

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

In the Matter of)	
)	OAH No. 12-0431-CMB
S E)	Agency No.
_____)	

DECISION

I. Introduction

S E applied for Adult Public Assistance and Medicaid. The Division of Public Assistance (division) denied her application, and Ms. E requested a hearing. The hearing was held on October 5, 2012. Ms. E appeared in person, and the division was represented by Public Assistance Analyst Terri Gagne, who appeared by telephone.

At the conclusion of the hearing, Ms. Gagne asked to supplement the record with additional documents, which she has now done.

II. Facts

Ms. E has a terminal illness and is not currently able to work.¹ Her family is not in Alaska, and they offered to pay her moving costs if she decided to leave Alaska. She obtained an estimate of what it would cost, and family members provided her with the money to move. After Ms. E stopped working, however, she realized she would not be able to pay her family members back if she did move, so she returned the money lent to her. That additional money from her family was in her bank account for a short period of time.

The Social Security Administration (SSA) determined that Ms. E was disabled, but she was not eligible for Supplemental Security Income (SSI) disability payments because the money in her bank account exceeded the SSI resource limit of \$2,000.²

III. Discussion

A. Original Denial Notice

The first denial notice states that Ms. E was denied for reason number five: "You do not meet the disability requirements for APA and Medicaid."³ The notice goes on to say

¹ Unless otherwise noted, the factual findings are based on Ms. E's testimony.

² Testimony of Ms. E; Exhibits A, A1, and A7.

³ Denial notice printed on September 12, 2012.

Adult public [assistance] program policy states the benefit start date is the month following the date of the notice of award from social security disability. [Your] award notice is August 21st. Please provide a new application as we can only look at first and second months from an active application. Yours was received 7/10/12. You may come into any APA office to reapply and have a required interview.^[4]

This notice was incorrect. Ms. E does meet the disability requirements. However, as discussed below, she still is not entitled to receive APA benefits until she meets all other eligibility requirements. That has not yet occurred. Accordingly, asking for the second application, while it may have caused some inconvenience, did not cause Ms. E to lose any benefits.

B. Second Denial Notice

Ms. Gagne testified that she discovered that the original notice was incorrect shortly before the hearing, and that she issued a new denial notice.⁵ The corrected denial notice states that Ms. E is not eligible for APA benefits because SSA found her to have excess resources.

In order to receive APA benefits based on a disability, the applicant must first be found by SSA to “meet the definition of disability contained in Title XVI of the Social Security Act, as amended.”⁶ There is no dispute that Ms. E meets this definition based on her terminal illness and that SSA has made that finding. There are, however, additional eligibility factors that applicants must also meet. In this case, the applicable factor is financial need with respect to resources.⁷ An individual may not have more than \$2,000 in non-excludable resources to qualify for APA benefits.⁸ SSA determined that Ms. E had \$5,883 in her checking account.⁹ This money does not fit within any of the resource exclusions established by regulation.¹⁰ Ms. E did not dispute that she had extra money on hand that had been loaned to her by her relatives. Thus, Ms. E was not eligible for APA

⁴ *Id.* The original text was printed in all capital letters.

⁵ See Exhibit A12.

⁶ 7 AAC 40.170(a).

⁷ 7 AAC 40.090(7).

⁸ 7 AAC 40.270(a)(1).

⁹ Exhibit A11. While the division may not be bound by SSA’s determination, it may use that determination as evidence of Ms. E’s resources.

¹⁰ 7 AAC 40.280.

benefits because she had excess resources. The division correctly determined that Ms. E was not eligible for APA.¹¹

C. Interim Assistance

The question of whether Ms. E had applied for and qualified for interim assistance was raised during the hearing. This benefit is available to some APA applicants while they wait for the SSA to determine if the applicant is eligible for SSI benefits.

[A]n applicant is eligible for interim assistance from the month in which an identifiable application, as described in 7 AAC 40.070(a), is received through the month in which an individual's eligibility for SSI is determined.^{12]}

The division argued that Ms. E is not eligible for interim assistance because this benefit ends as soon as SSA determines the applicant is disabled. The regulation actually says that interim assistance benefits end when SSA determines the applicant's *eligibility* for SSI. While the disability question might usually be the last step in SSA's eligibility determination, it is not the last step in this case. SSA has determined that Ms. E fits the definition of disability, but may not have yet determined whether she is eligible for SSI because it is still looking at her financial resources.¹³ At the hearing, Ms. E was advised to apply for interim assistance, and she may qualify even though – and possibly because – SSA has already made a determination as to her disability.

IV. Conclusion

Ms. E is not eligible for Adult Public Assistance Benefits based on disability because she has more than \$2,000 in non-excludable resources. Therefore, the division's decision to deny her application is upheld.

Dated this 16th day of October, 2012.

Signed
Jeffrey A. Friedman
Administrative Law Judge

¹¹ She may, however, apply again when she meets this and any other eligibility requirement.

¹² 7 AAC 40.375(a).

¹³ Ms. E's testimony at the hearing was that she had filed paperwork with SSA to contest its decision regarding her resources.

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 30th day of October, 2012.

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

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