

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

In the Matter of)
)
 K E)
 _____)

OAH No. 14-0867-APA
Agency No.

DECISION

I. Introduction

K E applied for Adult Public Assistance, Medicaid, and Alaska Temporary Assistance. The Division of Public Assistance (division) denied his application, finding that his failure to apply for Social Security Disability precluded Mr. E from meeting all eligibility criteria for the benefits sought. Mr. E requested a hearing. The hearing was held on June 24, 2014. Mr. E and Public Assistance Analyst Terri Gagne participated by telephone.

The eligibility requirements for these programs are exacting. The facts are undisputed. The decision of the division to deny Mr. E's application for Adult Public Assistance, Medicaid, and Alaska Temporary Assistance is affirmed.

II. Facts

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

On May 13, 2014, the division received Mr. E's application for Adult Public Assistance (APA), Medicaid, and Alaska Temporary Assistance Program (ATAP).¹ On May 16, 2014, the division conducted a telephone interview with Mr. E. During the interview, Mr. E, who is 37 years old, informed the division that he would not be applying for Social Security Disability and that his son is not living with him.²

On May 19, 2014, the division notified Mr. E that he was not eligible for ATAP because he did not have a child living with him, and that his APA and Medicaid was denied because he was not currently in receipt of, or applying for, Social Security Disability.³ On May 27, 2014, Mr. E exercised his right to a hearing. In support of his hearing request Mr.

¹ Exhibit 2 – 2.11.

² Exhibit 3.0; Exhibit 4.1.

³ Exhibit 4.0 – 4.1.

E supplied documents evidencing the expense of living off the road system, demonstrating his current financial situation.

The hearing was held and Mr. E testified consistent with his interview with the division. He confirmed that he was *not* applying for Social Security Disability, and that he did not have a dependent relative child living with him.⁴ He testified regarding his housing situation and explained that he would be homeless if he was not housesitting for his parents. Finally, Mr. E testified that he would like a job, but he has been unable to find any work.

III. Discussion

Because this is an application, Mr. E has the burden of proving by a preponderance of the evidence that he is eligible for the benefit(s) sought.⁵ Mr. E applied for three programs: APA, Medicaid, and ATAP.

A. APA

APA is a public assistance program that provides financial assistance to needy individuals over the age of 65 or under the age of 65 if the individual has a severe and long-term disability that imposes physical and mental limitations on that person's day-to-day functioning.⁶ The APA program has certain criteria that must be met before the division finds that an applicant is eligible for APA. Because Mr. E is under age 65, he

must be found by the Social Security Administration to meet the definition of disability contained in Title XVI of the Social Security Act, as amended (42 U.S.C. 1382c(a)(3)),⁷

Before the Social Security Administration can find Mr. E eligible, he must first apply to for Social Security Disability. Because he will not apply, the division's denial determination is affirmed.

B. Medicaid

Medicaid provides basic health and long-term care services for low-income children, pregnant women, families, the elderly, blind, and permanently disabled. Mr. E is not over the age of 65, a child, or a pregnant woman, so he may not receive Medicaid under one of those recipient classes. If he were eligible for APA because of a permanent disability, Mr.

⁴ Testimony of K. E.

⁵ 7 AAC 49.135.

⁶ AS 47.25.590.

⁷ 7 AAC 40.170(a).

E would be eligible for what is referred to as APA Medicaid.⁸ Therefore, before Mr. E can receive APA Medicaid he must be eligible for APA, which he is not.⁹

The division's decision to deny Mr. E APA Medicaid should be upheld.

C. ATAP

Except in the instance of a woman in the last trimester of pregnancy, to receive ATAP the household must consist of at least one parent or caretaker and one related dependent child.¹⁰ Mr. E lives alone. He does not have physical custody of one or more children. Therefore, he is not eligible for ATAP.

IV. Conclusion

Mr. E has failed to provide evidence sufficient to establish by a preponderance of the evidence that he is eligible for APA, Medicaid, or ATAP. The decision of the division to deny Mr. E's application for these three benefit programs is affirmed.

DATED this 25th day of July, 2014

Signed
Rebecca L. Pauli
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 8th day of August, 2014.

By: Signed
Name: Rebecca L. Pauli
Title: Administrative Law Judge

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

⁸ 7 AAC 100.410(b); *See generally* 7 AAC 100.002 and 7 AAC 100.414.

⁹ Mr. E may receive Medicaid if he is eligible to receive a cash benefit from APA or Social Security. It is not necessary that he elect to receive the cash benefit. 7 AAC 100.410(c). However, Mr. E has failed to establish that he is eligible for either program.

¹⁰ AS 47.27.010.