

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

In the Matter of:)
)
N C) OAH No. 12-0982-CMB
) DPA Case No.

DECISION

I. Introduction

The issue in this case is whether the Division of Public Assistance (Division) must terminate Ms. C's Adult Public Assistance (APA), and her APA-related Medicaid, based on the Social Security Administration's (SSA's) determination that the value of N C's resources exceeds the maximum resource limit under the Supplemental Security Income (SSI) program. The Division terminated Ms. C's APA and APA-related Medicaid after receiving information from SSA that SSA had terminated Ms. C's SSI. Because eligibility for SSI is a prerequisite to eligibility for APA, and because eligibility for APA is in turn a prerequisite to eligibility for APA-related Medicaid, the Division's decision to terminate Ms. C's APA and APA-related Medicaid is affirmed.

II. Facts

Ms. C is 63 years old and disabled.¹ She has received Supplemental Security Income from the Social Security Administration, and Adult Public Assistance and APA-related Medicaid benefits, since 2009 or before.² She lives with her husband A who is 68 years old and has had heart trouble.³

On August 31, 2012 the Social Security Administration notified Ms. C that it had determined that the value of her resources had increased so as to exceed the SSI program's maximum resource limit.⁴ SSA further notified Ms. C that, because she had been determined to be "over-resource," her SSI benefits would be terminated effective October 2012.⁵ Ms. C requested reconsideration of the Social Security Administration's decision on September 15,

¹ Ex. 1.
² Ex. 1.
³ Ex. 1; Ex. A.
⁴ Exs. 2.24 - 2.34.
⁵ Ex. 2.24.

2012.⁶ However, as of December 14, 2012 SSA was still listing Ms. C's SSI benefits as being in a non-pay status based on a determination that she was over-resource.⁷

On October 22, 2012 the Division notified Ms. C that it received information that SSA had terminated her SSI based on its determination that she was over-resource.⁸ The Division requested certain information as to the value of Ms. C's resources.⁹ Ms. C provided some, but not all, of the information and documentation requested.¹⁰ Accordingly, on November 13, 2012 the Division notified Ms. C that her Adult Public Assistance and APA-related Medicaid benefits would be terminated effective the end of that month.¹¹

Ms. C subsequently provided the rest of the information and documentation the Division had requested.¹² Nonetheless, on December 11, 2012 the Division notified Ms. C that her APA and APA-related Medicaid cases would remain closed because the Division had determined, based on its review of her information and documentation, that she was over-resource for the two programs.¹³ The Division issued supplemental notices advising Ms. C that, even if the Division concluded (independently of SSA) that she was under the resource limit for APA and APA-related Medicaid, the Division could not reinstate her APA and APA-related Medicaid benefits until SSA found her eligible for SSI.¹⁴

Ms. C requested a hearing to contest the Division's termination of her benefits, and this matter was heard on January 8, 2013. Ms. C participated in the hearing by telephone, represented herself, and testified on her own behalf. D E of Alaska Home Care participated by telephone and assisted in representing Ms. C. Public Assistance Analyst Terri Gagne participated by telephone, represented the Division, and testified on its behalf. The record was left open for three days for post-hearing filings. Both parties submitted post-hearing filings, and the record closed on January 11, 2013.

⁶ Exs. 2.13, 2.38.

⁷ Ex. 2.1.

⁸ Exs. 2.3, 2.8.

⁹ *Id.*

¹⁰ Exs. 2.9, 2.15, 2.19.

¹¹ Exs. 2.15, 2.16.

¹² Exs. 2.46, 2.47.

¹³ Exs. 2.46, 2.47.

¹⁴ Exs. 2.48, 2.49.

III. Discussion

The Division originally asserted, in its benefit termination notices, three separate bases for terminating Ms. C's benefits: (1) failure to timely provide requested information / documentation; (2) resources valued in excess of the maximum program limits based on the Division's own determination; and (3) termination of state benefits based on SSA's termination of SSI. However, at hearing the Division's representative stated that the Division had chosen to proceed with its case based solely on the third reason: that it was required to terminate Ms. C's APA and APA-related Medicaid based on SSA's termination of Ms. C's SSI.¹⁵

A person who is eligible to receive Supplemental Security Income benefits is also eligible to receive Adult Public Assistance benefits from the State of Alaska, if he or she also satisfies other State of Alaska eligibility criteria.¹⁶ A person who is receiving Supplemental Security Income or who has been approved for Adult Public Assistance is automatically eligible for Medicaid benefits.¹⁷ The category of Medicaid which a person automatically obtains as a result of APA eligibility is known as "APA-related Medicaid."

If a recipient of both Adult Public Assistance benefits and Supplemental Security Income benefits has his or her Supplemental Security Income benefits terminated by the Social Security Administration, the State of Alaska is required to terminate Adult Public Assistance benefits. Alaska's regulation, 7 AAC 40.060(c), states as follows:

(c) If an applicant is receiving SSI benefits and is determined by the Social Security Administration to be ineligible, except as provided in (d) and (e) of this section, the division will terminate assistance in accordance with 7 AAC 49.060, regardless of whether the applicant files an appeal with the Social Security Administration.

The exceptions to the termination rule contained in 7 AAC 40.060(c) refer to Supplemental Security Income termination due to either excess income or a disposal of resources for less than fair market value (*see* 7 AAC 40.060(d) and (e)). Accordingly, those exceptions are not applicable here.

The Alaska regulation pertaining to the "domino effect" of a Supplemental Security Income benefit termination, 7 AAC 40.060(c), is clear. The termination of Ms. C's Supplemental Security Income benefits requires that State Adult Public Assistance benefits be terminated. Even if the Social Security Administration's decision to terminate Supplemental

¹⁵ Terri Gagne hearing testimony.

¹⁶ 7 AAC 40.030.

¹⁷ 7 AAC 100.002, subsections (b)(1) and (d)(1); 7 AAC 100.410, subsections (a) and (b).

Security Income benefits is wrong or under appeal with the SSA, the Division does not have leeway to ignore the termination requirement.

Ms. C's eligibility for APA-related Medicaid coverage was based solely on being a recipient of either Adult Public Assistance or Supplemental Security Income.¹⁸ As a result, when Ms. C lost both her Supplemental Security Income and her Adult Public Assistance benefits, she also automatically lost her APA-related Medicaid coverage.¹⁹

IV. Conclusion

The Division was required by regulation to terminate Ms. C's Adult Public Assistance and APA-related Medicaid benefits upon being informed by SSA that Ms. C was no longer eligible for SSI. The Division's decision terminating Ms. C's Adult Public Assistance and APA-related Medicaid is therefore affirmed.

Dated this 7th day of February, 2013.

Signed

Jay Durych
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 February, 2013.

By: *Signed*

Name: Jay D. Durych
Title: Administrative Law Judge

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

¹⁸ 7 AAC 100.002, subsections (b)(1) and (d)(1); 7 AAC 100.410, subsections (a) and (b).

¹⁹ There is no evidence in the record indicating that Ms. Brittain is eligible for Medicaid coverage in any of the other eligibility categories: breast or cervical cancer, pregnancy, home and community-based waiver services, or medical institutionalization. See 7 AAC 100.002, subsections (a)(4), (c)(7), (d)(4), (d)(7), and (d)(8).