

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

In the Matter of	)	
	)	OAH No. 12-0799-CMB
Q B	)	Division No.
_____	)	

**FAIR HEARING DECISION**

**I. Introduction**

This is the second case involving the issue of how the ownership of a fishing permit affects Q B’s household’s eligibility for Food Stamp<sup>1</sup> and Medicaid benefits. The first case began in August, 2012, when the Division of Public Assistance (Division) sent Ms. B notice that her household’s Food Stamp benefits and her and her husband’s Medicaid benefits would be terminated at the end of that month. Ms. B requested a hearing and a final decision was issued on October 25, 2012, overturning the termination because the termination notices were legally defective.<sup>2</sup>

The Division then sent Ms. B new notices on October 25, 26, and 30, 2012, notifying her that her household’s Food Stamp benefits and her and her husband’s Medicaid benefits would be terminated at the end of November 2012.<sup>3</sup> Ms. B requested a hearing.<sup>4</sup> This case resulted.

Ms. B’s hearing was held on November 20, 2012. Ms. B represented herself; both she and her husband, B B, Jr., testified. Public Assistance Analyst Terri Gagne represented the Division and testified on its behalf. The parties agreed to the incorporation into the record of the recording of the October 4, 2012 hearing held in Ms. B’s first case.<sup>5</sup>

The evidence in this case demonstrates that the Bs’ fishing permit is a countable resource which makes their household financially ineligible for Food Stamp benefits and which also makes Mr. and Ms. B financially ineligible for Medicaid benefits. As a result, the Division’s decision terminating Mr. and Ms. B’s Medicaid benefits and terminating their household’s Food Stamp benefits is **AFFIRMED**.

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<sup>1</sup> Congress changed the official name of the Food Stamp program in 2008 to the Supplemental Nutrition Assistance program (“SNAP”). However, this decision follows the common practice of continuing to refer to the program as the Food Stamp program.

<sup>2</sup> See Final Decision in OAH Case No. 12-0371-CMB; Exs. 2.26 – 2.32. The Division did not number all of its exhibits. These exhibit numbers were inserted by this office.

<sup>3</sup> Exs. 2.21 – 2.23 (numbers inserted by OAH).

<sup>4</sup> Ex. 2.33 (numbers inserted by OAH).

<sup>5</sup> OAH Case No. 12-0371-CMB.

## II. Facts

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

Mr. and Ms. B are both under 60 years old; their household consists of them and their three minor children.<sup>6</sup> The Bs live in rural Alaska where the costs of living are exceedingly high and it is difficult to make financial ends meet.<sup>7</sup> The Bs own a commercial fishing permit that is worth at least \$7,900 based upon recent sale information.<sup>8</sup> The household has not used the permit to fish in a number of years.<sup>9</sup>

The Division was aware that the Bs owned the commercial fishing permit. Ms. B provided it with that information on an April 23, 2012 public assistance application, and the Division was informed, during a May 7, 2012 interview, that the permit would be used in June 2012.<sup>10</sup>

The fishing permit was not used during the 2012 fishing season, due to a combination of factors, which include not owning a boat and motor and not having funds to purchase fuel. In addition, the Bs have to pay a yearly fee to activate the permit for use, and they did not have the funds to do that in the 2012 fishing season.<sup>11</sup> The fishing permit is not listed for sale.<sup>12</sup>

The Division determined that because the Bs were not using the fishing permit to generate income, it should be counted as a resource which was worth more than \$2,000. As a result, the Division terminated the Bs' household's Food Stamp benefits after the end of November 2012 and also terminated Mr. and Ms. B's Medicaid coverage after the end of November 2012.<sup>13</sup>

## III. Discussion

### A. *Food Stamp Benefits*

Food Stamps is a federal program administered by the State.<sup>14</sup> The Code of Federal Regulations contains the rules for determining a household's financial eligibility, which is determined, in part, based on the resources (assets) owned by the household members. The

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<sup>6</sup> Ex. 2.0.

<sup>7</sup> Mr. and Ms. B October 12, 2012 joint testimony.

<sup>8</sup> The Alaska Commercial Fisheries Entry Commission places an estimated value for this permit between \$7,900 to \$9,600 for the period from January 2012 through August 2012. *See* Ex. 2.9.

<sup>9</sup> Mr. B October 12, 2012 testimony; Ex. 2.6.

<sup>10</sup> Exs. 2.1, 2.6.

<sup>11</sup> Mr. B October 12, 2012 testimony.

<sup>12</sup> Mr. B November 20, 2012 testimony.

<sup>13</sup> Exs. 2.21 – 2.23 (numbers inserted by OAH).

<sup>14</sup> 7 C.F.R. § 271.4(a).

program has a resource limit of \$2,000 for a household whose members are under 60 years of age.<sup>15</sup> A resource that is being used to produce income, such as farm land or work tools, is not counted as a resource.<sup>16</sup>

The undisputed facts are that the fishing permit is worth at least \$7,900, that it was not used in 2012 and has not been used for several years. This means it does not generate income for the Bs. As a result, it is a countable resource. Because the fishing permit is worth more than \$2,000, it makes the B household ineligible for Food Stamp benefits.

*B. Medicaid Benefits*

The Alaska Medicaid program contains a variety of coverage categories.<sup>17</sup> Each of these categories has varying eligibility requirements.

The Medicaid program provides medical coverage for financially eligible households that have minor children in them. This Medicaid coverage category is referred to as Family Medicaid.<sup>18</sup> A Family Medicaid household consists of the dependent children in the household and the parent or parents or other caregivers that reside with them.<sup>19</sup> Among the financial eligibility requirements for the Family Medicaid program is one that a household may not own more than \$2,000 in countable resources, unless the household includes a person who is over 60 years old.<sup>20</sup>

A resource is “cash [, ] or an asset that can be converted to cash.”<sup>21</sup> Resources are counted unless they fall in a list of specific exemptions.<sup>22</sup> If a fishing permit is being used to produce income, then it is not counted as a resource.<sup>23</sup>

As discussed above, the Bs’ fishing permit is not generating income for them. Consequently, it is a countable resource. Because the fishing permit is worth more than \$2,000, it makes Mr. and Ms. B ineligible for Family Medicaid benefits.

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<sup>15</sup> 7 C.F.R. § 273.8(b).

<sup>16</sup> 7 C.F.R. § 273.8(e)(4) and (5).

<sup>17</sup> See 7 AAC 100.002 for the various types of Medicaid coverage categories.

<sup>18</sup> 7 AAC 100.002(a)(1); 7 AAC 100.100.

<sup>19</sup> 7 AAC 100.104.

<sup>20</sup> 7 AAC 100.130(a).

<sup>21</sup> 7 AAC 100.990(46).

<sup>22</sup> See 7 AAC 100.130(a); 7 AAC 100.138(a).

<sup>23</sup> 7 AAC 100.138(i).

#### **IV. Conclusion**

The Bs' fishing permit is a countable resource which is worth more than \$2,000. It makes the B household financially ineligible for Food Stamp benefits. It also makes Mr. and Ms. B financially ineligible for Medicaid benefits. As a result, the Division's decision to terminate Mr. and Ms. B's Medicaid benefits and their household's Food Stamp benefits at the end of November, 2012 is AFFIRMED.

DATED this 29th day of November, 2012.

*Signed*  
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Lawrence A. Pederson  
Administrative Law Judge

#### **Adoption**

The undersigned, by delegation from 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 13<sup>th</sup> day of December, 2012.

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

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