

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

In the Matter of)	
)	OAH No. 12-0167-CMB
T R)	Division No.
_____)	

FAIR HEARING DECISION

I. Introduction

On May 24, 2012, the Division of Public Assistance (division) denied Ms. R's application for Temporary Assistance and Medicaid benefits for her and her husband.¹ Ms. R requested a hearing.²

Ms. R's hearing was held on August 3, 2012. Ms. R represented herself and testified on her own behalf. Public Assistance Analyst Terri Gagne represented the division. The hearing was recorded. The record was held open after the hearing for Ms. R to provide additional documentary evidence and for the division's response. Ms. R did not provide any additional documents.

Based on the evidence presented, Ms. R's household income is greater than the Temporary Assistance program's income limits for her household size. The division's decision to deny Ms. R's application for Temporary Assistance benefits is therefore **AFFIRMED**.

In addition, Ms. R's household income is greater than the Medicaid program's income limits for her household size for the months of April and June 2012, but falls within the income limits for May 2012. The division's decision to deny Ms. R's application for Medicaid benefits for the months of April and June 2012 is **AFFIRMED**. However, because her household was financially eligible for Medicaid benefits during the month of May 2012, the decision to deny her application for Medicaid benefits for the month of May 2012 is **REVERSED**.

II. Facts

Ms. R has a four person household, which is composed of herself, her husband, and their two minor children.³ No one in the household is over the age of 65, disabled, receiving Supplemental Security Income payments, or is pregnant.⁴

¹ Ex. 7.1.

² Ms. R's original hearing request was made with regard to the Food Stamp, Temporary Assistance, and Medicaid programs. *See* Ex. 8. At hearing, she clarified that Food Stamps were no longer an issue and that the denial of her Temporary Assistance and Medicaid application was the only issue for hearing. Ms. R's children receive Denali KidCare Medicaid benefits, so only their parents' Medicaid eligibility is at issue. *See* Ex. 9.4.

Ms. R and her husband applied for Temporary Assistance and Medicaid benefits on April 18, 2012.⁵ Mr. R has two jobs. His first job, as an employee, earns him an average of \$755.30 in gross income twice per month, for a monthly gross income of \$1,510.60.⁶

Mr. R's second job is as a self-employed barber. The division determined that he made \$327 per month as a self-employed barber, based upon his gross income for March and April 2012 after deducting his \$150 per week booth rent.⁷ Ms. R testified the division's determination of her husband's barber income was not correct, because that income fluctuated which caused him to actually operate at a loss some months. She was provided the opportunity to submit additional information regarding her husband's barber income and did not. Mr. R's March and April income as a barber is therefore the best available evidence of that income and it is more likely true than not true that he averages \$327 income per month as a self-employed barber.

Ms. R lost her job shortly before she applied for benefits. Her last paycheck was received on April 4, 2012 in the amount of \$1,429.04.⁸ She was in the process of applying for unemployment at the end of April 2012.⁹ She did not begin receiving unemployment payments until June 2012. Those payments were \$358 per week, beginning with the week ending June 2, 2012.¹⁰ This totaled \$1,539 per month in unemployment benefits.¹¹

The Rs pay \$800 per month in rent. Their heat is paid. They have electricity and telephone bills. Mr. R pays \$225 per month in child support.¹²

The division determined that Ms. R's household was not financially eligible for either Temporary Assistance or Medicaid benefits because her monthly household countable income of \$3,052.93 exceeded the Temporary Assistance program limit of \$2,804 for each of the months of April, May, and June 2012 and denied her application.¹³

The division's denial notice stated that it was using the following income in its determination:

³ Ex. 2.1.
⁴ Exs. 2.1, 2.3, 2.5; R testimony.
⁵ Exs. 2.0 – 2.9.
⁶ Exs. 6.0 – 6.2.
⁷ Ex. 4.0.
⁸ Ex. 4.0.
⁹ Ex. 2.2.
¹⁰ Ex. 9.2.
¹¹ Ex. 7.1.
¹² Ex. 2.5.
¹³ Ex. 7.1.

