

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

In the Matter of )  
 )  
 B T ) OAH No. 20-0946-ADP  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

B T is a recipient of Adult Public Assistance (APA). The Division of Public Assistance denied his renewal application because his monthly income was above the eligibility limit for APA benefits. Mr. T appealed the denial and requested a fair hearing. At the hearing, the Division showed that Mr. T receives Social Security Disability benefits, and his wife receives Social Security early retirement benefits, in addition to other income sources. It also demonstrated that after taking the standard deduction, the amount of the household's monthly income is above the eligibility limit. Therefore, Mr. T is ineligible for APA benefits and the Division's denial of his application is affirmed.

**II. Facts**

Mr. T was receiving APA benefits in the amount of \$318 per month.<sup>1</sup> In October 2020, he sought to renew his benefits by filing an eligibility review form with the Division.<sup>2</sup> It denied his renewal because it found that the household's monthly countable income of \$1550 exceeded the eligibility income limit of \$1304.<sup>3</sup> In requesting a fair hearing, Mr. T argued that the Division wrongly included his wife's trust payments in the household's monthly income.<sup>4</sup>

At hearing, it was established that Mr. T receives Social Security Disability (SSDI) from the Social Security Administration. His SSDI totals \$783 per month.<sup>5</sup> His wife elected to retire early and, as a result, receives Social Security Administration retirement benefits totaling \$514 per month.<sup>6</sup> Although she applied last year for disability with the Social Security Administration, her disability status was denied.<sup>7</sup>

In addition to these amounts, the household also receives income from a family trust

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<sup>1</sup> Ex. 1; Ex. 2.1.  
<sup>2</sup> Exs. 2.1 - 2.8.  
<sup>3</sup> Ex. 4.  
<sup>4</sup> Ex. 4.1.  
<sup>5</sup> Ex. 2.1.  
<sup>6</sup> Ex. 2.1; Testimony of Sally Dial.  
<sup>7</sup> Testimony of B T.

payable to Mrs. T totaling \$100 per month, and child support payable to her for children who are no longer minors or living in the couple's home, totaling \$153.22 per month.<sup>8</sup> Accordingly, the household's total income was determined to be \$1550.22, and after applying the \$20 per month general income exclusion referenced at 7 AAC 40.320(a)(23), the household's total countable income for purposes of APA eligibility is \$1,530.22.<sup>9</sup>

### III. Discussion

The APA program provides cash payments to financially eligible persons who are over 65, blind, or disabled.<sup>10</sup> The amount of benefits depends upon the applicant's living situation, whether he or she is single, or married, living by him or herself, residing with a spouse, or residing with other people. If an applicant is single or is married but does not reside with a spouse, then the benefit amount is calculated based solely upon his or her other income, whether it be from retirement, a disability program, or some other source. If an applicant resides with a spouse, then that spouse's income is also counted in determining benefits. If that spouse is also receiving APA benefits, that spouse's other non-APA income continues to be used in determining benefits.<sup>11</sup> An applicant's housing expenses and whether he or she has minor children in the home are not considered when determining an applicant's monthly benefit amount.<sup>12</sup>

Consistent with the regulations that govern the program, the APA manual explains that there are several other items that are considered as sources of household income.<sup>13</sup> These include annuities, pensions, retirement, or disability payments.<sup>14</sup> This means that Mrs. T's family trust payments are considered as household income. As are support or alimony payments which are provided to meet the individual's own needs.<sup>15</sup> This would include the \$153.22 per month in child support payments made to Mrs. T.<sup>16</sup> This is because the evidence establishes that these payments are for children who are no longer minors or living at home.<sup>17</sup>

Because Mr. T and his wife are married and live together, their combined income must be

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<sup>8</sup> Ex. 2.1; Testimony of Sally Dial.

<sup>9</sup> Testimony of Sally Dial.

<sup>10</sup> AS 47.25.430; 7 AAC 40.120.

<sup>11</sup> 7 AAC 40.240; 7 AAC 40.300(a); 7 AAC 40.370 – 380.

<sup>12</sup> See 7 AAC 40.320 for a list of applicable income deductions.

<sup>13</sup> See generally, APA Manual at <http://dpaweb.hss.state.ak.us/manuals/ta/ta.htm>.

<sup>14</sup> APA Manual at Sec. 441-2 B.

<sup>15</sup> APA Manual at Sec. 441-2 L.

<sup>16</sup> Ex. 2.1; Testimony of Sally Dial.

<sup>17</sup> Exs. 2, 2.1, 2.2, 2.5; Testimony of Sally Dial.

considered in determining their eligibility amount.<sup>18</sup> The Division's representative testified that she applied APA program eligibility standard A2S, which is applicable to a couple, independently living in a household, with one person being eligible. It sets the 2020 income eligibility standard at \$1,304.<sup>19</sup> In this instance, the couple's total income, after the general income exclusion, was \$1,530.22, or approximately \$226 over the eligibility threshold.<sup>20</sup> While Mrs. T's family trust income counts towards household income for purposes of eligibility,<sup>21</sup> even had it not been considered, it would not have changed the outcome. This is because it is Mr. T's SSDI, Mrs. T's Social Security Retirement benefits, and Mrs. T's child support for children no longer in the home, which combine to exceed the eligibility threshold, even without considering the monthly trust payment.<sup>22</sup>

As indicated at the hearing, however, if Mrs. T is ultimately determined to be disabled, it may significantly impact Mr. T's APA eligibility. This is because at that point, the eligibility threshold would change to APA program eligibility standard A2C, since both individuals would be deemed eligible, thus raising the income eligibility threshold to \$1,703.<sup>23</sup> But, as of now, Mr. T exceeds that threshold, and accordingly, is ineligible for APA benefits.

#### **IV. Conclusion**

The Division correctly computed Mr. T's household income, and correctly determined that his income put him over the eligibility limit for APA benefits. Therefore, the Division's decision denying his application for Adult Public Assistance is affirmed.

DATED December 31, 2020.

By: Signed \_\_\_\_\_  
Z. Kent Sullivan  
Administrative Law Judge

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<sup>18</sup> 7 AAC 40.300(a)(1).  
<sup>19</sup> Ex. 5.1; Ex. 3; Testimony of Sally Dial.  
<sup>20</sup> Ex. 4; Testimony of Sally Dial.  
<sup>21</sup> APA Manual at Sec. 441-2 (B).  
<sup>22</sup> Ex. 2.1.  
<sup>23</sup> Ex. 5.1.

## 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 14th day of January, 2021.

By: Signed  
Signature  
Z. Kent Sullivan  
Name  
Administrative Law Judge  
Title

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