

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

In the Matter of)
)
M Q) OAH No. 21-0212-CMB
) Agency No.
_____)

DECISION

I. Introduction

M Q receives Adult Public Assistance, Medicaid, and Food Stamp benefits. The Division of Public Assistance (Division) notified him that those benefits would be terminated effective the end of January 2021 because he was no longer an Alaska resident for benefit eligibility purposes.

Mr. Q requested a hearing to challenge the termination of his benefits. That hearing was held on March 25, 2021. Mr. Q represented himself and testified on his own behalf. Sally Dial, a hearing representative for the Division, represented it and testified on its behalf. The record was held open after the hearing to allow Mr. Q to submit additional information and for the Division to respond to that information.

The evidence presented in this case shows that Mr. Q has been living outside the State of Alaska continuously since sometime in May 2020, and that his extended absence does not fall within any of the allowable exceptions to the requirement that he physically reside within the state. As a result, he does not satisfy the physical residency requirements for the Food Stamp, Adult Public Assistance, and Medicaid programs. The Division's termination of those benefits effective the end of January 2021 is **AFFIRMED**.

II. Facts¹

Mr. Q is disabled. He is a lifelong Alaska who left the State of Alaska in the spring of 2020 to accompany his mother, who has significant health issues. He returned briefly to Alaska in May 2020, but then left again. He intends to return to Alaska, but that return has been stymied by a number of factors outside of his control.

Mr. Q was receiving public assistance and Medicaid benefits in the spring of 2020. The Division became aware that Mr. Q was not within Alaska in May of 2020, when he was using his benefits outside the State.² It sent Mr. Q notice that it needed him to provide proof of his

¹ The following facts were established by a preponderance of the evidence. Unless otherwise indicated, they are derived from the hearing testimony of Mr. Q and Ms. Dial.

² Ex. 2.

residency in Alaska, listing some of the ways he could provide it, and asking him to provide supporting information if he was absent from Alaska for medical reasons. The Division gave Mr. Q a deadline of May 26, 2020 to provide the information and notified him that failure to provide the information could result in a loss of his benefits.³

Mr. Q did not respond to the Division's information request. He did respond late on June 3, 2020 by email.⁴ Shortly thereafter, on June 8, 2020, he applied to renew his public assistance and Medicaid benefits.⁵ He participated in a telephonic interview in conjunction with his application on June 16, 2020, during which he stated he was currently in Montana because his mother needed help due to her medical condition and that he was not sure of when he was returning to Alaska.⁶

On June 17, 2020, the Division notified Mr. Q that his Adult Public Assistance, Medicaid, and Food Stamp benefit cases would be closed after June 30, 2020 because he did not provide "verification of Alaska residency by due date of 05/26/20."⁷ The Division subsequently determined that it should not have closed those benefit cases and reopened them.⁸

On July 10, 2020, the Division notified Mr. Q that it needed additional information to process his application for Food Stamps, Adult Public Assistance, and Medicaid. For the Food Stamp program, it requested a statement from his mother's doctor "stating that it is needed for you to help with your mothers health condition" and that he needed "to declare [his] intent to return to Alaska once the reason for the extended absence ends." The declaration needed to be in writing and signed by him; he was advised that his verbal statement would not be sufficient. He was also asked to supply proof of his electrical expenses.⁹ As with the Food Stamp request, for his Adult Public Assistance and Medicaid application, he was asked to provide both a doctor's statement about his mother's care, and a written, not verbal, statement of his intent to return to Alaska.¹⁰ Both notices advised him that failure to respond by July 20, 2020 could result in the denial of his application.¹¹

³ Ex. 3.

⁴ Exs. 4.1 – 4.8.

⁵ Exs. 5.1 – 5.12.

⁶ Ex. 5.

⁷ Ex. 6.

⁸ Ex. 7.

⁹ Ex. 7.1.

¹⁰ Ex. 7.2.

¹¹ Exs. 7.1 – 7.2.

Division records do not reflect Mr. Q responding to those information requests between July 10, 2020 and December 24, 2020. Mr. Q testified that he made phone calls to the Division, leaving messages, and speaking to at least two people. He, however, did not dispute that he did not respond to the requests in writing. The Division has no record of Mr. Q contacting it between July 10 and December 24, 2020.

Mr. Q was receiving ongoing Food Stamp, Adult Public Assistance, and Medicaid benefits, while the applications he submitted in June 2020 were being processed. On December 24, 2020, the Division notified Mr. Q that his Food Stamp, Adult Public Assistance, and Medicaid benefits were terminated after January 2021. The reasoning for the termination was the fact that Mr. Q was no longer residing in Alaska and did not provide the requested information about his mother's care, his intent to return to Alaska, and proof of his electrical expenses.¹²

Mr. Q has a history of extended absences from the State during the past several years as demonstrated by his out of state benefit use. That out of state benefit use in 2018 was from the beginning of March through the end of May, for just under a month during June and July, for the entire month of August through the first part of September, and for just under a month beginning in October. The out of state benefit use pattern continued in 2019, from the beginning of January through mid-February, from the end of May through the end of October, and from mid-November through the end of the year. His 2020 out of state benefit use was from the beginning of the year through mid-February and from the end of March through the end of December.¹³

Mr. Q requested a hearing to challenge the closure of his benefit cases, which the Division received on February 3, 2021. On February 11, 2021, he supplied the Division with a letter from his mother's doctor, who is located in Montana, dated February 2, 2021, stating, in part: "She recently was diagnosed with a serious medical condition and will need family assistance over the next several months . . . She will be requiring extensive care."¹⁴

The record was left open in this case for Mr. Q to submit additional information regarding his absences from Alaska, and for the Division's response. He provided a second letter from his mother's doctor dated April 1, 2021 that read she "needed family assistance with

¹² Ex. 8.1.

