

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

In the Matter of	)	
	)	OAH No. 12-0796-CMB
M T	)	Division No.
_____	)	

**DECISION**

**I. Introduction**

M T receives Adult Public Assistance and Medicaid benefits. On September 18, 2012, the Division of Public Assistance (Division) sent him notice that he would not receive Adult Public Assistance and Medicaid benefits after September 2012. Mr. T requested a hearing.

Mr. T's hearing was held on November 21, 2012. Mr. T represented himself and testified on his own behalf. Terri Gagne, a Public Assistance Analyst with the Division, represented and testified on behalf of the Division. The record was left open after the hearing for Mr. T to provide additional documentation and for the Division's written response to those documents. Mr. T provided additional documents; the Division did not submit a response.

This decision concludes that Mr. T's Adult Public Assistance should have only been suspended, rather than terminated, because as of September 18, 2012, there was no indication that he would be in jail for an indefinite or uncertain period. Because Mr. T is still technically receiving Supplemental Security Income (SSI) benefits, although the payment of those benefits is suspended, he continues to be eligible for Medicaid benefits. As a result, the Division's decision to terminate Mr. T's Adult Public Assistance benefits and his Medicaid benefits is REVERSED.

**II. Facts**

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

Mr. T is under 65 years of age and receives federal Supplemental Security Income benefits (SSI).<sup>1</sup> He receives both Adult Public Assistance and Medicaid benefits due to his being an SSI recipient.<sup>2</sup>

Mr. T was arrested and jailed on September 2, 2012.<sup>3</sup> The Division sent him notice on September 18, 2012 that his Adult Public Assistance case was closed because he was in jail, and

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<sup>1</sup> Exs. 1, B.

<sup>2</sup> Ex. 1.

as a result, he would not receive either Adult Public Assistance or Medicaid benefits after the month of September 2012.<sup>4</sup> Mr. T was briefly released from jail on September 27, 2012 and was jailed again that same day.<sup>5</sup> He is in jail based upon an arrest, has not been convicted, and has not been able to afford bail to be released pending trial.<sup>6</sup>

Mr. T reapplied for Adult Public Assistance and Medicaid benefits on October 24, 2012. That application was denied because he was in jail.<sup>7</sup>

Mr. T's monthly SSI benefits were changed to \$-0- effective October 1, 2012, because he is jailed. However, his SSI benefits have not been terminated, merely placed on hold.<sup>8</sup> The Social Security Administration's computer interface, which is accessible by the Division, showed as of November 21, 2012, that Mr. T's SSI benefits were in a no-pay status.<sup>9</sup>

### **III. Discussion**

#### **A. Adult Public Assistance**

A person who is eligible for SSI benefits is normally eligible to receive Adult Public Assistance benefits.<sup>10</sup> However, a person is not eligible for Adult Public Assistance benefits if he is in jail or prison.<sup>11</sup> If an Adult Public Assistance recipient appears to be only temporarily ineligible for benefits, the Division "will suspend assistance for a period not to exceed three months."<sup>12</sup> If a recipient is ineligible and the "cause of ineligibility appears to be of uncertain or indefinite duration, [the Division] will terminate assistance."<sup>13</sup>

When the Division made its September 18, 2012 decision to terminate Mr. T's Adult Public Assistance benefits, Mr. T had been in jail since his September 2, 2012 arrest. He had not been convicted and based upon his testimony, was in jail only because he could not raise bail. Because he was in jail, he was not eligible for Adult Public Assistance benefits. Under those circumstances, the Division was faced with determining if he would be jailed for less than three months or whether his confinement period was indefinite or uncertain. Given the fact Mr. T had

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<sup>3</sup> T testimony.

<sup>4</sup> Ex. 2.4.

<sup>5</sup> Ex. 2.5.

<sup>6</sup> T testimony.

<sup>7</sup> Ex. 2.10.

<sup>8</sup> Ex. B, pp. 2 – 3; T testimony.

<sup>9</sup> Gagne testimony.

<sup>10</sup> 7 AAC 40.030(a).

<sup>11</sup> 7 AAC 40.130(a)(2).

<sup>12</sup> 7 AAC 40.460(a).

<sup>13</sup> 7 AAC 40.460(b).

been in jail for just over two weeks based upon an arrest, had not been convicted, and there was no indication in the record that his period of confinement was going to be for a prolonged (indefinite) or uncertain period of time, the Division should have suspended his Adult Public Assistance benefits rather than terminating them. While the current extended nature of his confinement<sup>14</sup> may justify the current termination of his benefits, it cannot be used to retroactively justify the September 18, 2012 termination of benefits.

### ***B. Medicaid***

A person who receives either SSI or Adult Public Assistance benefits is eligible for Medicaid benefits.<sup>15</sup> “An individual who is a Medicaid recipient at the time that individual enters a penal institution and who continues to meet all other applicable Medicaid eligibility requirements, may retain eligibility but may not receive Medicaid-covered services while an inmate.”<sup>16</sup> Accordingly, Mr. T retains his Medicaid eligibility because he still receives SSI benefits, although those benefits have been suspended because he is in jail. Regardless, because his SSI benefits have not been terminated he is still technically eligible for Medicaid benefits. But, he “may not receive Medicaid-covered services” while in jail. The Division, however, did not turn down a claim or request for Medicaid covered services, it instead completely terminated his Medicaid eligibility.

Mr. T argued that he was receiving substandard medical treatment in jail and that he was entitled to receive Medicaid coverage while in jail. As discussed above, although Mr. T is still technically eligible for Medicaid coverage, he cannot receive Medicaid covered services while in jail. The fact that he may be dissatisfied with the jail’s medical care does not change the fact that there is a regulatory prohibition against receiving Medicaid covered services while he is an inmate.

### **IV. Conclusion**

Mr. T became ineligible for Adult Public Assistance benefits when he was arrested and jailed in September 2012. Because there is nothing in the evidentiary record showing that he would be ineligible, as of September 18, 2012 – the date the Division terminated his Adult Public Assistance benefits, for an indefinite or uncertain period of time, the Division should have

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<sup>14</sup> Mr. T was still in jail at the time of the hearing and his post-hearing filings.

<sup>15</sup> 7 AAC 100.410(a) – SSI; 7 AAC 100.410(b) – Adult Public Assistance.

<sup>16</sup> 7 AAC 100.068(b).

suspended his Adult Public Assistance benefits instead of terminating them. Its decision to terminate his Adult Public Assistance benefits is REVERSED.

Mr. T remained technically eligible for Medicaid benefits, despite being jailed, because he continues to be eligible for SSI benefits. However, the Medicaid program will not pay for his medical care so long as he remains in jail. The Division, however, did not deny a claim for Medicaid services. Instead, the Division improperly terminated his Medicaid eligibility. That decision is REVERSED.

Dated this 4th day of January 2013.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

#### **Non-Adoption Options**

D. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(5), rejects, modifies or amends the interpretation or application of a statute or regulation in the decision as follows and for these reasons:

Factual findings and conclusions not supported by the evidence.

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 5<sup>th</sup> day of February, 2013.

By: *Signed* \_\_\_\_\_  
Ree Sailors, Deputy Commissioner  
Department of Health and Social Services

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