

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

In the Matter of: )  
 )  
 HENRY SUH ) OAH No. 15-1039-MPC  
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**DECISION**

**I. Introduction**

Henry Suh is enrolled as a Personal Care Attendant (PCA) with the Alaska Medicaid program. During the course of an investigation, the Department of Health and Social Services, Program Integrity unit (Program Integrity) became aware of irregularities with billings for PCA services that Mr. Suh submitted in May 2013. Program Integrity referred the matter for criminal prosecution.<sup>1</sup> It then notified Mr. Suh that it was temporarily suspending his ability to receive payments for Medicaid services effective June 18, 2015, due to “a Credible Allegation of Fraud.”<sup>2</sup> Mr. Suh requested a hearing to challenge the suspension.

A hearing was held on September 15, 2015. Mr. Suh represented himself. Scott Friend represented Program Integrity. A review of the facts demonstrates that there is a credible allegation that Mr. Suh committed Medicaid Fraud. Accordingly, the temporary suspension of Mr. Suh’s ability to receive payments for Medicaid services is upheld.

**II. Facts<sup>3</sup>**

The following facts were established by a preponderance of the evidence.

Mr. Suh was enrolled with Alaska Medicaid as an authorized PCA provider in May of 2013. Mr. Suh was the PCA for his mother, who resides in Anchorage. He left for Korea on May 10, 2013. His mother remained in Anchorage. He returned from Korea on May 21, 2013.

PCA timesheets, which Mr. Suh signed, were submitted for PCA services provided to his mother during that time period. Mr. Suh admittedly could not have provided those services because he was then in Korea. Mr. Suh explained that his sister was an alternate PCA for his mother, and that in the past, C Care Services, the PCA agency which employed him, had simply substituted his sister in as the PCA for his mother during his absences. Mr. Suh testified that C

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<sup>1</sup> A Criminal Information was filed in District Court on June 17, 2015. Record, pp. 10 - 13.

<sup>2</sup> Record, pp. 7 – 9.

<sup>3</sup> Unless otherwise stated, the facts provided below are taken from Mr. Suh’s hearing testimony, and the record filed by Program Integrity, including the recording of Mr. Suh’s interview with Program Integrity.

Care Services was told about his upcoming absence, and that C Care said he should have his sister provide the services, which she did. His wife and his sister cared for his mother during his absence. His wife is not enrolled as a PCA.

Mr. Suh's sister was not enrolled as a PCA with C Care Services in May 2013.<sup>4</sup>

### **III. Discussion**

Medicaid is a federal program administered by the states. The state Medicaid agency is required to suspend all payments to a provider if it determines

there is a credible allegation of fraud for which an investigation is pending under the Medicaid program against an individual or entity unless the agency has good cause to not suspend the payments or to suspend the payment only in part.<sup>5</sup>

The federal Medicaid regulations define "fraud" as "an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person."<sup>6</sup> A "credible allegation of fraud" is one "verified by the State, from any source."<sup>7</sup>

There is no factual dispute in this case. Mr. Suh signed PCA timesheets claiming that he provided PCA services to his mother, when those services were actually provided by his wife and his sister. Although Mr. Suh has argued "no harm, no foul" because his mother was cared for, and also argued that he relied upon instructions from his employer, the simple fact remains that, by signing his timesheets for work he did not perform, he misrepresented that he provided those services. In a case of this type, Program Integrity does not need to prove that fraud, as defined above, actually occurred. It merely needs to show that it verified the allegation and that it is credible, *i.e.*, believable. Given the facts of this case, Program Integrity has met that limited burden.

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<sup>4</sup> Tracey Marshall's testimony.  
<sup>5</sup> 42 C.F.R. § 455.23(a)(1)  
<sup>6</sup> 42 C.F.R. § 455.2.  
<sup>7</sup> 42 C.F.R. § 455.2.

#### **IV. Conclusion**

Program Integrity's suspension of Mr. Suh's certification as an enrolled Medicaid provider is upheld.

Dated this 22nd day of September, 2015.

By: Signed  
Lawrence A. Pederson  
Administrative Law Judge

#### **Adoption**

The undersigned 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 22nd day of October, 2015.

By: Signed  
Name: Deborah L. Erickson  
Title: Project Coordinator  
Agency: Office of the Commissioner, DHSS

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