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**STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
OFFICE OF HEARINGS AND APPEALS**

In The Matter Of:)
)
 [REDACTED],) OHA Case No. 11-FH-175
)
 Claimant.) DPA Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) completed and signed an application for Family Medicaid Program benefits on March 22, 2011 (Exs. 2.0 – 2.9). The State of Alaska Department of Health and Social Services, Division of Public Assistance (DPA or Division) received the Claimant’s application on March 28, 2011 (Exs. 1, 4). On March 31, 2011 the Division mailed a notice to the Claimant stating that her household’s application for Family Medicaid benefits had been denied because her household’s countable monthly income exceeded the Family Medicaid Program’s applicable maximum income limit (Ex. 4). The Claimant submitted a Fair Hearing Request to the Division on April 29, 2011 (Ex. 5).

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

The Claimant’s hearing was held on June 8, 2011 before Hearing Examiner Jay Durych. The Claimant participated in the hearing by telephone, represented herself, and testified on her own behalf. [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 and the case became ripe for decision.

ISSUE

Was the Division correct when, on March 31, 2011, it denied the Claimant’s application for Family Medicaid Program benefits dated March 22, 2011, 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's financial eligibility calculations in this case were mathematically correct, and the Division applied the correct income standards. The Claimant's monthly countable household income of \$2,588.60 exceeds the Family Medicaid Program's monthly net income limit of \$1,301.00 for a household of two persons containing at least one adult.

Neither the Division nor this Office has the authority to make exceptions to the Family Medicaid Program's financial eligibility requirements. Accordingly, the Division was correct when on March 31, 2011 it denied the Claimant's March 22, 2011 application for Family Medicaid benefits.

FINDINGS OF FACT

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

1. The Claimant's household consists of a total of four (4) persons (Exs. 1, 2.1). These four persons are the Claimant, the Claimant's husband, and their two (2) minor children (Exs. 1, 2.1). Only one of the minor children in the Claimant's household is the Claimant's biological child (Division Hearing Representative's testimony).¹
2. On March 22, 2011 the Claimant completed and signed an application for Family Medicaid and certain other benefits not at issue in this case (Exs. 2.0 – 2.9). The Claimant's application sought benefits for her entire four (4) person household (Ex. 2.1).² The Claimant's application was received by the Division on March 28, 2011 (Exs. 1, 4).
3. The Claimant reported on her application that her household's sole sources of income were child support and unemployment insurance benefits (Ex. 2.3). Specifically, the Claimant stated in her application that she received \$334.00 per week in unemployment insurance benefits, and that her husband received \$258.00 per week in unemployment insurance benefits (Ex. 2.3). The Claimant provided no specific information as to the amount of child support received (Ex. 2.3).
4. The income counted by the Division, in determining the Claimant's household's financial eligibility for Family Medicaid benefits, was as follows (Ex. 3, DPA Hearing Representative's testimony):

¹ Whether a child is a parent's biological child, legally adopted child, or step-child, is relevant to determining the size of the household for purposes of Family Medicaid eligibility (see Principles of Law, below).

² At page 2 of the Division's application form (Ex. 2.1) the form states, "[c]omplete these sections *only for those who need benefits*" [emphasis added]. *Four persons* – (two adults and two children) – are specifically listed after that statement. However, Claimant's two children were already receiving Denali KidCare Medicaid benefits (Claimant testimony). Accordingly, when the Claimant submitted her application for Family Medicaid for her four-person household, the Division treated the application as one seeking Family Medicaid benefits solely for the Claimant and her husband (i.e. for a two- person household).

a. The Claimant's unemployment insurance benefits in the gross amount of \$334.00 per week (\$1,436.20 per month).³

b. The Claimant's husband's unemployment insurance benefits in the gross amount of \$268.00 per week (\$1,152.40 per month).⁴

5. Based on the income referenced in Paragraph 4, above, the Division calculated that the Claimant's household's total gross monthly household income was \$2,588.60 (Ex 4, DPA Hearing Representative's testimony).

6. On March 31, 2011 the Division mailed a notice to the Claimant stating that her household's application for Family Medicaid Program benefits had been denied (Ex. 4). The notice stated in relevant part as follows [text format condensed for brevity; some abbreviations spelled out for clarity]:

Your Medicaid application received in our office on March 28, 2011 is denied because your monthly countable income is more than the limit for this program.

