

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

In the Matter of)
)
N E) OAH No. 18-0457-MDE
) Agency No.
_____)

DECISION

I. Introduction

N E's household received Transitional Medicaid from March 2017 through February 2018. In January 2018, before that coverage ended, Ms. E submitted a renewal application for Medicaid benefits. The Division of Public Assistance (Division) denied the application because the household's countable income exceeds the income limit for Modified Adjusted Gross Income (MAGI) Medicaid. Ms. E requested a hearing.

Ms. E acknowledges that her monthly household income exceeds the applicable income limit. She appealed because her husband, Q E, requires expensive prescription medications that the household cannot otherwise afford. She requested eligibility based on medical hardship. However, no such exception to the income eligibility rules exists for situations like Ms. E's. Therefore, the Division correctly denied her application. Its decision is affirmed.

II. Facts

A. Background Facts

The material facts in this case are not disputed. N E lives with her husband, Q E, and two minor children in a household of four. Ms. E works full-time for the State of Alaska and is paid based on a \$2,474 bi-monthly rate.¹ Her income is steady from month to month. Her paycheck dated March 13, 2018 showed gross pay of \$2,447; her paycheck dated March 28, 2018 showed gross pay of \$2,474.² After adjusting her income to account for Ms. E's monthly retirement and health insurance plan contributions, her adjusted average gross income is approximately \$4,058.36 per month.³

Mr. E is 44 years old and a stay-home parent.⁴ He experiences a number of medical conditions that cause chronic pain and other problems. His diagnoses include psoriatic arthritis,

¹ Exhibit 17-17.1.

² *Id.*

³ *See id.*; Division revised position statement, p. 3.

⁴ N E; Exhibit 6.77.

gout, obstructive sleep apnea, diabetes mellitus and spondyloarthropathy.⁵ He receives monthly Social Security disability insurance (SSDI) income of \$775.⁶ Each of the couple's two minor children also receive monthly Social Security payments of approximately \$102.⁷ Each member of the family receives the PFD. Based on the 2017 distribution, this results in estimated total monthly PFD income of \$366.67 for all four household members.⁸

To keep his arthritis under control, Mr. E's doctors have prescribed medications he needs to take on a regular, ongoing basis. Without them, he experiences painful flares of disease that can result (and at times have resulted) in a need for acute care.⁹ Recurrent flares are likely to lead to increased medical costs due to progression of Mr. E's disease.¹⁰ Some of these medications are extremely expensive. Ms. E explained that Humira, which Mr. E is supposed to take once per week, costs roughly \$5,000 for every two doses. Even after receiving some patient assistance relief, the Es assert that they cannot afford all of Mr. E's medications without Medicaid coverage.¹¹ Mr. E sometimes does not take all prescribed medications on schedule because of his concerns about cost and the financial impact on the rest of his household.

As a state employee, Ms. E is covered by a State employee health insurance plan; however, she has not covered her husband on the plan.¹² Because of his eligibility for SSDI benefits, Mr. E receives some health insurance coverage through the Medicare program.¹³ He did not clearly define which Parts apply in his case; however, he indicated that he does not have prescription drug coverage under Medicare Part D.¹⁴

B. Procedural History

In early 2017, the Division denied Mr. and Ms. E's initial application for Medicaid because they were over the program's income limit.¹⁵ However, they were found eligible for a

⁵ Exhibit 6.77.

⁶ This benefit is issued under Title II of the Social Security Act. Exhibit 3.3.

⁷ Exhibits 3.5, 3.7.

⁸ Exhibit 4.

⁹ See Exhibits 6.1, 6.4-6.5; N E testimony.

¹⁰ Exhibit 6.4.

¹¹ Exhibit 6.4-6.77; N E testimony.

¹² Exhibit 17 – 17.1; N E testimony. Ms. E is assessing whether she can add him to her plan. The Division of Retirement & Benefits or her union may be able to assist with this inquiry.

¹³ Q E testimony.

¹⁴ Mr. E indicated that he does not qualify for Part D coverage. It is not clear whether this accurate. Publicly available information from the Social Security Administration indicates that SSDI recipients are eligible for Medicare Parts A, B, and C, as well as voluntary prescription drug benefits under Part D. See <https://www.ssa.gov/redbook/eng/overview-disability.htm>. See also <https://www.ssa.gov/pubs/EN-05-10043.pdf>.

¹⁵ Exhibit 1.1.

program called Transitional Medicaid (known as T-Med), which can provide coverage for up to twelve months. Mr. and Ms. E received T-Med coverage from March 2017 through February 2018.¹⁶ On January 9, 2018, as the T-Med coverage period came to an end, Ms. E submitted a renewal application for Medicaid benefits.¹⁷

The Division reviewed Ms. E's gross wage income, Mr. E's Social Security disability income, the two children's Social Security income, and the household's PFD income. It calculated total countable monthly household income of \$5,049.23.¹⁸ Because this significantly exceeded the Medicaid program income limit for a household of four, it sent Ms. E a notice on April 24, 2018, denying her application as over-income.¹⁹

The Division later realized that its initial calculations contained a mathematical error, and it sent a revised denial notice on May 3, 2018.²⁰ The revision did not change the outcome. It clarified that the household's countable monthly income is \$5,567.58, higher than previously determined.²¹

Ms. E requested a hearing, which took place on May 17, 2018. It was audio-recorded. Ms. E appeared in person and represented herself, with assistance from Q E. Both Mr. and Ms. E testified. Public Assistance Analyst Jeff Miller appeared telephonically and represented the Division. All submitted documents were admitted to the record, which closed at the end of the hearing.

