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

In the Matter of	)	
	)	
N T-O	)	OAH No. 16-0893-APA
	)	Agency No.

DECISION

I. Introduction

After a fair hearing in 2015, the Commissioner of Health and Social Services determined that N T-O was not eligible for public assistance benefits because he was not a citizen or a qualified alien. When he reapplied in July 2016, the Division of Public Assistance denied his application. Because nothing has changed with his immigration status, the decision in the 2015 hearing is binding on his 2016 application. Therefore, the division's denial is affirmed.

II. Facts

N T-O is a citizen of Cuba. He entered the United States in 1980 during the Mariel Boatlift—a mass emigration of Cubans from the Mariel Harbor in Cuba that occurred over several months in that year. Mr. T-O's immigration status has many layers of complexity. This complexity is fully discussed in a previous fair hearing decision, which was called OAH No. 15-1412-APA.[1] The facts regarding his entrance into this country, immigration status, and deportation notices can all be found in substantial detail in that decision, and will not be repeated here. The bottom line, however, is that after a fair hearing, Mr. T-O was determined to be "a non-qualified alien."[2] Accordingly, on February 9, 2016, the Commissioner of Health and Social Services issued a determination that he was not eligible for Adult Public Assistance and Medicaid.[3]

On July 11, 2016, Mr. T-O applied again for Adult Public Assistance and Medicaid benefits.[4] The Division of Public Assistance denied his application because he did not meet qualified alien status.[5] Mr. T-O appealed the denial to a fair hearing. The division filed a motion to dismiss, arguing that the February 9 decision had already determined that he was not eligible. A telephonic, interpreter-assisted, fair hearing was held on August 25, 2016.

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1 Division Exhibit 2.
2 *Id.*
3 *Id.*
4 Division Exhibit 4.
5 *Id.*

III. Discussion

At the outset of the hearing, Mr. T-O was asked whether his immigration status had changed since the February 9 decision. He said that it had not. He was then asked to explain why the February 9 decision should not be considered binding with regard to his July 11 application. Mr. T-O offered two arguments. First, he explained that he had a significant need for assistance. His children need food. They need clothes for school. They need bath soap, laundry soap, shampoo, and toilet paper. Second, he cited to a criminal case against him in Alaska Superior Court in Anchorage, Case No. 3AN-16-00000CR. The court dismissed the case. In his view, the dismissal of this case showed that the court accepted the validity of his immigration status. He argued that the court action, together with the great need of his children, should mean that the February decision should be reversed.

In legal actions, however, we place a great deal of emphasis upon finality.[6] Once a person has had one fair hearing, when the case is over, it is over. Except in very limited circumstances, we do not go back and hear the same case, or the same arguments, again in the same court or agency. A person can always appeal the first decision to a higher court, which could then decide whether the first court or agency made a mistake. If a person does not appeal, however, unless the first process was not fair, or the situation has changed, the first decision is binding on the person who brought the case.[7]

Mr. T-O is correct that a superior court decision on an issue would trump an administrative action on the same issue. In order for Case No. 3AN-16-00000CR to affect this case, however, it would have to have been either an appeal of the decision in OAH No. 15-1412-APA or a decision that resulted in a change in his immigration status. It was neither—it was a criminal case that was dismissed. It has no effect on OAH No. 15-1412-APA or this case. Therefore, the February decision in OAH No. 15-1412-APA remains binding. Under the law, I cannot change the outcome of the February decision.

With regard to the dire need of his children, that is a very important concern, and the needs of his children should be addressed. As the division explained at the hearing, however, his children's needs can be addressed through other avenues. This hearing is about Mr. T-O's

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[6] *Alaska Pub. Int. Res. Group v. State of Alaska*, 167 P.3d 27, 44 (Alaska 2007) (recognizing "the goal of . . . finality" and "aim to prevent parties from again and again attempting to reopen a matter that has been resolved." (quotation marks and citation omitted)).

[7] *Johnson v. Alaska State Dep't of Fish and Game,* 836 P.2d 896, 907-09 (Alaska 1991) (holding that prior administrative decision precludes litigation of same issue when prior adjudication provided essential elements of adjudication).

eligibility for assistance and, in particular, his immigration status. We have already had a decision on those issues, and that prior decision is binding in this case.

IV. Conclusion

The division's decision denying Mr. T-O's July 2016 application for Adult Public Assistance and Medicaid is affirmed.

DATED this 26th day of August, 2016.

By: *Signed*
Stephen C. Slotnick
Administrative Law Judge

Adoption

Under a delegation from the Commissioner of Health and Social Services and under the authority of AS 44.64.060(e)(1), I adopt this decision 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 September, 2016.

By: *Signed*
Name: Bride Seifert
Title/Division: ALJ/OAH

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