

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

In the Matter of)	
)	
ESTATE OF N N)	OAH No. 18-0972-GRE
<hr style="width:40%; margin-left:0"/>)	Agency No. 05952452

DECISION

I. Introduction

C N applied for General Relief burial assistance for his late wife, N N. The Division of Public Assistance (Division) denied the application on the grounds that Ms. N’s daughter was residing in the home causing the household income to exceed the program limits. Mr. N requested a Fair Hearing.

Ms. N’s daughter resided in the same residence with Ms. N. Therefore, her income is counted in determining financial eligibility. The Division’s decision to deny Mr. N’s application was required by applicable law and is upheld.

II. Facts

N N passed away on September 17, 2018. At the time of her death, Ms. N lived with her daughter, S G, and three grandchildren in the home owned by Ms. N.¹ Prior to her death Ms. N was bed ridden and wheelchair bound. She generally lived in the house in two rooms-- her bedroom and bathroom. Her daughter and grandchildren occupied the rest of the residence.²

On September 20, 2018, three days after Ms. N passed away, Mr. N submitted a General Relief Assistance Cremation/Burial Application on behalf of Ms. N.³ Ms. G participated in a telephone interview with the Division. According to the interview notes, Ms. G stated that she and her mother were roommates, but that she maintained a separate household.⁴ The Division did not count Ms. N’s income for purposes of calculating the amount of monthly income attributable to the household because was a recipient of Adult Public Assistance and Medicaid but did count Ms. G’s income. Based on Ms. G’s income for the month of September, the Division denied the application because the household

¹ Exhibit 2.1. Testimony of Mr. N and N J.
² Exhibit 1. Testimony of N J.
³ Exhibit 2.
⁴ Exhibits 3 and 4.

income exceeded the program's \$700 countable net income limit for a household of 5.⁵ Mr. N requested a hearing to contest the denial.⁶

The hearing was held on October 9, 2018. Mr. N appeared telephonically and testified on behalf of the Estate of N N. N J also appeared telephonically and testified on behalf of the application and the estate. Public Assistance Analyst Sally Dial represented the Division.

Ms. Dial explained that Ms. G's monthly income of \$1,981.19 put the household over the income limit for General Relief burial assistance. Mr. N testified that Ms. G moved into Ms. N's house when her house burned down a number of years ago. He stated that the house she shared with Ms. N was owned by Ms. N, but he believed, to the best of his knowledge, that Ms. G paid utilities such as gas. Ms. J testified that Ms. N was bedridden and wheelchair bound and would not have had an ability to access the other areas of the house outside her room and bathroom. She further testified that Ms. N was on a very restricted diet and would have been provided food by her care givers so that she was unlikely to have used the kitchen or other parts of the house.⁷

III. Discussion

This case involves Mr. N's request on behalf of the Estate of N N for emergency burial assistance from the General Relief Assistance Program. The sole issue in this case is whether Ms. G is included as a member of Ms. N's household so that her income is required to be considered to in the determination of whether Ms. N is financially eligible for burial assistance. The individual seeking the benefit bears the burden of proving by a preponderance of the evidence that the applicant meets the program's eligibility requirements.⁸

The General Relief Assistance Program is a state-funded program intended as a last resort to meet the "immediate basic needs" of indigent applicants "experiencing extreme financial crisis."⁹ Included in these basic needs are "limited funds for the dignified burial of a needy deceased person."¹⁰

7 AAC 47.150(a) and (b) provide that the Division may only grant General Relief assistance where the applicant's "need standard exceeds monthly net income." For a family of 5 persons the need standard contained in §150(b) is \$700.

⁵ Exhibits 3 and 4.

⁶ Exhibit 5.

⁷ Testimony of Mr. N and N J.

⁸ 7 AAC 49.135.

⁹ Alaska General Relief Assistance Program Manual §200.

¹⁰ *Id.*

7 AAC 47.150(d) determines what persons' income is countable for determining monthly net income; it provides:

(d) Persons who are included in the household, and who will therefore have their financial needs, income and resources considered in determining financial eligibility, include the applicant, all persons related to the applicant by blood, marriage, or adoption *who reside with him....*(emphasis added).¹¹

At the time of Mr. N's application for General Relief burial assistance, Ms. G had a monthly net income of \$1,981.19 which was well above the limit for such assistance for a household of five.¹²

Mr. N and Ms. J's testimony suggested that Ms. G may have maintained her own household within Ms. N's residence by paying utilities and other expenses. However, there was no dispute that Ms. G lived in the same house as Ms. N. Unfortunately, the applicable regulation requires the Division to count Ms. G's income in determining financial qualification for burial assistance if they "reside" together, and this is clearly the case even if Ms. N only "lived in" her own bedroom and bathroom. Thus, under the facts as presented, the household's monthly net income exceeded the limit of \$700.

IV. Conclusion

The Division correctly denied Mr. N's application for General Relief Burial Assistance because the household income was over the monthly income limit for a household of five. The Division's decision is AFFIRMED.

Dated: October 15, 2018

By: Signed _____
Name: Karen L. Loeffler
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.]

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.

¹¹ The Division included 7 AAC 47.155 as an exhibit to its position statement. That regulation contains a slightly narrower definition of household excluding someone who maintains a separate residence from the applicant. However, that regulation, on its face, applies to General Relief Medical financial eligibility which is not the request in this case.

¹² Exhibit 3.

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 30th day of October, 2018.

By: *Signed*

Name: Karen L. Loeffler

Title: Administrative Law Judge

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