

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

In the Matter of)
)
 H S) OAH No. 17-0393-CMB
) Agency No.
_____)

REVISED FINAL DECISION

I. Introduction

In December 2016, H S submitted an Eligibility Review Form for the Adult Public Assistance (APA), Medicaid, and the Food Stamp Programs.¹ The Division of Public Assistance determined that Ms. S’s assets were over the program limit, and denied her application.² Ms. S appealed.³

Because Ms. S’s resources were in excess of the allowable limit, the Division was correct to deny her recertification application. The Division’s decision is affirmed.

II. Facts

Ms. S has previously qualified for program benefits.⁴ On her December 2016 Eligibility Review Form, Ms. S listed that she had \$493.59 in a checking account, and \$2,467.93 in a savings account.⁵ Ms. S wrote that she did not receive any other funds or benefits.⁶ Ms. S actually receives \$848 in benefits from the Social Security Administration (SSA).⁷ The Division pended Ms. S’s application for verification of bank balances.⁸

The Division calculated Ms. S’s eligibility based on her February 10, 2017, checking and saving accounts balances, which were \$2,753.59 and \$783.60 respectively.⁹ The Division subtracted Ms. S’s SSA and Adult Public Assistance (APA) benefits (received that

¹ Exhibit 2. It looks like Medicaid may have been crossed off on the form. Also, the denial lists APA and Medicaid, but does not include Food Stamps.

² Exhibit 4.

³ Exhibit 5.

⁴ Exhibit 1.

⁵ Exhibit 2.2.

⁶ Exhibit 2.3.

⁷ Exhibit 2; position statement; Dial testimony. The position statement lists that Ms. S receives \$848 in SSA. Exhibit 2 lists that Ms. S receives \$557 in SSA and \$291 in SSI, for a total of \$848. At the hearing, Ms. Dial stated that it appeared Ms. S is receiving only SSA. Because SSI and SSA are excluded from resource calculation, this potential inconsistency does not affect Ms. S’s eligibility.

⁸ Exhibit 2.

⁹ Exhibits 3.2 – 3.3; Exhibit 4.

month as income) from the total and determined that Ms. S's total resources were \$2,319.19, which exceed the \$2,000 resource limit.¹⁰

On March 28, 2017, the Division closed Ms. S's APA and Medicaid cases because she was over the resource limit.¹¹ The Division notified Ms. S that she would not receive APA benefits after April 2017.¹² The letter also stated that her Medicaid benefits would cease unless she also receives Supplemental Security Benefits.¹³ Ms. S appealed. A telephonic hearing was held on May 9, 2017. Ms. S represented herself, and was assisted by her twin sister, K S. The Division was represented by Sally Dial. Ms. S explained that she appealed based on her need for benefits, stating that she needed them for her survival.¹⁴

III. Discussion

Ms. S's application was denied because the Division determined she had excess financial resources. An individual is not eligible for Adult Public Assistance and Medicaid if she has more than \$2,000 in non-excludable resources.¹⁵ Resources include any real or personal property that can be converted to cash to be used for the individual's support.¹⁶ Total resources are counted as of the first day of the calendar month.¹⁷

On February 1, 2017, Ms. S had \$2,220.21 in her checking account and \$683.59 in her saving's account, for a total of \$2,903.80.¹⁸ On February 1st, she had not yet received that month's APA and SSA, so this income could not be excluded. Therefore, the entire

¹⁰ Exhibit 3; Exhibit 4.

¹¹ Exhibit 3; Exhibit 4.

¹² Exhibit 4.

¹³ Exhibit 4.

¹⁴ The revised decision replaces the proposed decision issued on May 15, 2017. The proposed decision reversed the agency's denial, finding that the Division used an incorrect date when determining Ms. S's income and resources. The proposed decision stated that the Division should have used Ms. S's balances on the 1st (not 10th) of February. The ALJ recalculated Ms. S's income and resources using her bank balances as of February 1, 2017, then subtracted Ms. S's social security and adult public assistance (APA) benefits. Using this calculation, the ALJ found that Ms. S did not exceed the resource limit and qualified for benefits.

On May 30, 2017, the Division filed a Proposal for Action, and identified an error in the ALJ's calculation. The PFA explained that SSA and APA income could not be excluded from Ms. S's February 1, 2017, resources because she had yet to receive them in that month. The Division's PFA also explained that income is counted in the month received, but a resource the following month. See Alaska Adult Public Assistance Manual, Section 440-2, <http://dpaweb.hss.state.ak.us/manuals/apa/apa.htm>. The Division's PFA calculated Ms. S's eligibility using her January 31, 2017, bank balances and subtracted her APA and SSA benefits, for a total resource of \$2,135.24, which exceeded the \$2,000 resource limit. The proposed decision is rejected and revised per AS 44.64.060(e).

¹⁵ 7 AAC 40.270(a)(1); 7 AAC 100.400(a)(14); 7 AAC 40.090(7).

¹⁶ 7 AAC 40.260; 7 AAC 100.400(a)(13).

¹⁷ 7 AAC 40.270(b).

