

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS  
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of: )  
 )  
 N X ) OAH No. 16-0147-MDS  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

N X requested a hearing because her application for General Relief Assisted Living Care (GR) assistance was denied. The Department of Health and Social Services, Division of Senior and Disabilities Services, at hearing, conceded that Ms. X met the eligibility requirements for the program. Because Ms. X is incarcerated and will be incarcerated through the first part of August 2016, although technically eligible, she may not receive GR benefits. Consequently, the Division’s denial is AFFIRMED.

**II. Facts**

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

Ms. X had a neuropsychological evaluation in 2011, which found that she had a mood disorder due to traumatic brain injury, learning disability, borderline intellectual functioning, unspecified anxiety state, and polysubstance abuse.<sup>1</sup> She applied for GR benefits in December 2015. A physician’s assistant signed the application, stating that Ms. X required “supervision and monitoring for appointments and medications.”<sup>2</sup> The Division denied the application at the end of January 2016.<sup>3</sup> Ms. X requested a hearing.

Ms. X is currently incarcerated. Her hearing began on May 3, 2016 and was continued until June 17, 2016. Ms. X represented herself. Darcie Shaffer represented the Division. Victoria Cobo and Lynn Thurston, both of whom are Division employees, along with N M from the Department of Corrections also participated. All of the participants attended telephonically.

At hearing, the Division conceded that Ms. X was technically eligible for GR assistance. However, this did not constitute an approval of her application because she was undisputedly incarcerated and, accordingly to Ms. X, not due to be released until early August 2016.

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<sup>1</sup> Exhibit E, p. 21.  
<sup>2</sup> Ex. E, p. 4.  
<sup>3</sup> Ex. D.

### III. Discussion

The GR program provides financial assistance to eligible adults “who require the protective oversight of an assisted living home.”<sup>4</sup> A recipient’s eligibility is reviewed “at least semiannually.”<sup>5</sup> The question in this case is not whether Ms. X is currently eligible for assistance; the Division conceded that she is eligible. However, as a practical matter, Ms. X does not require assisted living home benefits because she is currently incarcerated. Ms. X’s incarceration results in the conclusion that Ms. X, while meeting the technical requirements for eligibility, cannot satisfy the practical prerequisite that she be physically able to reside in an assisted living home.

### IV. Conclusion

The Division’s denial of Ms. X’s application for GR assistance is AFFIRMED. As discussed at length during the hearing, Ms. X can reapply for GR assistance before or at the time she is released from incarceration. If her new application is turned down, she can request a new hearing to challenge that denial.

DATED this 20th day of June, 2016.

*Signed*  
\_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

## Adoption

The undersigned, by delegation from 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 6th day of July, 2016.

By: *Signed*  
\_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge/OAH

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

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<sup>4</sup> 7 AAC 47.300(a).

<sup>5</sup> 7 AAC 47.400(c).