

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

In the Matter of)
)
 E M)
_____)

OAH No. 16-0529-MDS
Agency No.

DECISION

I. Introduction

E M applied for the General Relief Assisted Living Home Care Program following a fall in his home. The Alaska Division of Senior and Disabilities Services provisionally approved his application but then ultimately denied it because his financial resources exceeded the amount allowed by regulation. Because the undisputed facts indicate that Mr. M has countable resources that exceed the maximum allowed under the General Relief Assisted Living Home Care Program regulations, the Division’s denial of Mr. M’s application is AFFIRMED.

II. Facts

Mr. M was seriously injured when he fell in his home. He was hospitalized. He applied for the General Relief Assisted Living Home Care Program and was released to an assisted living home after his application was provisionally approved.¹ On May 2, 2016, the Division denied Mr. M’s application because his countable resources, specifically a Merrill-Lynch retirement account, were greater than allowed.²

Mr. M requested a hearing. His hearing was held on June 15, 2016. Mr. M represented himself. Fair Hearing Representative Darcie Shaffer represented the Division. Lynn Thurston testified for the Division.

Mr. M is married. He and his wife have several vehicles. He owns a home in his own name, where he was residing at the time of his accident. He and his wife own another home, where she resides. They also jointly own undeveloped land. They are currently separated. Ms. M will not return his calls.³ When Mr. M applied for benefits, he had a Merrill-Lynch retirement

¹ Ex. E, pp. 2 – 6, 11; testimony of Lynn Thurston.

² Ex. D; Ms. Thurston’s testimony.

³ Testimony of E M; Ex. F, pp. 17 – 22.

account with a balance of approximately \$30,000.⁴ He subsequently withdrew the money from that account, which he has in his possession.⁵

III. Discussion

The General Relief Assisted Living Home Care Program was created to provide financial assistance to vulnerable adults, who require the protective oversight of an assisted living home.⁶ In addition to other requirements, applicants may not own more than \$2,000 in countable assets. That amount is \$3,000 for married applicants who live with a spouse.⁷

Mr. M and his wife own multiple homes and land. Mr. M also admittedly has \$30,000 in his possession, which comes from his liquidation of the Merrill-Lynch account. Cash on hand is a countable resource.⁸ Those funds substantially exceed the countable resource limit for the General Relief Assistance Living Home Care program.⁹ Consequently, Mr. M is not financially eligible for the General Relief Assisted Living Home Care Program.

IV. Conclusion

The Division's denial of Mr. M's General Relief Assisted Living Home Assistance Program application is AFFIRMED.

DATED this 21st day of June, 2016.

Signed

Lawrence A. Pederson
Administrative Law Judge

⁴ Ex. H.

⁵ Mr. M's testimony.

⁶ 7 AAC 47.300

⁷ 7 AAC 47.350(a).

⁸ See 7 AAC 47.355 for the list of resources that are not considered when determining an applicant's financial eligibility. Funds in a party's possession are not contained in this list and are properly countable.

⁹ The Division also argued that Mr. M's real property and vehicles financially disqualify him from eligibility. It is arguable that these resources are not countable because they are either exempt or because Mr. M and his wife, the co-owner of the raw land, are separated and she will not return his calls making it difficult to liquidate the property. However, it is not necessary to resolve this issue because Mr. M's individually held assets, specifically the funds from the Merrill-Lynch account, make him ineligible for the General Relief Assisted Living Home Assistance Program.

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.]