¹⁸ Ms. S's resources exceeded the allowable limit whether calculated on January 31st, February 1st, or February 10th.

amount of her combined bank accounts must be included in the resource calculation. This balance exceeded the \$2,000 limit.

IV. Conclusion

Because Ms. S's available resources exceeded the program limits, the Division's decision denying APA and Medicaid benefits is affirmed.

Dated: June 27, 2017

Signed _____
Erin Shine
Special Assistant to the Commissioner

APPEAL RIGHTS

This is a final decision for purposes of appeal rights. 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.

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

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BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES

In the Matter of _____)
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H S) OAH No. 17-0393-CMB
) Agency No.

[REJECTED PROPOSED] DECISION

I. Introduction

In December 2016, H S submitted an Eligibility Review Form for the Adult Public Assistance (APA), Medicaid, and the Food Stamp Programs.¹⁹ The Division of Public Assistance determined that Ms. S’s resources were over the program limit, and denied her application.²⁰ Ms. S appealed.²¹

Because Ms. S’s resources were not in excess of the allowable limit, the Division was incorrect to deny her recertification application. The Division’s decision is reversed.

II. Facts

Ms. S has previously qualified for program benefits.²² On her December 2016 Eligibility Review Form, Ms. S listed that she had \$493.59 in a checking account, and \$2,467.93 in a savings account.²³ Ms. S wrote that she did not receive any other funds or benefits.²⁴ Ms. S actually receives \$848 in benefits from the Social Security Administration.²⁵ The Division pended Ms. S’s application for verification of bank balances.²⁶

¹⁹ Exhibit 2. It appears Medicaid may have been crossed off on the form. Also, the Division’s close out letter lists APA and Medicaid, but does not include Food Stamps.

²⁰ Exhibit 4.

²¹ Exhibit 5.

²² Exhibit 1.

²³ Exhibit 2.2.

²⁴ Exhibit 2.3.

²⁵ Exhibit 2; position statement; Dial testimony. The position statement lists that Ms. S receives \$848 in SSA. Exhibit 2 lists that Ms. S receives \$557 in SSA and \$291 in SSI, for a total of \$848. At the hearing, Ms. Dial stated that it appeared Ms. S is receiving only SSA. This apparent inconsistency does not appear to affect Ms. S’s eligibility.

²⁶ Exhibit 2.

Ms. S provided bank statements. Ms. S's checking account balance on February 1, 2017, was \$2,220.21.²⁷ Ms. S's savings account balance was \$683.59 on February 1, 2017.²⁸

The Division calculated Ms. S's eligibility based on her February 10, 2017, checking and saving accounts balances, which were \$2,753.59 and \$783.60 respectively.²⁹ The Division subtracted Ms. S's SSA and APA benefits from the total and determined that Ms. S's total resources were \$2,319.19, which exceed the \$2,000 resource limit.³⁰

On March 28, 2017, the Division closed Ms. S's APA and Medicaid cases because she was over the resource limit.³¹ The Division notified Ms. S that she would not receive APA benefits after April 2017.³² The letter also stated that her Medicaid benefits would cease unless she also receives Supplemental Security Benefits.³³

Ms. S appealed. A telephonic hearing was held on May 9, 2017. Ms. S represented herself, and was assisted by her twin sister, K S. The Division was represented by Sally Dial. Ms. S appealed based on her need for benefits, stating that she needed them for her survival. Ms. Dial relied on the agency record and its resource determination.

III. Discussion

Ms. S's application was denied because the Division determined she had excess financial resources. An individual is not eligible for Adult Public Assistance and Medicaid if she has more than \$2,000 in non-excludable resources.³⁴ Resources include any real or personal property that can be converted to cash to be used for the individual's support.³⁵ Total resources are counted as of the first day of the calendar month.³⁶

The Division incorrectly calculated Ms. S's eligibility. It should have used the account balances as of February, 1, 2017, not February 10th. Ms. S had \$1,785.80 in

²⁷ Exhibit 3.2.

²⁸ Exhibit 3.3.

²⁹ Exhibits 3.2 – 3.3; Exhibit 4.

³⁰ Exhibit 3; Exhibit 4.

³¹ Exhibit 3; Exhibit 4.

³² Exhibit 4.

³³ Exhibit 4.

³⁴ 7 AAC 40.270(a)(1); 7 AAC 100.400(a)(14); 7 AAC 40.090(7).

³⁵ 7 AAC 40.260; 7 AAC 100.400(a)(13).

³⁶ 7 AAC 40.270(b).

countable resources on February 1, 2017.³⁷ Because Ms. S's resources did not exceed the allowable limit, she is eligible for APA and Medicaid benefits.

IV. Conclusion

Because Ms. S's available resources did not exceed the program limits on the first of the month, the Division's decision is reversed.

Lastly, Ms. S testified that she has difficulty tracking her finances and would like assistance. Ms. S may wish to contact adult protective services if she feels she is currently unable to manage her finances.

Dated: May 15th, 2017.

Signed _____
Bride Seifert
Administrative Law Judge

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

³⁷ Checking \$2,220.21 + savings \$683.59 = \$2,903.80 – SSA \$848 – APA \$270 = \$1,785.80.