	<u>April</u>	<u>May</u>	<u>June</u>
Ms. R Earned Income	\$1,429.04	-0-	-0-
Ms. R Unemployment	-0-	\$ 358	\$1,539
Mr. R Wages	\$1,623.89	\$1,623.89	\$1,623.89
Mr. R Barber Income	<u>\$ 327</u>	<u>\$ 327</u>	<u>\$ 327</u>
	\$3,379.93	\$2,308.89	\$3,489.89 ¹⁴

The division's denial notice did not contain any information regarding what deductions, if any, it allowed Ms. R in making its determination.¹⁵

Ms. R orally requested a hearing on June 26, 2012, and informed the division that she did not begin receiving unemployment benefits until June 2012.¹⁶ After it received Ms. R's hearing request, the division determined that it should not have counted any unemployment income for Ms. R for the month of May. Regardless, the division continued to deny Ms. R's application for Temporary Assistance and Medicaid benefits based upon her household having too high an income.¹⁷

III. Discussion

The issue in this case is whether Ms. R's application for Temporary Assistance and Medicaid benefits for her and her husband should be approved.

The division denied the application based upon Ms. R's household income. In its position statement, the division concedes that its income calculations were incorrect as follows:

1. It should not have counted Ms. R as having any unemployment income for May.
2. It incorrectly calculated Mr. R's monthly wages by multiplying his averaged paychecks by 2.15, which would only be correct if he was paid every two weeks. Because he is paid twice per month, his monthly gross wage was \$1,510.60.¹⁸

As a result, Ms. R's household income is as follows:

	<u>April</u>	<u>May</u>	<u>June</u>
Ms. R Earned Income	\$1,429.04	- 0 -	- 0 -
Ms. R Unemployment	- 0 -	- 0 -	\$1,539
Mr. R Wages	\$1,510.60	\$1,510.60	\$1,510.60

¹⁴ The Division's denial notice only contains the income figures. It did not total them. *See* Ex. 7.1.

¹⁵ Ex. 7.1.

¹⁶ Ex. 8.

¹⁷ Ex. 9.4.

¹⁸ *See* Division Position Statement, pp. 2 - 3.

Mr. R Barber Income	<u>\$ 327</u>	<u>\$ 327</u>	<u>\$ 327</u>
	\$3,266.64	\$1,837.60	\$3,376.60

Based on these new income amounts, the division argued, as provided in its position statement, that Ms. R was not income eligible for Temporary Assistance and Medicaid benefits for any of the months of April, May, or June 2012.¹⁹

A. *Temporary Assistance*

The Temporary Assistance program has two tests for income, a gross income and a net income test. If a household of four persons, where there are two parents in the household, has gross income that exceeds \$2,804, it is not eligible to receive Temporary Assistance benefits.²⁰ If applicants pass the gross income test, they must then pass the net income test. Net income is arrived at by taking the household's gross income and subtracting allowable deductions from it. The Temporary Assistance program only allows very limited deductions for an applicant who has not received Temporary Assistance benefits during each of the preceding four months. Those deductions are for child support payments made by a household member and a \$90 deduction for each employed member of the household. No other deductions are allowed, including deductions for rent, telephone, or electricity.²¹ The net income limit for a four person household, where there are two parents in the household, is \$1,516.²²

In April 2012, the household's gross income was \$3,266.64, an amount in excess of the gross income limit of \$2,804. As a result, it did not qualify for Temporary Assistance during the month of April 2012.

In May 2012, the household's gross income was \$1,837.60, which was less than the gross income limit of \$2,804. Applying the two deductions available to the household, the \$90 work deduction since Mr. R is employed and the deduction for Mr. R's child support payment of \$225, the household net income comes to \$1,522.60. This amount exceeds, albeit only by \$6.60, the net income limit of \$1,516. As a result, the household did not qualify for Temporary Assistance during the month of May 2012.

