

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

In the Matter of)	
)	OAH No. 15-1110-MDS
W C)	Agency No.
_____)	

DECISION

I. Introduction

W C applied for Home and Community-Based Waiver services. Senior and Disabilities Services (SDS) denied her request to participate in the Waiver program. Ms. C appealed.

A hearing was held on September 21, 2015. Ms. C was represented by N N, who holds a power of attorney. SDS was represented by a lay representative, Laura Baldwin. For the reasons discussed below, SDS’s decision is upheld.

II. Facts

The relevant facts are not in dispute. Ms. C has been attempting to obtain Waiver services since November of 2014. Medicaid Waiver applications require two approvals from the Department of Health and Social Services. One from SDS based on medical need and a second approval from the Division of Public Assistance based on financial need. Ms. C has received the first approval, but DPA has not yet ruled on whether she should be approved based on financial considerations.¹ DPA placed her application into “pending” status, where it has remained at least through the date of this hearing.

SDS contacted DPA several times in an effort to find out why her application was still pending, and whether there was anything else Ms. C needed to provide. SDS was not able to obtain any additional information from DPA. Because she was not yet eligible for Medicaid, SDS closed her Waiver file and informed her that she could not receive Waiver services.

III. Discussion

The Waiver program provides an opportunity for individuals to receive certain services in their home instead of in an institutional setting.² Among other requirements, a person may only participate in the Waiver program if she is eligible for Medicaid coverage under AS 47.07.020

¹ Various income and asset limits are considered when making this determination.

² 7 AAC 130.200.

and 7 AAC 100.002.³ DPA is the entity responsible for determining Medicaid eligibility based on financial factors, while SDS makes the remaining eligibility determinations.

In this case, DPA has neither approved nor denied Ms. C's application for Medicaid coverage. Until DPA approves her application, SDS is unable to authorize Waiver services.⁴ In addition, until DPA actually approves or denies her application, Ms. C's options are limited. However, she may request a hearing on DPA's failure to take action if she believes she can show her application has not been acted upon with reasonable promptness.⁵

IV. Conclusion

The issue on appeal at this time is SDS's notice to Ms. C that it would close her waiver file because she has not yet been found eligible for Medicaid. It is undisputed that, as of the hearing date, she had not been found eligible for Medicaid. Because Medicaid eligibility is a condition of participation in the Waiver program, SDS's decision is upheld.

Dated this 5th day of October, 2015.

Signed
Jeffrey A. Friedman
Administrative Law Judge

Adoption

The undersigned adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 12th day of November, 2015.

By: Signed
Signature
Jared C. Kosin, J.D., M.B.A.
Name
Executive Director, ORR, DHSS
Title

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

³ 7 AAC 130.205(a)(1).

⁴ 7 AAC 130.205(a)(1). *See also* 7 AAC 130.219(e)(3) (SDS will disenroll a recipient who is no longer eligible for Medicaid coverage).

⁵ 7 AAC 49.020(1).