III. Discussion

Transitional Medicaid benefits are available for up to 12 months.²² Ms. E's household has exhausted its eligibility under that program.²³ Therefore, it can continue to receive Medicaid benefits only if it qualifies under another Medicaid category.

The Medicaid program includes a variety of coverage categories. Each category is subject to income limits for program eligibility. If an applicant or recipient's income exceeds the applicable limit, the applicant is not financially eligible for Medicaid. Ms. E and her husband are

¹⁶ Exhibit 1.2; Division position statements submitted 5/3/18, 5/15/18.

¹⁷ Exhibit 2 – 2.6.

¹⁸ Exhibit 4.

¹⁹ *Id.*

²⁰ Exhibit 16.

²¹ *Id.*

²² 7 AAC 100.200 (a)

²³ Exhibit 1.3.

both adults under the age of 65, and their household falls under the MAGI Medicaid Expansion Group category.²⁴

The monthly income limit for the MAGI Medicaid Expansion Group is set at 133% of the federal poverty level.²⁵ At the time of Ms. E's application, the limit was \$3,409 for a four-person household.²⁶ Very few income deductions or "disregards" are available to applicants. There is no deduction for the cost of a household's medical or prescription drug expenses.²⁷ However, there is a general income disregard of 5% of the federal poverty level.²⁸ For a household of four, the disregard amount is \$129.²⁹ This means that the countable income limit relevant to the Ms. E's eligibility determination, including the \$129 disregard, is \$3,538.³⁰

During the hearing, both parties clarified parts of the countable household income calculation. The Division clarified Ms. E's average monthly wage income after adjustments for her retirement and health insurance contributions, \$4,058.36. Ms. E confirmed that her husband receives \$775 in Social Security disability insurance income each month, rather than \$900 as the Division initially calculated. Each child in the home receives \$100 or \$102 in monthly Social Security benefits, and the household's total PFD income each month is \$366.67. This combined income significantly exceeds the \$3,538 eligibility limit.

Ms. E does not dispute the Division's determination that the household is over the income eligibility limit. She requested coverage based on medical hardship, emphasizing that her husband needs his medications, but the household cannot afford them without additional insurance coverage. She submitted letters from Mr. E's medical providers, who explained that Mr. E requires specific and costly medications to prevent hospitalization.³¹ She also submitted medical records and documentation about her husband's medications.³² The Division does not dispute Mr. E's medical needs or the cost of his medications.

²⁴ Exhibit 1.8 - 1.12.

²⁵ Exhibit 5.

²⁶ *Id.* On April 1, 2018, the limit increased to \$3,478. Even if this standard applied, it would not change the outcome. See http://dpaweb.hss.state.ak.us/POLICY/PDF/Medicaid_standards.pdf.

²⁷ See e.g., MAGI Medicaid Eligibility Manual, Addendum 4 (Income Deductions). The manual is available online at <http://dpaweb.hss.state.ak.us/manuals/MAGI/magi.htm>.

²⁸ 42 CFR §§ 435.603(d)(1), (d)(4), and (g)(2).

²⁹ Exhibit 5.1.

³⁰ Exhibit 5-5.1. $\$3,409 + \$129 = \$3,538$. The Division's earlier notices misstated the applicable eligibility limit, citing it at \$3,437. This clarification does not change the outcome.

³¹ Exhibit 6-6.5.

³² Exhibit 6 - 6.105.

In determining Medicaid eligibility, the Division must adhere to a comprehensive set of program rules and regulations. It cannot authorize coverage for persons or groups that the program does not specifically contemplate.³³ The Division asserted that no exception based on medical need or hardship exists that overcomes the income eligibility rules for MAGI Medicaid. The undersigned also has not identified any provision that could confer eligibility in a situation like Ms. E's. As a result, Ms. E and her household are not eligible for Medicaid benefits under the MAGI Medicaid Expansion Group category.³⁴ The Es' two children were subsequently found to be eligible for coverage under the Denali Kid Care program.³⁵ However, Mr. and Ms. E do not meet the eligibility requirements for other coverage.

IV. Conclusion

Ms. E's monthly household income exceeds the countable income limit for the MAGI Medicaid Expansion Group. Despite Mr. E's acknowledged need for expensive prescription medications, there is no exception or medical hardship provision to the program's income eligibility requirement. Accordingly, the Division did not err in denying Ms. E's January 2018 application for Medicaid benefits. Its determination is affirmed.

Dated: May 22, 2018.

Signed _____
Kathryn Swiderski
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 5th day of June, 2018.

By: *Signed* _____
Name: Kathryn A. Swiderski
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

³³ See AS 47.07.020(a), (b), (d).

³⁴ During the hearing, Mr. Miller explained that the Es' two children subsequently were covered under the Denali Kid Care program.

³⁵ Division hearing representative statement at hearing.