

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

In the Matter of )  
 )  
E N ) OAH No. 19-0494-MDE  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

E N submitted a renewal application for the Medicaid’s Special Low Income Medicare Beneficiary Plus (SLMB Plus) program on April 26, 2019. The Division of Public Assistance (Division) denied Mr. N’s application because his monthly income exceeded the program’s income limit. Mr. N requested a hearing.

The hearing was held on June 26, 2019. T X, Mr. N’s authorized representative, appeared on his behalf and provided testimony. Jeff Miller, a fair hearings representative, appeared on behalf of the Division. The record was held open until July 3, 2019, to allow the Division time to determine if any Mr. N might be eligible for another deduction that would lower his monthly income to the threshold amount.

The evidence shows that Mr. N’s household income exceeded the Medicaid limit for the SLMB Plus program. As a result, the Division’s determination to deny Mr. N’s application is AFFIRMED.

**II. Facts**

Mr. N, who is 70 years of age, has been receiving Medicaid benefits since 2017.<sup>1</sup> He submitted a renewal application for his household of one on April 26, 2019.<sup>2</sup> Mr. N provided the Division with a print out of his social security benefits which established that he was receiving a monthly gross income of \$1,776 in 2019.<sup>3</sup> His application further noted that he was paying \$711 a month in child support.<sup>4</sup> This child support obligation was deducted from his gross social security income; thus, the net amount he received from social security each month was \$1,065.<sup>5</sup>

The Division processed N’s renewal application on May 22, 2019, confirming the income information which Mr. N had provided.<sup>6</sup> The Division then deducted \$20 from Mr. N’s gross income,

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<sup>1</sup> See Exhs. 1 & 2.11.

<sup>2</sup> Exh. 2.1-2.5. T X was listed as his authorized representative in the renewal application. See Exhs. 1 & 2.5.

<sup>3</sup> See Division’s Position Statement, p. 2; Exh. 2.9.

<sup>4</sup> Exh. 2.4.

<sup>5</sup> See Exhs. 2.4 & 2.9.

<sup>6</sup> Division’s Position State, p. 2.

because the first \$20 of income (earned or unearned) is excluded from the total monthly income of an applicant.<sup>7</sup> This left Mr. N with a gross monthly income of \$1,756 (\$1,776- \$20 = \$1,756).<sup>8</sup>

To be eligible for the SLMB Plus program, individuals in a single-person household must have a countable monthly income of \$1755 a month or less.<sup>9</sup> Consequently, although Mr. N only exceeded that threshold by one dollar, the Division denied his application because he was over the program's income limit.<sup>10</sup>

Mr. N requested a hearing because he disputes the Division's determination.<sup>11</sup> He argues that he only *receives* \$1,065 a month from social security because \$711 of this gross monthly social security income is garnished for child support.<sup>12</sup>

### III. Discussion

The SLMB Plus program allows an individual who is eligible for the program to receive payment of that individual's Part B Medicare premiums.<sup>13</sup> Such premiums would otherwise cost Mr. N \$136 a month.<sup>14</sup> Eligibility for this program is determined by the size of the applicant's household and the applicant's *countable* income.<sup>15</sup> Where, as here, there is a household of one, the maximum allowable monthly countable income for the household is \$1,755 a month.<sup>16</sup>

The regulations define "income" as "any . . . money . . . received by an applicant."<sup>17</sup> The social security payments which Mr. N receives each month are considered "unearned income."<sup>18</sup> The regulations also contain a list of certain types of income that are excluded in determining an individual's countable income.<sup>19</sup> However, child support payments or garnishments for child support are not one of these exclusions.<sup>20</sup> In other words, the gross amount of social security payments that Mr. N receives, not the net amount, constitute his countable income for purposes of determining his eligibility for the

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<sup>7</sup> See Division's Position Statement, p. 2; *see also* Exh. 6.1-6.2 & 7 AAC 40.320(a)(23)(income exclusions).

<sup>8</sup> See Division's Position Statement, p. 2 as modified by Division's letter of June 26, 2019.

<sup>9</sup> Testimony of Mr. Miller; *see also* Exh. 4.

<sup>10</sup> Testimony of Mr. Miller; *see also* Exhs. 3 & 5.

<sup>11</sup> Exh. 5.1.

<sup>12</sup> Exh. 5.1.

<sup>13</sup> See Testimony of Jeff Miller; Testimony of Ms. X. Part B of Medicare covers visits to physicians.

<sup>14</sup> Testimony of Ms. X.

<sup>15</sup> See Exhs. 4-5. Countable income is gross income less applicable income exclusions

<sup>16</sup> See Exhs. 2-2.1 & 4-5.

<sup>17</sup> 7 AAC 40.300(a)(1); *see also* Exh. 6.

<sup>18</sup> 7 AAC 40.30---(a)(3).

<sup>19</sup> See 7 AAC 40.320; *see also* Exhs. 6.1-6.2.

<sup>20</sup> See 7 AAC 40.320; *see also* Exhs. 6.1-6.2.

SLMB Plus program.<sup>21</sup> While that result may seem harsh to an applicant who is only one dollar over the eligibility limit, it is what the regulations provide. As a result, Mr. N does not meet the eligibility requirements for the SLMB Plus program.

#### **IV. Conclusion**

Mr. N's countable monthly household income exceeds the income limit for the SLMB Plus program, since there is no deduction or income exclusion for child support payments or garnishments applicable to this program. Accordingly, the Division's determination that Mr. N is over-income and thus is not eligible for this program is AFFIRMED.

Dated: August 27, 2019

Signed  
Kathleen A. Frederick  
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 9th day of September, 2019.

By: Signed  
Signature  
Kathleen A. Frederick  
Name  
Administrative Law Judge  
Title

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

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<sup>21</sup> See Exhs. 2.9 – 2.10 (reflecting that the gross amount of social security payments Mr. N receives is \$1,776 per month prior to the deduction related to his child support garnishment).