

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

In the Matter of)
)
M J) OAH No. 19-0773-TEF
) Agency No.
_____)

DECISION

I. Introduction

M J is a minor. Her mother, K J, applied for her to receive a specialized type of Medicaid referred to as “TEFRA.” The Division of Public Assistance (Division) denied the application. Ms. J requested a hearing to challenge the denial of M’s application.

M’s hearing was held on October 23, 2019. Ms. J represented M and testified on her behalf. Jeff Miller, a Fair Hearing Representative with the Division, represented the Division. Tonya Fader, a Disability Hearing Officer with the Dept. of Labor and Workforce Development’s Disability Determination Services (DDS), testified on behalf of the Division.

TEFRA eligibility is contingent, among other factors, upon an applicant satisfying the requirements for disability under the federal Social Security Administration’s Supplemental Security Income (SSI) disability regulations. The evidence in this case shows that while M undeniably has a severe medical condition which is potentially disabling, her symptoms are under control and do not satisfy the stringent requirements for disability under SSI regulations. As a result, the Division’s denial of her application for TEFRA benefits is upheld.

II. Facts

M is currently five years old.¹ M’s mother took her to the hospital emergency room on March 16, 2019 after she noticed that M’s right pupil was constricted and that she had a drooping eyelid.² M was referred to Dr. H, a physician with Alaska Children’s Eye and Strabismus, who examined her on March 20, 2019. At that time, she had vision of 20/100 in the right eye and 20/20 in the left eye, chronic anterior iritis in her right eye, posterior synechiae, a mildly cloudy lens, and early band keratopathy. In addition, M was experiencing knee and ankle pain. Dr. H suspected that M had Juvenile Idiopathic Arthritis (JIA).³

¹ Ex. 2.

² Ex. 14, pp. 53 - 54.

³ Ex. 15, p. 11, 22.

M was subsequently referred to a pediatric rheumatologist, who saw her on April 3, 2019. She was diagnosed with JIA, and prescribed methotrexate, Humira, and IV methylprednisolone.⁴ The medical report from the April 3, 2019 appointment states that the patient denied any morning stiffness, or joints with either pain or swelling. The examination found that M had an “[e]ntirely normal range of motion all joints upper and lower extremities, without any evidence of synovitis or tenderness” and that she was able to walk and run normally.⁵

As of May 30, 2019, M’s vision in both eyes was 20/20. However, there was “slightly more inflammation in the right eye.”⁶ As of September 5, 2019, her vision in the right eye was 20/20 and the vision in the left eye was 20/15, and “her eye pressure is still elevated at 25 today. She has some pigmented cells in the anterior chamber of the right eye but no active Iritis.”⁷ The records from her September 25, 2019 exam provide that her vision in the right eye was 20/20 and 20/15 for the left eye. Those records also state that there were “0 vision related concerns.”⁸

M’s medical records from a medical appointment with the pediatric rheumatologist on June 10, 2019, provide that there was “[n]o morning stiffness, joint pain, or swelling” and the examination showed that M had an “[e]ntirely normal range of motion all joints upper and lower extremities, without any evidence of synovitis or tenderness” and that her gait was normal.⁹ M also had an orthopedic medical examination on August 20, 2019, which revealed no complaints of joint pain, and provided that M “can ambulate without difficulties and keep up with all of her friends and activities without concern.”¹⁰

M’s mother applied for TEFRA Medicaid benefits for M on April 26, 2019.¹¹ The application was referred to DDS for its review.¹² On August 1, 2019, DDS determined that M’s medical impairments, being her JIA and Severe Anterior Uveitis, were severe but she did not qualify as disabled.¹³ The pediatrician who did the medical review for DDS found that M’s impairments, although severe, did not satisfy the requirement that the impairments medically or

⁴ Ex. 15, pp. 14 – 19.

⁵ Ex. 15, pp. 14 – 15.

⁶ Ex. 29.16.

⁷ Ex. 29.15.

⁸ Ex. 29.4.

⁹ Ex. 15, pp. 39 – 41.

¹⁰ Ex. 15, p. 30.

¹¹ Exs. 2 – 2.7.

¹² Ex. 8. DDS is the state agency that reviews disability applications to determine whether the applications are considered disabled according to SSI criteria.

¹³ Ex. 12.1.

functionally equal the SSI program’s disability listings.¹⁴ DDS found that M’s impairments did not affect any major weight-bearing joints, nor was her vision affected.¹⁵

The Division ultimately found that M was not eligible for Medicaid TEFRA. Although she qualified financially and was found to require a nursing level of care, she did not satisfy the requirement that she qualify as disabled using SSI program’s rules.¹⁶

III. Discussion

The Medicaid program has a number of coverage categories. The TEFRA Medicaid category provides Medicaid eligibility for certain disabled children, regardless of their parents’ income and resources. There are three criteria that a child, who is not seeking to qualify based upon an intellectual disability or psychiatric related condition, must satisfy in order to qualify for TEFRA:

- The child’s own income and resources must be within the Medicaid program’s limits;
- The child must qualify as disabled under the SSI program’s disability rules; and
- The child must require an intermediate or skilled nursing facility level of care.¹⁷

