



## II. Facts

Ms. Q lives with her husband and their three minor children. Everyone in the household is under 60 years old. Ms. Q, her husband, and their three children were all receiving Medicaid benefits under the Family Medicaid coverage category in January 2013. They also received \$564 in Food Stamp benefits for January 2013.<sup>4</sup> Ms. Q applied to renew her benefits on January 7, 2013.<sup>5</sup>

During the benefit renewal process, Ms. Q informed the Division that her family had recently sold a piece of property.<sup>6</sup> That property was originally purchased by Mr. Q from the C Family, LLC (C) in 2008. The balance owed by the Qs to C on that property, as of November 30, 2012, was \$34,101.52.<sup>7</sup> The Qs sold that same piece of property to Mr. P and Ms. O (P) in early December 2012 for a total of \$60,000. That purchase Q included the preexisting debt owed to C; it was not in addition to the debt owed C. The Qs received a \$5,000 payment up front and owner financed the remaining \$55,000.<sup>8</sup> That financing was subject to the C deed of trust; the financing documents consisted of a deed of trust and accompanying promissory note signed by P whereby P agreed to make monthly payments in the amount of \$727, and the Qs agreed that the entire amount of those payments would go directly to pay the C deed of trust. The interest rate on the debt was ten percent. The Qs will not receive any of the P payments until after the C deed of trust is completely paid off.<sup>9</sup>

The Division counted the \$727 monthly payment from the P deed of trust as income for the Qs when it calculated their Food Stamp benefit amount.<sup>10</sup> As a result, it lowered the Q's monthly Food Stamp benefit amount from \$564 to \$340.<sup>11</sup> The Division also determined that the P deed of trust payable to the Qs should be considered a resource for the purposes of determining financial eligibility for Medicaid benefits. It initially terminated Ms. Q's and her husband's Family Medicaid benefits after February 28, 2013 because it counted the P deed of trust as a resource valued at \$54,058.32.<sup>12</sup>

---

<sup>4</sup> Ex. 2.60.

<sup>5</sup> Exs. 2.0 – 2.5.

<sup>6</sup> The Qs live on a separate piece of property. Ms. Q testimony.

<sup>7</sup> Ex. 2.40.

<sup>8</sup> Exs. 2.27 – 2.32.

<sup>9</sup> Exs. 2.17 – 2.21, 2.36 – 2.37, 2.40 – 2.48.

<sup>10</sup> There is no dispute regarding the other components used to calculate the Qs' Food Stamp benefit amount, such as their income, household size, and household expenses.

<sup>11</sup> Exs. 2.53, 2.60.

<sup>12</sup> Ex. 2.54.

Ms. Q contacted the Division after she received the notices that her Food Stamp benefits would be lowered and the Medicaid benefits terminated. She provided the Division with additional information about the P deed of trust payments. The Division reviewed the financial information on the P sale.<sup>13</sup> It determined that the \$727 monthly payment from P should continue to be counted as monthly income for the Qs, and that the monthly Food Stamp benefit should remain at \$340.<sup>14</sup>

The Division also reexamined its decision to terminate the Qs' Medicaid benefits. After reviewing the financial information on the P sale, it valued the Qs' equity in the P deed of trust at \$20,887.60, and again found the Qs ineligible.<sup>15</sup>

A Division Eligibility Technician contacted the escrow holder, First National Bank, and spoke to an escrow department representative, who said the P escrow could be sold.<sup>16</sup> Ms. Q also contacted First National Bank and spoke to an escrow department representative, who told her that the bank would not purchase the escrow, but suggested some other persons who might. Ms. Q contacted two businesses that buy deeds of trust, who said they would not be interested in purchasing the P deed of trust until after the first deed of trust (C) was paid off.<sup>17</sup>

### **III. Discussion**

#### *A. Food Stamps*

The P deed of trust is what is commonly referred to as a wraparound deed of trust. The balance on that deed of trust includes the balance on the C deed of trust. The payments on the P deed of trust do not pass through the Qs' hands. They go to pay off the C deed of trust, and the Qs will not receive a payment on the P deed of trust until the C deed of trust is paid in full.