\$2,588.60 is the Medicaid countable income for your household. \$1,301.00 is the Medicaid income limit for your household size.

.....

Family Medicaid Manual Sections 5020, 5160, and 5172; Medicaid Aged, Disabled, and Long-Term Care Manual Sections 523 and 550-C; and Adult Public Assistance Manual Section 451-3 support this action.

The income counted in the above determination includes the following: [Claimant's] unemployment from the State of [REDACTED] [in the amount of] \$334.00 per week, and [Claimant's husband's] unemployment from the State of [REDACTED] [in the amount of] \$268.00 per week.⁵

7. The \$1,301.00 income eligibility limit referenced in the Division's eligibility denial notice dated March 31, 2011 (Exhibit 4, quoted above), is the Family Medicaid net income limit for a household consisting of two persons, (including at least one adult), during the 2011 calendar year. See 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Exs. 16, 22).

³ Pursuant to 7 AAC 100.168(d), the Division multiplied the Claimant's weekly unemployment insurance benefits of \$334.00 by 4.3 to obtain the monthly total of \$1,436.20 (Ex. 3).

⁴ Pursuant to 7 AAC 100.168(d), the Division multiplied the Claimant's husband's weekly unemployment insurance benefits of \$268.00 by 4.3 to obtain the monthly total of \$1,152.40 (Ex. 3).

⁵ The notice (Ex. 4) does not explicitly state whether the Claimant's household was being considered as a two-person household or as a four person household, or why the Division reached its conclusion regarding household composition. However, at the hearing, the parties' testimonies confirmed that, because the Claimant's two children were covered under the Denali KidCare Program, the Division had considered the Claimant's Family Medicaid application as seeking benefits for the two remaining family members (i.e. the Claimant and her husband). Accordingly, the Division quoted the income limit for a two-person household in its notice.

8. At the hearing of June 8, 2011 the Claimant credibly testified in relevant part as follows:

a. She has a number of serious health problems including degenerative bone disease, arthritis, spondylothesis, fibromyalgia, chronic pain, and severe depression and anxiety. As a result, she has substantial medical bills. The cost of two of her prescriptions alone total \$500.00 per month.

b. In October 2010 she had back surgery. She had a titanium rod affixed to her spine. Now, her body is rejecting the hardware and she needs to have another surgery, which she cannot afford without Medicaid. If she does not have the surgery she could become paralyzed.

c. She has a \$1,000.00 per month house payment, as well as two children to feed and clothe.

d. Her children receive Denali Kidcare, for which she is grateful.

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.⁶ In this case the Claimant is attempting to change the status quo or existing state of affairs by obtaining Family Medicaid benefits. Accordingly, the Claimant 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.⁷ 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.⁸

II. The Medicaid Program – 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).

⁶ *State of Alaska Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985).

⁷ 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).

⁸ *Black's Law Dictionary* at 1064 (West Publishing, 5th Edition, 1979).

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.

III. Family Medicaid – Regulations Pertaining to Household Composition and Financial Eligibility.

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.*

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

(a) To determine eligibility for Family Medicaid, the department will first determine who is in the Family Medicaid household under (b) of this section and then determine if the household is financially eligible under (c) of this section.

(b) A Family Medicaid household is the combination of individuals whose financial needs the department considers for the purpose of determining eligibility. A Family Medicaid household includes (1) all mandatory members of the household as described in 7 AAC 100.104; (2) optional members of the household who may be included in the household under 7 AAC 100.116; and (3) any individual who is required to have the individual's financial needs, income, and resources included in the financial eligibility determination, even though that individual does not receive Medicaid benefits for reasons identified in 7 AAC 100.120(b).

(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 established in 7 AAC 100.190 for the household's size and type.

(d) If the department determines that a household is financially eligible under (c) of this section, and the household is otherwise eligible under 7 AAC 100.100 - 7 AAC 100.199, the household is eligible to receive Family Medicaid benefits under this chapter.

