

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

In the Matter of )  
 )  
 B J )  
\_\_\_\_\_ )

OAH No. 13-0423-CMB  
Division No.

**DECISION**

**I. Introduction**

B J was a Food Stamp<sup>1</sup> and Medicaid recipient. She applied to renew those benefits. Upon renewal, the Department of Health and Social Services, Division of Public Assistance (Division) denied her application, which resulted in her no longer being eligible for either Food Stamp or Medicaid benefits.<sup>2</sup> Ms. J requested a hearing.

Ms. J's hearing was held on April 23, 2013. Ms. J represented herself and testified on her own behalf. Public Assistance Analyst Terri Gagne represented the Division and testified on its behalf. The record was left open after the hearing until May 2, 2012 for the parties to submit additional documents.

Ms. J is not financially eligible for either Food Stamp or Medicaid benefits because she owns real property, which is a countable asset worth in excess of \$2,000. As a result, the Division's decision denying her renewal application for those benefits is affirmed.

**II. Facts**

Ms. J is under 60 years of age.<sup>3</sup> She has been receiving Food Stamp benefits and Medicaid benefits under the Family Medicaid category.<sup>4</sup> She used to live in No Name, but now lives in No Name. She still owns a home in No Name, which she financed through the Bristol Bay Housing Authority. Her equity in the home is approximately \$15,000.<sup>5</sup> Ms. J is behind on payments for the No Name home, which is in the foreclosure process.<sup>6</sup> The foreclosure has not yet been completed and Ms. J still owns the property.<sup>7</sup>

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<sup>1</sup> The Food Stamp program is also referred to as the Supplemental Nutrition Assistance program.

<sup>2</sup> Ms. J has four children in her home. They are continuing to receive Medicaid benefits through the Denali KidCare program. This decision, therefore, does not address their Medicaid coverage.

<sup>3</sup> Ex. 2.

<sup>4</sup> Ex. 1.

<sup>5</sup> Exs. 2.6, 2.8.

<sup>6</sup> Ex. A (Bristol Bay Housing Authority correspondence dated January 24, 2013).

<sup>7</sup> Gagne testimony; Ex. 21.5 (Division correspondence dated May 1, 2013).

Ms. J applied to renew her Food Stamp and Medicaid benefits. The Division denied her application because she owned the No Name home, did not live there, and its value was greater than \$2,000.<sup>8</sup> Ms. J testified that she has tried to sell the property, but said that she cannot because the Bristol Bay Housing Authority says that it owns the property. This explanation, however, is not credible. She remains the owner until the foreclosure is complete, and nothing prohibits her from selling the property.

### **III. Discussion**

#### *A. Food Stamps*

Food Stamps is a federal program administered by the State.<sup>9</sup> The Code of Federal Regulations (C.F.R.) 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 program has a resource limit of \$2,000 for a household whose members are under 60 years of age.<sup>10</sup> Real property is normally counted as a resource.<sup>11</sup> However, if a recipient is living on the real property, it is not counted as a resource.<sup>12</sup> Additionally, if a household is making a "good faith effort to sell [real property] at a reasonable price," it is not counted as a resource.<sup>13</sup>

Ms. J has over \$2,000 in equity in the No Name property. She maintains that she cannot sell the property because the Bristol Bay Housing Authority says that it owns the property. The evidence shows, however, that the Bristol Bay Housing Authority has not completed foreclosure on the property, which means it does not yet own the property. Until such time as the foreclosure is completed, Ms. J owns and can sell the property. It is therefore a countable resource for Food Stamp financial eligibility purposes. Because her equity in the home is greater than \$2,000, she is no longer financially eligible for Food Stamp benefits.

#### *B. Medicaid*

The Alaska Medicaid program contains a variety of coverage categories.<sup>14</sup> Each category has its own eligibility requirements. These include financial requirements, which impose a limit on a Medicaid applicant's monthly income and resources (cash, other personal property, and real property).

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<sup>8</sup> Exs. 2.9 – 2.10.

<sup>9</sup> 7 C.F.R. § 271.4(a).

<sup>10</sup> 7 C.F.R. § 273.8(b).

<sup>11</sup> 7 C.F.R. § 273.8(c)(2).

<sup>12</sup> 7 C.F.R. § 273.8(e)(1).

<sup>13</sup> 7 C.F.R. § 273.8(e)(8).

<sup>14</sup> See 7 AAC 100.002.

Family Medicaid, the Medicaid category Ms. J is potentially eligible for, has a limit of not more than \$2,000 in countable resources for households where no member has reached 60 years of age.<sup>15</sup> The Medicaid regulations generally define “resource” as “cash, or an asset that can be converted to cash,” and they specifically include real estate.<sup>16</sup> In order for real estate to be exempt from being counted as a resource, a recipient must live on it.<sup>17</sup>

As discussed above, Ms. J still owns the No Name home. She does not live there, so it is a countable resource. Her equity in the home is greater than \$2,000, so she is no longer financially eligible for Family Medicaid benefits.

#### **IV. Conclusion**

The Division’s denial of Ms. J’s renewal application for Food Stamp and Medicaid benefits is affirmed.

DATED this 7<sup>th</sup> day of May, 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 16<sup>th</sup> day of May, 2013.

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

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

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<sup>15</sup> 7 AAC 100.130(a).  
<sup>16</sup> 7 AAC 100.990(46).  
<sup>17</sup> 7 AAC 100.138(b).