The Division did not count the P deed of trust as a countable resource for Food Stamp purposes. This was because the Food Stamp program does not count installment contracts for the sale of land as a resource.<sup>18</sup> The Food Stamp program, however, counts payments from those land sale contracts as income, even if they are not received by the Food Stamp household, if they are used to pay a household debt:

---

<sup>13</sup> Ex. 2.55.

<sup>14</sup> Ex. 2.56.

<sup>15</sup> The Division arrived at the \$20,887.60 figure by taking the outstanding balance due on the C deed of trust as of January 9, 2013 (\$33, 170.72) and subtracting that amount from the outstanding balance on the P deed of trust as of January 8, 2013 (\$54,058.32). *See* Exs. 2.55, 2.57.

<sup>16</sup> Ex. 2.51.

<sup>17</sup> Ex. 2.58.

<sup>18</sup> 7 C.F.R. § 273.8(e)(6).

moneys legally obligated and otherwise payable to the household which are diverted by the provider of the payment to a third party for a household expense shall be counted as income and not excluded.<sup>[19]</sup>

The P payments fit squarely within this rule. They are payments that P owes to the Qs, which are used to pay a Q obligation, the C deed of trust. As a result, the Division was correct to count the \$727 P payment as income to the Qs, regardless of the fact that the Qs do not themselves receive any money from P.

Ms. Q alternatively argued that if the P payment is counted as income, then she should be allowed it as a mortgage deduction, since it went to pay an underlying deed of trust. In order for Ms. Q to prevail on this legal argument, the Qs would have to live on the property in order to claim it as a deduction, which they do not.<sup>20</sup>

### *B. Medicaid*

The Alaska Medicaid program contains a variety of coverage categories. *See* 7 AAC 100.002. Each of these categories has differing eligibility requirements. These include financial requirements which limit how much monthly income a Medicaid applicant may have, and how much in resources (cash, other personal property, and real property) an applicant may own.

It must be noted that the Family Medicaid rules, unlike the Food Stamp rules, only count income that is “received or anticipated to be received” by a household member.<sup>21</sup> The facts are clear that the Qs do not actually receive any payments from the P deed of trust. The Division therefore did not consider this to be an income issue for Medicaid eligibility purposes.

Family Medicaid recipients, where no one in the household is 60 years or older, may not own more than \$2,000 in countable resources.<sup>22</sup> The Medicaid regulations generally define a resource as “cash, or an asset that can be converted to cash.”<sup>23</sup> The term resource also includes “liquid resources such as a promissory note, stock, bond, or security that is readily convertible to cash.”<sup>24</sup>

It is undisputed that the P deed of trust is a saleable asset. It is also undisputed that the Qs’ equity in that deed of trust is approximately \$20,000. The resulting factual question is whether it can be readily sold for more than \$2,000. If it can, then the Qs are not financially eligible for

---

<sup>19</sup> 7 C.F.R. § 273.9(c)(1)(ii).

<sup>20</sup> 7 C.F.R. § 273.9(d) and (d)(6)(ii)(A).

<sup>21</sup> 7 AAC 100.150(a)(1).

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

<sup>23</sup> 7 AAC 100.990(46).

<sup>24</sup> 7 AAC 100.990(46)(B).

Family Medicaid benefits. Ms. Q testified that the P deed of trust could not be sold until the C deed of trust is paid for. This argument is not persuasive. Although the P deed of trust will not generate actual payments to the Qs until the C deed of trust is paid for, the Q's equity in that deed of trust is \$20,000 and bears a ten percent interest rate. While that deed of trust might not be readily saleable for anywhere near its actual value of approximately \$20,000, the Qs could readily obtain a buyer for this deed of trust at a "fire sale" Q which would be greater than the \$2,000 Family Medicaid resource limit.

#### **IV. Conclusion**

The Division's reduction of the Qs' Food Stamp benefit amount to \$340 is affirmed. The termination of Mr. and Ms. Qs Family Medicaid benefits after February 28, 2013 is also affirmed.

DATED this 12<sup>th</sup> day of April, 2013.

*Signed* \_\_\_\_\_  
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 26<sup>th</sup> day of April, 2013.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge, DOA/OAH

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