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:

- (1) a dependent child; to be determined a dependent child, an individual must be deprived of parental support and care under 7 AAC 100.106, and must be (A) under 18 years of age
- (2) except as provided in 7 AAC 100.120(a)(6), a sibling of a dependent child under (1) of this subsection if the sibling is also a dependent child;
- (3) a parent of a dependent child under (1) of this subsection

7 AAC 100.106, titled “Deprivation,” provides in relevant part as follows:

(c) A child living in a two-parent home is deprived of parental support and care because of deficient employment . . . if one or more of the following circumstances exists: (1) the household income does not exceed the Family Medicaid need standard established in 7 AAC 100.190

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

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

(a) In addition to the mandatory members of the household identified in 7 AAC 100.104, one or more of the following individuals, if the individual chooses to apply, may be included in a Family Medicaid household if everyone is living in the same home: (1) any dependent child who is separately eligible for Family Medicaid; (2) any caretaker relative and dependent child, who are separately eligible for Family Medicaid; (3) any child of the caretaker relative who meets age and deprivation requirements under 7 AAC 100.104 and 7 AAC 100.106.

(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:

(b) Any of the following individuals living in the same home as a dependent child is included in the Family Medicaid household, and the individual's financial needs, resources, and income count for the purposes of determining Family Medicaid eligibility for the household, but the individual is not entitled to receive Family Medicaid benefits (2) the parent of a dependent child, if the parent is ineligible because of income deemed from a spouse who is only a stepparent to the dependent child

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

(b) Except as otherwise provided in this chapter, the department will determine the availability of income to a Family Medicaid household as follows (6) income received by a spouse is available to the other spouse if the couple lives together; (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 100.158, titled “Types of Income,” provides in relevant part as follows:

(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 . . . (4) unemployment compensation (6) child support

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

(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 100.178, 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.

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

7 AAC 100.184 provides certain limited income deductions for persons who are employed, and for persons paying child support. None of these deductions apply under the circumstances of this case.

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 2011 calendar year, the Family Medicaid *gross income limit* for a household of two, containing of at least one adult, is \$2,406.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Exs. 16, 22). During the 2011 calendar year, the Family Medicaid *net income limit* for a household of two is \$1,301.00. *Id.*

During the 2011 calendar year, the Family Medicaid *gross income limit* for a family consisting of two adults and two children is \$3,009.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual,

Addendum 2 (Exs. 16, 22). During the 2011 calendar year, the Family Medicaid *net income limit* for a household consisting of two adults and two children is \$1,627.00. *Id.*

IV. Other Legal Principles Applicable to This Case.

“Administrative agencies are bound by their regulations just as the public is bound by them.” *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

State of Alaska Fair Hearing regulation 7 AAC 49.170 provides in relevant part that “the role of the hearing authority (i.e. the Office of Hearings and Appeals) 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

Introduction; Definition of Issues; Burden of Proof.

The Claimant asserts that she has serious medical problems and thus a great need for Medicaid benefits. This was not disputed by the Division. However, the Claimant did not assert that the Division’s mathematical calculations regarding the Claimant’s household’s monthly income were in any way not correct, or that the Division applied an incorrect net income standard in making its Family Medicaid income eligibility determination.

The Division asserts that it was correct to deny the Claimant’s application for Family Medicaid benefits based on the assertion that the Claimant’s household’s monthly income exceeded the Family Medicaid Program’s applicable maximum monthly net income limit.

There are no disputed factual issues in this case. Accordingly, the correctness of the Division’s decision can be determined simply by applying the applicable financial eligibility regulations to the undisputed facts.

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

The Division denied the Claimant’s application for Family Medicaid Program benefits based on the assertion that the Claimant’s household’s income exceeded the Family Medicaid Program’s applicable net income limit.⁹ 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

⁹ The notice sent to Claimant referred only to the net monthly income limit, which is \$1,301.00. *See* ex. 4. The gross monthly limit was not mentioned. However, in reviewing the Division’s determination, it will be necessary to review the applicable gross monthly limit, which is the first step in determining eligibility, before considering net monthly income limit.

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.*

The income counted by the Division, in determining the Claimant's household's financial eligibility for Family Medicaid benefits, consisted of (a) the Claimant's unemployment insurance benefits in the gross amount of \$334.00 per week (\$1,436.20 per month); and (b) the Claimant's husband's unemployment insurance benefits in the gross amount of \$268.00 per week (\$1,152.40 per month). (Ex. 3, DPA Hearing Representative's testimony). Based on these figures, the Division correctly calculated that the Claimant's total gross monthly household income was \$2,588.60 (Ex 4, DPA Hearing Representative's testimony).

Because the Claimant's two children were already receiving Denali KidCare Medicaid benefits, the Division treated the Claimant's application as one seeking Family Medicaid benefits solely for the Claimant and her husband (i.e. for the remaining two-person household). During the 2011 calendar year, the Family Medicaid *gross income limit* for a household of two, containing at least one adult, is \$2,406.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Exs. 16, 22). The Claimant's household's monthly gross income of \$2,588.60 exceeds the Family Medicaid gross income limit for a household of two (\$2,406.00) by approximately \$180.00.

