

**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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T U) OAH No. 18-0654-MDE
) Agency No. 05532742

FINAL DECISION

This matter came before me to consider the proposed decision by Administrative Law Judge (ALJ) Karen L. Loeffler dated July 19, 2018. Also before me is a proposal for action filed by the Division of Public Assistance.

I concur with the proposed decision in most respects, and I concur with the result set forth in the proposed decision. Pursuant to AS 44.64.060(e), the proposed decision is modified to emphasize the points below.

1. The Division correctly interpreted and applied 7 AAC 100.072(a) when it determined that retroactive benefits may only be granted for a three month period based on a new application.
2. Having listened to the audio recording, I find that the recipient representative’s testimony that she did not receive adequate notice of the December 2017, termination of benefits is credible. I similarly find that her testimony that she was advised by the Division to submit a new application, which, in turn, caused further delays in the process of maintaining benefits is credible. I have also taken into account that the recipient was determined to be Medicaid eligible for November 2016 – November 2017 and for January 2018 – December 2018 and therefore, I find he was clearly eligible for benefits for the month of December 2017.
3. Based on these facts, I believe any failure to submit a timely appeal request from the termination of benefits would be excused by the failure of timely notice. The Division’s argument that the appeal process should be limited to a review of the application of 7 AAC 100.072(a) to the recipient’s April 2018, application is not compelling. Under these facts, the Division’s failure to consider the entirety of this case beyond the recipient’s new application and request for retroactive benefits does not justify a remand to present additional evidence.

As per the proposed decision, the Division shall reinstate Mr. Taylor's benefits for the month of December 2017.

Done this 13th day of August 2018, under the authority delegated to me by the Commissioner of Health and Social Services.

By: Signed
Signature
Deborah Erickson
MBA, Project Coordinator
Office of the Commissioner

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