The Division has determined that M financially qualifies for TEFRA and that she also satisfies the level of care requirement. This means that the only issue is whether M “is disabled according to SSI criteria.”¹⁸ Because M is the applicant, she must prove, by a preponderance of the evidence, that she satisfies this condition.¹⁹

The SSI criteria for a child has three elements:

- The child must have a severe impairment,
- That has lasted or can be expected to last more than 12 months,
- That meets, medically equals or functionally equals a disability listing.²⁰

The Division agrees that M has a severe impairment, which is her Juvenile Inflammatory Arthritis. However, the Division, based upon DDS’s review, determined that she did not qualify

¹⁴ Ex. 14, pp. 8 – 13.
¹⁵ Ms. Fader’s testimony.
¹⁶ Exs. 13 – 13.2.
¹⁷ 7 AAC 100.424(a).
¹⁸ 7 AAC 100.424(1)(2).
¹⁹ 7 AAC 49.135.
²⁰ 20 C.F.R. § 416.924

for Medicaid TEFRA because her impairments do not meet or medically or functionally equal an SSI disability listing.

The appropriate SSI disability listing in this case is the one for juvenile inflammatory arthritis, § 114.09 of the SSI disability listings.²¹ The facts of this case point to two possible methods of establishing eligibility, given M’s initial reports of ankle and joint pain and her medically documented vision problems. In order to qualify under her ankle and joint pain, M would need to have a major impairment of her joints that would result in her either being able to ambulate effectively or be unable to perform fine and gross movements effectively.²² There is no evidence of this occurring.

M, however, does have documented vision issues attributable to JIA. This would fall under “[e]xtra-articular features of inflammatory arthritis” which include “ophthalmologic (iridocyclitic, keratoconjunctivitis, sicca, uveitis)” systems.²³ These are reviewed under the appropriate listing for visual impairments.²⁴ M’s mother took her to the ER immediately after noticing that M was having problems with her eyes. M initially presented with vision of 20/100 in the right eye and 20/20 in the left eye, chronic anterior iritis in her right eye, posterior synechiae, a mildly cloudy lens, and early band keratopathy. After receiving immediate aggressive treatment, her vision had returned to 20/20 in her right eye as of May 30, 2019. As of September 25, 2019, there were “0 vision related concerns.”

The pertinent portion of the SSI disability listing for vision related issues requires that the applicant have vision, after correction, in the better eye be 20/200 or less.²⁵ However, the undisputed facts show that M has had 20/20 or better vision in her left eye (the better eye) throughout this entire time period, and her vision in her right eye (the worse eye) has never tested near 20/200. This is also no evidence that M experiences a contracting of her visual field, or a loss of acuity or loss of her visual field.²⁶ As a result, M’s visual impairment does not satisfy the requirements for the visual impairment listing.

²¹ 20 C.F.R. § 404, subpt. P, Appendix 1, Part B2, § 114.00D(6).

²² 20 C.F.R. § 404, subpt. P, Appendix 1, Part B2, § 114.00D(6)(e)(i) and (ii).

²³ 20 C.F.R. § 404, subpt. P, Appendix 1, Part B2, § 114.00D(6)(e)(iii).

²⁴ 20 C.F.R. § 404, subpt. P, Appendix 1, Part B2, § 114.00D(6)(e)(ii).

²⁵ 20 C.F.R. § 404, subpt. P, Appendix 1, Part B1, § 102.02(A). There are other paths to eligibility but they require “an inability to participate in visual acuity testing . . . clinical findings that fixation and visual-following behavior are absent in the better eye” among other requirements. 20 C.F.R. § 404, subpt. P, Appendix 1, Part B1, § 102.03(B). None of these are present.

²⁶ 20 C.F.R. § 404, subpt. P, Appendix 1, Part B1, §§ 102.02 and 102.03.

Finally, the SSI disability regulations have a specific test for whether a child’s severe impairment functionally meets a disability listing. In order to satisfy this test, there must be evidence that the child’s ability to function in six areas or domains must be affected to some extent. The domains are “(i) [a]cquiring and using information; (ii) [a]ttending and completing tasks; (iii) [i]nteracting and relating with others; (iv) [m]oving about and manipulating objects; (v) [c]aring for yourself; and (vi) [h]ealth and physical well-being.”²⁷ There must be a “marked” limitation in two of these domains, or an “extreme” limitation in one of these domains in order to functionally meet a disability listing.²⁸ There is no evidence showing that M’s functionality is negatively affected in any of these domains.

M has the burden of proof in this case. She did not meet it. M’s JIA is well controlled. Through her mother’s vigilance and care, neither her joints nor her vision is symptomatic to the point that she qualifies as disabled according to the SSI criteria. This in turn means that she is not eligible for Medicaid TEFRA coverage.

IV. Conclusion

The Division’s denial of M’s Medicaid TEFRA application is upheld.

Dated: November 6, 2019

Signed

Lawrence A. Pederson
Administrative Law Judge

²⁷ 20 C.F.R. § 416.926a(b)(1).

²⁸ 20 C.F.R. § 416.926a(a) and (d).

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 20th day of November, 2019.

By: Signed
Name: Lawrence A. Pederson
Title: Administrative Law Judge

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