Alternatively, the Division could have processed the Claimant's application as one for a four (4) person household. *See* 7 AAC 100.102(b); 7 AAC 100.104(a); 7 AAC 100.114(e); 7 AAC 100.116(a-b); 7 AAC 100.120(b); 7 AAC 100.150(b); and 7 AAC 100.178(a, c) (set forth in the Principles of Law, above). However, this would not have made any difference.

During the 2011 calendar year, the Family Medicaid gross income limit for a family of four consisting of two adults and two children is \$3,009.00. *See* 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2 (Exs. 16, 22). The Claimant's household's monthly gross income of \$2,588.60 is less than \$3,009.00, and the Claimant's household therefore *passes* the gross income test. However, the Division must next consider whether Claimant's monthly household income exceeds the program net monthly income limit.

Because the Claimant's household income consist of unearned income (unemployment benefits), there were no deductions from gross income pursuant to 7 AAC 100.184 (see Principles of Law, above).¹⁰ Accordingly, her net household monthly income is the same as her gross household monthly income. During the 2011 calendar year, the Family Medicaid *net income limit* for a four-person household consisting of two adults and two children is \$1,627.00. *Id.* The Claimant's household's monthly net income of \$2,588.60 exceeds the Family Medicaid net monthly income limit for a household of four (\$1,627.00) by approximately \$960.00.

¹⁰ This regulation also provides for a deduction when child support payments are made by a household member whose income is considered for determining program eligibility. There was no evidence showing that the Claimant or her husband was paying child support. Therefore, this deduction was not available for this household.

II. Does the Division Have the Power to Make Exceptions to Avoid Hardship in Certain Cases?

The Claimant's primary complaint regarding the Division's financial eligibility determination is that it does not seem fair given her serious medical problems (*see* Findings of Fact at Paragraph 8, above). It is not disputed that the Claimant has a significant need for medical services. It is also not disputed that the Claimant's household's financial resources are limited. However, the Division is not at liberty to ignore its own policies or regulations.¹¹ Likewise, this Office does not have the authority to create an exception to a valid policy or regulation.¹²

In summary, neither the Division nor this Office has the discretion to relax or disregard the Family Medicaid Program's financial eligibility requirements. The Division was therefore correct when, on March 31, 2011, it denied the Claimant's application for Family Medicaid Program benefits dated March 22, 2011, because the Claimant's household's monthly income exceeded the Family Medicaid Program's applicable maximum monthly income limit.

CONCLUSIONS OF LAW

1. The Division correctly calculated the Claimant's household's monthly countable income to be \$2,588.60 pursuant to 7 AAC 100.168(d).
2. The Division correctly applied the relevant Family Medicaid income eligibility standards pursuant to 7 AAC 100.190 and Alaska Family Medicaid Manual, Addendum 2.
3. The Claimant's household's monthly countable income of \$2,588.60 exceeded the Family Medicaid Program's applicable maximum gross or/and net income limits, and the Division's financial eligibility determination was therefore correct.
4. Neither the Division nor this Office has the discretion to relax or disregard the Family Medicaid Program's financial eligibility requirements.

DECISION

The Division was correct when, on March 31, 2011, it denied the Claimant's application for Family Medicaid Program benefits dated March 22, 2011, because the Claimant's household's monthly income exceeded the Family Medicaid Program's applicable maximum monthly income limit.

¹¹ "Administrative agencies are bound by their regulations just as the public is bound by them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

¹² State of Alaska Fair Hearing regulation 7 AAC 49.170 provides in relevant part that "the role of the hearing authority (i.e. this Office) 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."

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 28th day of July, 2011.

/signed/

Jay Durych
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 28th day of July 2011 true and correct copies of the foregoing document were sent to the Claimant via USPS mail, and on July 29, 2011, to the remainder of the service list by secure / encrypted e-mail, as follows:

Claimant – Certified Mail, Return Receipt Requested

[REDACTED], DPA Hearing Representative
[REDACTED], DPA Hearing Representative

[REDACTED], Policy & Program Development
[REDACTED], Staff Development & Training
[REDACTED], Administrative Assistant II
[REDACTED], Eligibility Technician I

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