, Claimant was denied eligibility incorrectly, based on gross monthly income when monthly net income is what should have been compared to the CAMA "need standard."

As discussed above, to determine if Claimant's family's net income exceeds the "need standard" for purposes of CAMA eligibility, the gross wages must be reduced by payroll deductions. 7 AAC 47.150(b),(c). The March 20, 2011 earnings statement shows payroll deductions for taxes of \$374.34. (Ex. 2.12) However, the \$374.34 includes taxes on the reported tip income of

\$1,085.43 and the overtime wages of \$38.87, which were not fully included in the gross income determination.

Consequently, the amount of taxes deducted from gross income on the March 20, 2011 earnings statement is overstated, as compared with the taxes which would have been applicable to gross income consisting only of the prospectively calculated wage and tip income used by the Eligibility Technician. For this reason, the \$374.34 of taxes deducted on the March 20, 2011 earnings statement is not an accurate amount to deduct from the family's gross income, when calculating the family's net monthly income for CAMA eligibility purposes.

Therefore, to make a correct determination of the amount of deductions from the prospective gross income to determine monthly net income, one of two methods must be followed. One method is to deduct the correct payroll taxes from the gross income of \$2,791.43 and see if the balance exceeds \$600.

The other method is to use the March 20, 2011 earnings statement net pay of \$279.40,<sup>9</sup> added to the \$770.43 of actual tips for the pay period, resulting in a total actual bi-weekly income of \$1,049.83. This methodology subtracts the payroll deductions from the gross wages as required by 7 AAC 47.150(c)(2). However, it still overstates the tax deductions because the deductions were calculated on \$1,085.43 of tip income and on overtime income. Giving Claimant the benefit of the overstated tax deductions nonetheless results in monthly net income of \$2,099.66 (\$1,049.83 bi-weekly x 2 = \$2,099.66). This monthly net income of \$2,099.66 exceeds the "need standard" of \$600 for a family of four persons. 7 AAC 47.150(b).

Claimant is not eligible for CAMA benefits because her family's monthly net income of \$2,099.66 exceeds the "need standard" for a family of four of \$600 per month.

#### VI. Claimant's Arguments that Family Income is too Low to Pay for Her Medical Care.

Claimant argued it is a hardship for Claimant to be denied Family Medicaid benefits and CAMA benefits when the family income is "below the poverty line for Alaska" and can't afford to pay for their medical costs. (Claimant's testimony) Because of these needs, Claimant argues, she should be awarded some public assistance.

The Medicaid program is a federal program administered pursuant to specific laws and regulations which cannot be changed or disregarded, absent legislation or rule-making. The administration of the federal Medicaid program by the State of Alaska requires the State to abide by and implement the federal laws and regulations. The Division of Public Assistance does not have the authority to create an exception to the law concerning Medicaid and is required to implement the law as it exists. "Administrative agencies are bound by their regulations just as the public is bound to them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868-869 (Alaska 2010).

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<sup>9</sup> Recall that the reported tip income of \$1,085.43 was deducted from the current pay as an adjustment to Net Pay on the earnings statement. (Ex. 2.12) See Finding of Fact 2.

Moreover, the authority of the Office of Hearings and Appeals is limited to the scope identified in 7 AAC 49.170, that provides, in relevant part:

Except as otherwise specified in applicable federal regulations ... the role of the hearing authority is limited to the ascertainment of whether the laws, regulations, and policies have been properly applied in the case and whether the computation of the benefit amount, if in dispute, is in accordance with them.

The Office of Hearing and Appeals cannot deviate from its application of the facts to the statutes and regulations governing the administration of the Medicaid program, and has no authority to create exemptions from the requirements of the law for any reason(s).

Claimant did not meet her burden of proving she was eligible for Family Medicaid or CAMA or that the Division erred in denying her April 12, 2011 application for benefits from these programs.

### **CONCLUSIONS OF LAW**

1. On April 12, 2011, the Division correctly denied Claimant's application for Family Medicaid because Claimant's monthly countable income of \$2,701.62 exceeded the Family Medicaid monthly income eligibility limit of \$1,627 for a four person household. 7 AAC 100.180.
2. The Division correctly denied Claimant's April 11, 2011 application for Chronic and Acute Medical Assistance because her family's monthly net income exceeded the "need standard" eligibility limit of \$600 for a four person household. 7 AAC 47.150.

### **DECISION**

On April 12, 2011, the Division was correct to deny Claimant's application for Family Medicaid and Chronic and Acute Medical Assistance benefits because Claimant's monthly income exceeded the income eligibility limits for each program.

### **APPEAL RIGHTS**

If for any reason Claimant is not satisfied with this decision, Claimant has the right to appeal by requesting a review by the Director. An appeal 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, Claimant must 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

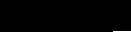
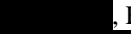
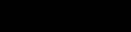
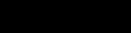
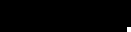

DATED this July 12, 2011.

/signed/  
\_\_\_\_\_  
Claire Steffens  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on July 12, 2011 true and correct  
copies of the foregoing were sent to:  
Claimant, Certified Mail, Return Receipt Requested.

and to other listed persons (via e-mail), as follows:

, Hearing Representative  
, Hearing Representative  
, Chief, Policy & Program Dev.  
, Administrative Assistant II  
, Eligibility Technician I  
, Staff Development & Training

/signed/  
\_\_\_\_\_  
J. Albert Levitre, Jr., Law Office Assistant I