



work, they continue to use the car as it is.<sup>5</sup> Mr. E now believes the car is worth less than the amount listed on his application.

Mr. E also testified that as of the date of the hearing, he and his wife only had about \$55 in the bank.

### III. Discussion

To be eligible for adult public assistance, a husband and wife living together may not own more than \$3,000 in non-excludable resources.<sup>6</sup> Resources are measured as of the first day of the calendar month.<sup>7</sup> Resources are defined as any real or personal property that can be converted to cash and used for the support and maintenance of the applicant.<sup>8</sup> Alaska regulations provide for excluding certain resources from the resource calculation.<sup>9</sup> The exclusion relevant here excludes

one motor vehicle regardless of value if the motor vehicle is used by the applicant or a member of his family for employment or for obtaining regular medical treatment or if the vehicle has been modified for use by a person with a disability; any other motor vehicle is excluded to the extent that its retail market value does not exceed \$4,500[.<sup>10</sup>]

In reviewing Mr. E's application, the division excluded the highest value vehicle, the 2002 Ford 150.<sup>11</sup> It did not exclude his other vehicles.

The division erred in counting the other three vehicles.<sup>12</sup> The exclusion specifically says "any other motor vehicle is excluded to the extent that its retail market value does not exceed \$4,500." All four of Mr. E's vehicles have a market value of less than \$4,500. Pursuant to 7 AAC 40.280(a)(3), all four of these vehicles are excluded, and are not counted as resources.<sup>13</sup>

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<sup>5</sup> Testimony of Mr. E.

<sup>6</sup> 7 AAC 40.270(a)(2). There are other eligibility requirements as well, but only the resource limit is relevant to this appeal.

<sup>7</sup> 7 AAC 40.270(b).

<sup>8</sup> 7 AAC 40.260(a).

<sup>9</sup> 7 AAC 40.280(a).

<sup>10</sup> 7 AAC 40.280(a)(3).

<sup>11</sup> Exhibit 3.

<sup>12</sup> The trailer is not a vehicle and may be excludable as a household good or personal effect. 7 AAC 40.280(2) (household goods and personal effects having an equity value of \$2,000 or less are excluded).

<sup>13</sup> See OHA Case No. 09-FH-523 (Office of Administrative Hearings and Appeals 2009) (applying this regulation to an applicant's second vehicle). This case is available on line at <http://aws.state.ak.us/officeofadminhearings/Documents/HSS/09-FH-523.pdf>.

The division did not dispute the value placed by Mr. E on his vehicles, and those values appear reasonable on their face. It is unlikely that any of those other vehicles had a fair market value in excess of \$4,500.

**IV. Conclusion**

Mr. E was only \$705 above the resource limit. When the exclusion for vehicles is properly applied, he is well below the limit. Accordingly the division's denial of his application for having exceeded the resource limit is reversed.

Dated this 30<sup>th</sup> day of September, 2013.

*Signed* \_\_\_\_\_  
Jeffrey A. Friedman  
Administrative Law Judge

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

In the Matter of )  
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\_\_\_\_\_ )

OAH No. 13-1220-CMB  
Agency No.

**ADOPTION OF REVISED DECISION**

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:

The first portion of 7 AAC 40.280(a)(3) allows an exclusion for one motor vehicle of any value if it used for employment, obtaining medical treatment, or has been modified for use by a person with a disability. The second portion of that regulation excludes any other vehicle to the extent its market value does not exceed \$4,500. This regulation is interpreted as excluding only one motor vehicle. That motor vehicle may be of any value if used for one of the listed reasons. Otherwise, only the first \$4,500 of value for one vehicle is excluded.

Resources are defined as property than can be converted to cash to support the applicant.<sup>14</sup> Individuals are expected to exhaust their resources before relying on public assistance. Excluding multiple vehicles, each of which is worth less than \$4,500, would mean the applicant could receive public assistance simply by converting non-excludable resources into vehicles. This is contrary to the intent of the regulatory scheme.

Under this interpretation, Mr. E has exceeded the resource limit and the division’s denial of his application is upheld.

**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 15<sup>th</sup> day of November, 2013.

By: Signed  
Ree Sailors  
Deputy Commissioner

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

<sup>14</sup> 7 AAC 40.260.