

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

In the Matter of)
)
 J M) OAH No. 12-0201-MDS
) Agency No.
 _____)

DECISION

I. Introduction

J M, through her parents, applied for TEFRA Medicaid coverage. The Division of Public Assistance (DPA) denied that application. J M appealed and requested a hearing.¹ A hearing was held on August 16, 2012. J M was represented by her father, F M. Based on the evidence in the record, DPA's determination is reversed.

II. Facts

J M is the four year old adopted daughter of F and T M.² She has been diagnosed with ADHD and Autistic Disorder.³ Multiple state agencies and Qualis Health, a contractor with the Department of Health and Social Services, are involved in the process of reviewing and making a decision on TEFRA eligibility.⁴ As part of the process for applying for TEFRA coverage, applicants are required to use a care coordinator. The care coordinator must be certified by DPA, and is paid for by DPA. The care coordinator gathers all of the required information from the applicant, and transmits that information to Qualis Health. If Qualis Health does not get the required information within the required time frame,⁵ it informs DPA, and DPA issues a notice denying the application.

In this case, the care coordinator was T N.⁶ Mr. and Mrs. M provided all of the information she requested.⁷ Not all of the necessary information was received by Qualis, however.⁸

¹ The Division of Health Care Services (division) is responsible for representing the state agencies during the hearing process.

² Exhibit G, page 2.

³ Exhibit G, page 15.

⁴ The various responsibilities of each were described by the witnesses called by the division, and that testimony is consistent with what is set out in DPA's Eligibility Manual, Exhibit B.

⁵ Federal regulations require a decision within 90 days from the date of application. 42 CFR §435.911(a)(1). This regulation is marked as Exhibit F in the record.

⁶ Testimony of Mr. M; Exhibit G, page 1.

⁷ Testimony of Mr. M.

⁸ Testimony of C H; Testimony of G I.

J M now has a new care coordinator, N P, who has re-gathered the necessary information and has submitted it with a new application for TEFRA eligibility.⁹

III. Discussion

For J M to be eligible for TEFRA Medicaid coverage, she must require the level of care that would be provided in an intermediate care facility for the mentally retarded.¹⁰ To qualify for this level of care, her condition must be a substantial disability as measured by the Inventory for Client and Agency Planning (ICAP).¹¹

DPA denied the application based on its determination that J M did not meet the level of care criteria.¹² This decision was based on information from Qualis Health that she, or her parents, had failed “to submit required documentation to your care coordinator, D D, within timeframe specified by the State of Alaska, Divison of Public Assistance.”¹³

While there is no dispute that the Ms did not submit information to D D, they did submit information to the person who was their care coordinator, T N. Mr. M testified that they gave Ms. N the information she had asked for. There is no evidence in the record to contradict this testimony, and it is somewhat supported by Mr. P who testified that he received this same information from the Ms within a day of requesting it. From Mr. P’ testimony, it could be inferred that the Ms also promptly provided all requested information to Ms. N when asked to do so. J M has met her burden of showing that it is more likely true than not true that the Ms timely submitted all the required documentation to their care coordinator.

A notice denying an application must “detail the reasons” for the denial.¹⁴ Without knowing the reasons for the denial, an applicant would have difficulty contesting the decision since he or she would not know what issue to address at the hearing. In this case, the issue identified by the denial notice was that the Ms had not provided information to their care coordinator. They did address that issue at the hearing, and successfully rebutted it. Had they been told a different reason for denial – such as the apparent failure of the care coordinator to provide that information to Qualis Health – they might have been prepared to

⁹ Testimony of Mr. N.

¹⁰ 7 AAC 100.424(a)(5)(B).

¹¹ 7 AAC 140.600(d)(3).

¹² Exhibit D, page 1.

¹³ *Id.*

¹⁴ 7 AAC 49.070.

rebut that reason as well. In the alternative, they might have agreed with the different reason, and not have even requested a hearing. Providing an accurate reason is consistent with due process requirements and promotes efficiency.

In this case, the reason stated for denying the application was that the Ms had not given information to their care coordinator. Because DPA's decision was based on information that has been shown to be inaccurate, that decision must be reversed.

In the alternative, the determination must be reversed because it was made based on a misunderstanding of the federal timely determination requirements. The applicable federal regulation does require a determination within 90 days of the application.¹⁵ There are exceptions to this requirement, however. One exception applies when DPA cannot make a determination because the applicant has not provided all of the information needed to make a determination.¹⁶ To the extent that DPA had to wait for information from the Ms before making a ruling, it was not required to act within 90 days. In addition, regardless of why a determination has not been made within 90 days, DPA may not use the time standard as a reason for denying eligibility.¹⁷ Based on the testimony at the hearing, however, the desire to meet the federal time standards was the motivating factor for issuing the decision rather than wait for more information from the care coordinator. In other words, DPA used the time standard as the reason for denying eligibility.

IV. Conclusion

J M's application was denied for failing to provide information to her care coordinator. At the hearing, it was established that she had provided this information. Accordingly, the decision denying her application is reversed. DPA should now complete its review of her first application, using any additional information, releases, and authorizations it may have now received, and issue a new notice based on its new determination.

Dated this 20th day of August, 2012.

Signed

Jeffrey A. Friedman
Administrative Law Judge

¹⁵ 42 CFR §435.911(a)(1).

¹⁶ 42 CFR §435.911(c)(1).

¹⁷ 42 CFR §435.911(e)(2).

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 6th day of September, 2012.

By: Signed
Name: Jeffrey A. Friedman
Title: Administrative Law Judge

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