

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

In the Matter of	)	
	)	
O M	)	OAH No. 17-0871-APA
_____	)	Agency No.

**DECISION**

**I. Introduction**

O M applied for interim assistance benefits from the Adult Public Assistance (APA) program. To qualify for APA benefits, a person must meet the eligibility requirements for the federal Supplemental Security Income (SSI) program. The Division of Public Assistance denied Mr. M's application for APA based on denial by the Social Security Administration of Mr. M's SSI application. The division also determined that Mr. M was not eligible for interim assistance, based on the denial by the Social Security Administration of Mr. M's SSI application. Mr. M appealed, arguing that he had an application for SSI currently pending with the Social Security Administration.

Because the Social Security Administration has not yet denied Mr. M's second SSI application, the division's July 28, 2017 decision denying Mr. M's application for APA and finding that Mr. M is ineligible for interim assistance was premature and is reversed. However, this decision does not find that Mr. M is eligible for interim assistance or APA; that remains to be determined.

**II. Facts**

On May 16, 2017, Mr. M applied for adult public assistance. That day, the division notified Mr. M that it needed proof that he has an active SSI application on file with the Social Security Administration.<sup>1</sup>

The Social Security Administration has received two applications for SSI for Mr. M. The first was denied by the Social Security Administration on January 23, 2014, for failure or refusal to submit to an examination, and that decision was not timely appealed.<sup>2</sup> This is documented in the online query response system the division uses to check Social Security Administration

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<sup>1</sup> Exhibit 3.

<sup>2</sup> Exhibit 2; Exhibit 7.

Records.<sup>3</sup> According to the division, a second application for SSI for Mr. M was made on May 19, 2017.<sup>4</sup>

On June 22, 2017, Mr. M provided medical records to the division to support his application for APA.<sup>5</sup> The division sent the medical records to the interim assistance reviewer.<sup>6</sup>

On July 19, 2017, the division sent an inquiry to the Social Security Administration about Mr. M's second application for SSI with the following request: "Need to know if he is in H80 status or if has appealed the status of the appeal or status of new SSI application." A payment status code beginning with "H" indicates a case "in hold status, final disposition is pending" and "H80" means "early input."<sup>7</sup> The Social Security Administration responded that Mr. M had an initial claim pending, and that "we are still developing his possible holding out situation. May be a technical denial."<sup>8</sup>

On July 28, 2017, the division denied Mr. M's application for APA "because the Social Security Administration found that you are not blind or disabled and denied your application for [SSI]. Because you did not appeal the SSI decision, you are not eligible for Interim Assistance."<sup>9</sup> In response, Mr. M requested a fair hearing, stating that he still had an open SSI case.<sup>10</sup>

A hearing in this matter was held on September 12, 2017. Mr. M represented himself. Sally Dial, a Public Assistance Analyst with the Division of Public Assistance represented the division.

### III. Discussion

The Adult Public Assistance (APA) program provides financial assistance to aged, blind, or disabled needy Alaska residents.<sup>11</sup> To qualify for APA based on disability, a person must meet the eligibility requirements for the federal SSI program.<sup>12</sup> To get an eligibility determination, the

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<sup>3</sup> Exhibit 7; Testimony of Dial.

<sup>4</sup> Position Statement at 2.

<sup>5</sup> Testimony of M.

<sup>6</sup> Testimony of Dial.

<sup>7</sup> Social Security Administration, "The State Verification and Exchange System (SVES) and State Online Query (SOLQ) Manual", available at [https://www.ssa.gov/dataexchange/documents/sves\\_solq\\_manual\\_July\\_2017.pdf](https://www.ssa.gov/dataexchange/documents/sves_solq_manual_July_2017.pdf), accessed October 5, 2017.

<sup>8</sup> Exhibit 4.1.

<sup>9</sup> Exhibit 5.

<sup>10</sup> Exhibit 6 - 6.1.

<sup>11</sup> AS 47.25.430.

<sup>12</sup> 7 AAC 40.030.

person must first apply for SSI. While the application for SSI is pending, an applicant for APA may be eligible for interim assistance from the division.<sup>13</sup>

***A. Application for Adult Public Assistance***

An applicant for APA who does not have an application for SSI pending must apply for SSI within 30 days of applying for APA.<sup>14</sup> Mr. M applied for APA on May 16, 2017. He applied for SSI for the second time on May 19, 2017. Although Mr. M's first application for SSI was denied in 2014, his second application for SSI was timely for purposes of the APA program.

Mr. M argues that the division incorrectly denied his application for APA, because he has a pending application for SSI. It is true that Mr. M's first application for SSI was denied. However, the Social Security Administration had not yet denied Mr. M's second application for SSI when the division denied Mr. M's application for APA. Therefore, the division's denial of Mr. M's application for APA on the basis that the Social Security Administration had found that Mr. M was not blind or disabled and denied his application was incorrect.