¹⁹ See Division Position Statement, p. 3.

²⁰ *Alaska Temporary Assistance Manual Addendum 2.*

²¹ 7 AAC 45.480(a). There is also a potential childcare deduction which is available to working parents. 7 AAC 45.485.

²² *Alaska Temporary Assistance Manual Addendum 2.*

In June 2012, the household's gross income was \$3,376.60, an amount in excess of the gross income limit of \$2,804. As a result, it did not qualify for Temporary Assistance during the month of June 2012.

B. Family Medicaid

The Alaska Medicaid program contains a variety of coverage categories.²³ Each of these categories has different eligibility requirements. A person who is under the age of 65, who is not disabled, not receiving Social Security Supplemental Security Income benefits, not pregnant, and who does not have either breast or cervical cancer, is potentially eligible only for Family Medicaid benefits. This Medicaid category provides medical coverage for financially eligible households that have minor children in them.²⁴

A Family Medicaid household consists of the dependent children in the household and the parent or parents or other caregivers that reside with them.²⁵ Like Temporary Assistance, Family Medicaid has both a gross income and a net income test. If a household of four persons has gross income that exceeds \$3,117, it is not eligible to receive Family Medicaid benefits.²⁶ If applicants pass the gross income test, they must then pass the net income test.²⁷ Net income is arrived at by taking the household's gross income and subtracting allowable deductions from it.²⁸ The Family Medicaid program only allows very limited deductions for an initial applicant, which are for child support payments made by a household member and a \$90 deduction for each employed member of the household. No other deductions are allowed, including deductions for rent, telephone, or electricity.²⁹ The net income limit for a four person household is \$1,685.³⁰

In April 2012, the household's gross income was \$3,266.64, an amount in excess of the gross income limit of \$3,117. As a result, it did not qualify for Medicaid during the month of April 2012.

²³ See 7 AAC 100.002.

²⁴ 7 AAC 100.002(a)(1); 7 AAC 100.100.

²⁵ 7 AAC 100.104.

²⁶ 7 AAC 100.102(c)(1); 7 AAC 100.190(a)(1); *Alaska Family Medicaid Eligibility Manual* Addendum 2. The division should be aware that its denial notice (Ex. 7.1) refers only to the Temporary Assistance limit of \$2,804 and nowhere references the fact that the Family Medicaid limit of \$3,117 applies to the Medicaid portion of this case.

²⁷ 7 AAC 100.102(c)(3); 7 AAC 100.190(a)(1).

²⁸ 7 AAC 100.180(b).

²⁹ 7 AAC 100.184(a)(1); 7 AAC 100.310(a). There is also a potential childcare deduction which is available to working parents. 7 AAC 100.186.

³⁰ 7 AAC 100.180; 7 AAC 100.190(a)(1); *Family Medicaid Eligibility Manual* Addendum 2.

In May 2012, the household's gross income was \$1,837.60, which was less than the gross income limit of \$3,117. Applying the two deductions available to the household, the \$90 work deduction since Mr. R is employed and the deduction for Mr. R's child support payment of \$225, the household net income comes to \$1,522.60. This amount is less than the net income limit of \$1,685. As a result, the household qualified for Medicaid during the month of May 2012.

In June 2012, the household's gross income was \$3,376.60, an amount in excess of the gross income limit of \$3,117. As a result, it did not qualify for Medicaid during the month of June 2012.

IV. Conclusion

The division's decision to deny Ms. R's application for Temporary Assistance benefits is **AFFIRMED**. The division's decision to deny Ms. R's application for Medicaid benefits for the months of April and June 2012 is **AFFIRMED**. However, because her household was financially eligible for Medicaid benefits during the month of May 2012, the decision to deny her application for Medicaid benefits for the month of May 2012 is **REVERSED**.

DATED this 7th day of September, 2012.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

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 21st day of September, 2012.

By: *Signed* _____
Name: Lawrence A. Pederson
Title: Administrative Law Judge

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