

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

In the Matter of)
)
H Q) OAH No. 20-0130-ADP
_____)

DECISION

I. Introduction

H Q was receiving Adult Public Assistance and Medicaid benefits. He applied to renew those benefits. The Department of Health and Social Services, Division of Public Assistance (Division) denied H Q’s renewal application for Adult Public Assistance and Medicaid on January 15, 2020 because he was “over-resource.” That is, he had too many countable resources to be eligible for Adult Public Assistance and Medicaid under Division regulations. Mr. Q appeals, arguing that the resource limit is shockingly low and has not kept up with the increase in the cost of living and that his countable resources (vehicles, including a side-by-side four wheeler and a snow machine) are used for subsistence activities and should therefore be exempt. This decision concludes that, even assuming that some of his vehicles are exempt from being counted as a resource, he owns non-excludable resources, which exceed the program’s resource limit. Accordingly, the Division’s decision denying Mr. Q’s review application is affirmed.

II. Facts and Procedural History

A hearing was held on February 27, 2020. Sally Dial represented the Division and testified on its behalf. Mr. Q represented himself and testified on his behalf.

Mr. Q submitted an application to renew his Adult Public Assistance and Medicaid benefits on January 3, 2020.¹ He lives alone in his own home in City A.² His application listed four vehicles that he owns: a pickup truck valued at \$2,000, a motorcycle valued at \$3,000, a side-by-side four wheeler valued at \$9,000, and a snow machine valued at \$2,000.³ Mr. Q testified that he believes these to be accurate valuation estimates based on current market value. He uses the motorcycle as a back-up for his pickup truck when it breaks down. He uses the snow machine for subsistence hunting and trapping, though based on snow conditions, until this year

¹ Exhibit 2.
² Exhibit 2.1.
³ Exhibit 2.3.

he had not been able to use it for a couple years.⁴ He uses the side-by-side four-wheeler on a regular basis to get firewood necessary to heat his house, and for subsistence hunting and fishing.⁵ Mr. Q does not currently receive money for hunting or fishing.⁶ He could probably sell his vehicles for cash, though the snow machine could be challenging given the low snowfall over recent winters.⁷

The resource limits for Medicaid have been the same at least since 1991,⁸ and since then Mr. Q's living expenses have tripled.⁹

The Division denied Mr. Q's application on January 16, 2020 for being over the resource limit of \$2,000 due to the value of his vehicles.¹⁰ He requested a hearing.¹¹

III. Discussion

The issue in this case is whether the Division correctly denied Mr. Q's review application for Adult Public Assistance and Medicaid. Because Mr. Q was already receiving benefits, the Division bears the burden of proof, by a preponderance of the evidence, to support its decision.¹² To be eligible for these two programs, an applicant "must have non-excludable resources which do not exceed (1) \$2,000 for an individual" counted on the first day of each calendar month.¹³ Resources include "any real or personal property that an applicant...owns and can convert to cash to be used for his or her support and maintenance."¹⁴

Some assets an applicant may possess are excludable resources, which means the Division cannot count them towards the resource limit.¹⁵ These include one motor vehicle up to \$4,500 in value or that is used for specific medical-related purposes and "property necessary for the self-support of an applicant, including real or personal property used in a trade or business, if the property is producing income consistent with its value."¹⁶

4 Testimony of H Q.
5 Testimony of H Q.
6 Testimony of H Q.
7 Testimony of H Q.
8 Testimony of Sally Dial.
9 Testimony of H Q.
10 Exhibit 3.
11 Exhibit 4.
12 7 AAC 49.135.
13 7 AAC 40.270.
14 7 AAC 40.260(a).
15 7 AAC 40.280.
16 7 AAC 40.280(3), (4).

The regulatory scheme appears to contemplate exempting certain resources that an individual would use to take care of themselves (i.e. “necessary for self-support”). However, the anticipated ‘self-support’ appears to be only income-producing property. What about property that supports an applicant such that they do not need the income to make purchases to support themselves, such as firewood for heating and food? The Division contemplates this scenario in its policy manual as part of “Property Necessary for Self-Support.”¹⁷ In the manual, property used for subsistence is excluded from the resource limit up to \$6,000.¹⁸

Mr. Q’s truck is not a countable resource. In addition, based on Mr. Q’s testimony, his snow machine and the value of his four-wheeler, up to \$6,000, are arguably excluded from being counted as countable resources due to their subsistence use. While his snow machine’s valuation is in question, Mr. Q’s testimony about the value of his four-wheeler, shows that it alone exceeds the total \$6,000 subsistence exclusion by \$3,000. This leaves \$3000 of the value of his four-wheeler and his \$3000 motorcycle as countable resources. Either of these by themselves place him over the \$2,000 resource limit. While Mr. Q disagrees with the regulatory requirements regarding financial eligibility, “[a]dministrative agencies are bound by their regulations just as the public is bound by them.”¹⁹ An Administrative Law Judge’s review is limited to whether the laws and policies have been properly applied by a State agency.²⁰ Neither the Division nor the Administrative Law Judge has the authority to relax regulatory requirements.

Accordingly, the Division met its burden of proof and its decision is affirmed.

IV. Conclusion

The Division’s determination that Mr. Q is “over resourced” is upheld and its decision to deny his renewal application is affirmed.

Dated: March 27, 2020

Signed

Elizabeth Smith
Administrative Law Judge

¹⁷ APA Manual Section 432-A.

¹⁸ APA Manual Section 432-A (2).

¹⁹ *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868-869 (Alaska 2010).

²⁰ 7 AAC 49.170.

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 13th day of April, 2020.

By: Signed _____
Name: Lawrence A. Pederson
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.]