

assistance in August of 2013. Ms. W also testified, however, that Ms. N was not entirely sure what benefits she received in Michigan.⁴

During the interview, the eligibility technician called Michigan and confirmed that Ms. N still had an open public assistance case in Michigan for Food Stamps, Medicaid, and cash assistance.⁵ However, the eligibility technician did not record in the case notes precisely what type of benefits, if any, Ms. N continued to receive.

Ms. Gagne testified that she called the Michigan public assistance office and confirmed that state residency was an eligibility requirement in Michigan. After the first hearing, Ms. Gagne contacted the Michigan office again and obtained more information about the benefits Ms. N had received. She was told that the \$42 that Ms. N had reported receiving was actually \$14 per month for three months, and was a state supplemental income benefit paid to eligible Michigan residents similar to Alaska's APA benefits. Ms. Gagne submitted a supplemental exhibit from the Michigan Department of Human Services that shows Ms. N receiving \$14 per month state supplemental benefits through October 31, 2013.⁶

III. Discussion

A. Adult Public Assistance

Adult Public Assistance (APA) is available to older adults such as Ms. N who, among other requirements, are Alaska residents. For purposes of APA benefits, a resident means

a person who is living in the state voluntarily with the intention of making the state the person's home and who is not living in the state for a temporary purpose.^[7]

The division argues that Ms. N cannot be considered a state resident because she was still receiving benefits as a Michigan resident at the time she applied for Alaska benefits, and a person can only be a resident of one state at a time. This argument is consistent with Alaska's general residency statute which provides that a statute or regulation may require

⁴ Ms. N was not able to testify herself because of her age and memory issues.

⁵ *Id.*

⁶ Exhibit submitted on January 17, 2013.

⁷ AS 47.25.430(a).

proof of the intent to remain in Alaska, including proof that a person is not obtaining benefits under a claim of residency in another state.⁸

While there is no statute or regulation that requires an APA applicant to provide the type of proof described in AS 01.10.055(b)(2), an applicant must still be a resident of Alaska. Residency requires the intent to make Alaska the person's home. Evidence of continued receipt of benefits in another state, at least where receipt of those benefits is dependent on residency, is evidence that the applicant does not intend to make Alaska his or her home.

In this case, it is Ms. N's burden to prove that the division's decision was incorrect.⁹ Ms. N did not present any evidence that she took any affirmative step to sever her Michigan residency other than moving to Alaska.¹⁰ Instead, she continued to receive benefits from Michigan – benefits only available to Michigan residents. In the absence of any additional evidence of Ms. N's intent to become an Alaska resident, her continued receipt of Michigan benefits is at least as significant a factor as her move to Alaska. She did not meet her burden of proving that she was an Alaska resident, and therefore the division's denial of her Adult Public Assistance application is upheld.

B. Medicaid Benefits

A similar definition of state residency applies to Medicaid eligibility:

Except as otherwise provided in (c) of this section, a resident of the state is an individual who is physically present in the state and living in the state voluntarily with the intent to remain in the state permanently or for an indefinite period of time. The department will determine if an individual is a resident of the state using the methodology established in 42 C.F.R. 435.403, revised as of October 1, 2005, and adopted by reference.^[11]

The Medicaid regulations also specifically address Ms. N's situation:

(a) An applicant who has recently arrived in the state with the intent to remain and who is still receiving assistance from another state meets the residency requirement of 7 AAC 100.060. However, the department will not issue Medicaid benefits until Medicaid benefits from the other state are terminated, unless the department verifies that

⁸ AS 01.10.055(b)(2).

⁹ 7 AAC 49.135 (burden of proof on applicant when new benefits are denied).

¹⁰ While moving to a different state is evidence of an intent to change one's residence, not everyone who moves intends to change their state residency.

¹¹ 7 AAC 100.060(b). The exception in subsection (c) applies to individuals who plan to leave the state after a short period of time. That exception does not apply to Ms. N.

(1) the other state was unable to or did not stop the issuance of Medicaid benefits before the individual arrived in this state; and

(2) the applicant did not use the benefits issued from the other state to pay for any medical services provided in the month.

(b) Verification from the Medicaid agency in another state that the applicant has returned the applicant's Medicaid benefit card or other issued form to that state is adequate verification that the applicant has not used benefits in the other state.^[12]

Ms. N has recently arrived in Alaska however, as discussed above, her continued receipt of benefits in Michigan is an indication that she may not have formed the required intent to remain in Alaska. Ms. N did not meet her burden of proving that the division's denial of her application was incorrect.

IV. Conclusion

Ms. N did not meet her burden of proving that she had severed her residency in Michigan and established residency in Alaska. Accordingly, the division's decision denying her application is upheld.

Dated this 27th day of January, 2014.

Signed

Jeffrey A. Friedman

Administrative Law Judge

Adoption

The undersigned, by delegation from of the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 13th day of February, 2014.

By: *Signed*

Name: Ree Sailors

Title: Deputy Commissioner, DHSS

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

¹² 7 AAC 100.062 (emphasis added).