At the hearing, the division argued that Mr. M's application for APA was correctly denied, because he had failed to pursue the application. On September 5, 2017, in preparation for the hearing, the division's hearing representative contacted the Social Security Administration office in Juneau for further explanation of its responses to the division's July 19, 2017 inquiry. The Social Security Administration confirmed that Mr. M filed a second application for SSI on May 19, 2017. On June 3, 2017, the Social Security Administration had requested further information from Mr. M about his employment and marital status. According to the hearing representative, the Social Security Administration had not yet received a response to that request, and for that reason, Mr. M's second application for SSI does not appear on the state online query response system.<sup>15</sup>

While the hearing representative's testimony about her conversation with the Social Security Administration was credible, it does not support the reason for denial cited in the division's notice to Mr. M. The division must have been aware of Mr. M's second application for SSI when it denied his application for APA on July 28, 2017, because rather than relying on the 2014 denial shown in the online query response system, it contacted the Social Security Administration on July 19, 2017 for further information about Mr. M's second application. Yet

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<sup>13</sup> AS 47.25.455, 7 AAC 40.375.

<sup>14</sup> 7 AAC 40.060(a).

<sup>15</sup> Testimony of Dial based on conversation with Social Security Administration.

the reason for denial cited on the notice corresponded to the 2014 denial shown on the online query response system, rather than the Social Security Administration's written response on July 19, 2017 regarding Mr. M's second application, which described that application as "pending." The Social Security Administration indicated that it might deny Mr. M's second application for SSI, not that it already had denied that application.<sup>16</sup>

Furthermore, the division's APA Manual does not support denial of Mr. M's application based on a failure to provide information requested by the Social Security Administration to the Social Security Administration. The Adult Public Assistance Manual states that, in order to be eligible for APA, an applicant "must apply for and diligently pursue any other benefits to which the Division believes he or she may be eligible."<sup>17</sup> However, it also says that an APA client "who is applying for . . . SSI benefits is presumed to be pursuing any other benefits to which he or she is entitled."<sup>18</sup> Thus, the manual establishes a presumption that an applicant for APA who is applying for SSI is pursuing SSI benefits. The evidence in this case indicates that Mr. M has a pending application for SSI and is pursuing SSI benefits.

Finally, the division argued that the denial should be upheld because Mr. M's application was in "pending" status with the Social Security Administration, rather than "holding" status. However, it is not clear from the division's argument why this should result in denial of Mr. M's APA application, rather than placement of the APA application in pending status. The regulations require the division to determine an applicant's eligibility for APA within 30 days after the application is filed.<sup>19</sup> However, the need to act on an application within 30 days did not compel the denial of Mr. M's application. According to the manual, where an eligibility determination has not been made within 30 days after the application date, then "the caseworker will determine the cause for the delay and take appropriate action." Where the determination of eligibility for APA depends on action by another agency, including an eligibility decision for SSI by the Social Security Administration, the caseworker may postpone the decision on the APA application until the other agency acts. The APA application is left in a pending status.<sup>20</sup>

Denial of Mr. M's application for APA based on denial by the Social Security Administration of Mr. M's application for SSI was should be reversed, because Mr. M's second

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<sup>16</sup> Exhibit 4.1.

<sup>17</sup> APA Manual 420-1 A.

<sup>18</sup> APA Manual 420-1 B.

<sup>19</sup> 7 AAC 40.070.

<sup>20</sup> Adult Public Assistance Manual at 410-5 F.1.

application for SSI was still pending. However, this does not mean Mr. M is eligible for APA, only that because the Social Security Administration has not yet determined whether Mr. M meets the eligibility requirements for the SSI program based on his second application for SSI, denial of his application for APA was premature.

***B. Eligibility for Interim Assistance***

The division concluded that Mr. M was not eligible for interim assistance because he did not appeal “the SSI decision.”<sup>21</sup> Although Mr. M apparently did not appeal the denial of his first application for SSI, he filed a second application for SSI. Mr. M could not have appealed “the SSI decision” on his second application for SSI, because the Social Security Social Security Administration has pended the application, and not yet determined whether Mr. M is eligible for SSI. If the Social Security Administration denies Mr. M’s second application for SSI, Mr. M may at that point have the opportunity to appeal the Social Security Administration’s decision. However, because Mr. M’s second application for SSI is still pending, the division’s July 28, 2017 denial of interim assistance based on failure to appeal the SSI decision is premature and should be reversed.

This does not mean that Mr. M is eligible for interim assistance. Whether Mr. M is eligible for interim assistance cannot be determined based on the record in this case. An applicant may receive interim assistance under 7 AAC 40.375 if the division determines that the applicant is disabled under 7 AAC 40.180.<sup>22</sup> At the hearing, Ms. Dial testified that Mr. M’s medical documentation was sent to the medical reviewer, but that the decision was made to deny his application based on his status with the Social Security Administration. From the record, it does not appear that the division has determined whether Mr. M is disabled. Also, there was no evidence about whether Mr. M meets the income standards for the interim assistance program.<sup>23</sup>

**IV. Conclusion**

Because Mr. M’s second application for SSI is still pending with the Social Security Administration, the division’s denial of his application for APA based on denial of his application for SSI was premature. Furthermore, the division should not have concluded that Mr. M was ineligible for interim assistance based on an SSI denial that had not occurred.

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<sup>21</sup> Exhibit 5.

<sup>22</sup> 7 AAC 40.170.

<sup>23</sup> See 7 AAC 40.170.

The division's July 28, 2017 denial of Mr. M's application for APA and conclusion that Mr. M is ineligible for interim assistance is reversed.

DATED: October 9, 2017.

*Signed*  
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Kathryn L. Kurtz  
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 25<sup>th</sup> day of October, 2017.

By: *Signed*  
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Name: Kathryn L. Kurtz  
Title: Administrative Law Judge

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