¹³ Ex. 12.

¹⁴ Exs. 11 – 11.1.

basic activities of daily living and transportation during the months of June, July, August and September 2020, as the family struggled with the aftermath of deaths in the extended family, and the aftermath of Covid-19 virus related health impacts.”¹⁵

III. Discussion

There are two critical questions that must be answered first before moving to the issue of whether Mr. Q was an Alaskan resident for the purposes of public assistance and Medicaid eligibility. The first is whether the Division was justified in requesting the information in the first place. If the answer to that question is yes, then the second question that must be answered is whether Mr. Q responded to the information request in a timely manner, and if not, was he justified in not responding.

A. The Information Request

The Division’s information request was triggered by the use of Mr. Q’ benefits outside the State of Alaska. Food Stamps is a federal program that is administered by the individual states. Under the federal Food Stamp rules, a recipient is eligible to receive benefits from the state in which they are living: “a household shall live in the State in which it files an application for participation.”¹⁶ Residency in a state is not required, merely physical presence.¹⁷ Adult Public Assistance and Medicaid each require that a recipient be an Alaska resident. In addition, physical presence in the state is required.¹⁸ For Adult Public Assistance, a recipient may leave the state temporarily for less than 30 days. In addition, an Adult Public Assistance recipient may be gone for more than 30 days for their own prescribed health treatment if that treatment is not available in the state or if they were prevented from returning to the state due to their own illness or the illness of an immediate family members.¹⁹ Medicaid recipients may also temporarily leave the state.²⁰

All of the three programs, Food Stamps, Adult Public Assistance, and Medicaid allow the Division to verify whether an applicant or recipient meets the program’s eligibility

¹⁵ Attachment 1A to Mr. Q’s April 5, 2021 filing.

¹⁶ 7 C.F.R. § 273.3(a).

¹⁷ 7 C.F.R. § 273.3(a).

¹⁸ Adult Public Assistance: 7 AAC 40.110(a). Medicaid: 7 AAC 100.060.

¹⁹ 7 AAC 40.110(c)(1) and (d). Absences over 30 days are also allowed for educational opportunities as provided in 7 AAC 40.110(c)(2) and (3).

²⁰ 7 AAC 100.064.

requirements.²¹ Because residency or physical presence in Alaska, or an excusable absence, is a prerequisite to being eligible for the three programs, and because Mr. Q was using benefits outside Alaska, the Division was correct to request information about his residency.

B. Did Mr. Q Respond to the Division's Request in a Timely Manner?

Mr. Q was notified that he had to provide information about his residency and his mother's need for assistance due to her health conditions on July 10, 2020. He was told those needed to consist of a written statement from his mother's doctor, and a written declaration of his intent to return to Alaska. His deadline for the response was July 20, 2020. He undisputedly did not respond in writing by July 20, 2020, although he testified that he telephoned, left messages for, and spoke to Division staff. However, this did not satisfy the requirement that the response be in writing. The writing requirement was reasonable, given that he had to provide a statement from a physician, and was required to make a declaration regarding his intent to return to Alaska. Mr. Q did not respond in writing to the Division's requests until February 11, 2021, which was over a month after he was notified on December 24, 2020 that his Food Stamp, Adult Public Assistance, and Medicaid cases would be closed. As a result, Mr. Q failed to comply with the Division's request in a timely manner. His verbal attempts to contact Division staff did not justify his late response.²²

C. Was Mr. Q an Alaska Resident for Eligibility Purposes?

Mr. Q left Alaska in the spring of 2020. Per his testimony, he returned to Alaska for a very short time in May 2020. He has been repeatedly absent from Alaska for periods in excess of 30 days during 2018, 2019, and 2020. As discussed above, the Food Stamp, Adult Public Assistance, and Medicaid programs all have a physical residency requirement, as contrasted to legal residency, in order to qualify for these benefit programs. The Food Stamp program does not have a temporary absence exception. The Adult Public Assistance and Medicaid programs do. The Division attempted to determine if Mr. Q fell within a temporary absence exception for Adult Public Assistance and Medicaid programs.

²¹ Adult Public Assistance: 7 AAC 40.450. Medicaid: 7 AAC 100.016. Food Stamps: 7 C.F.R. § 273.2(f)(1)(vi) – residency.

²² Ms. Dial testified that the Division has no records of Mr. Q speaking to Division staff or attempting to contact the Division between July 10 and December 24, 2020. It is not necessary to resolve this factual dispute inasmuch as Mr. Q's response to the information request was required to be in writing.

Mr. Q's lack of response to the Division's request for information led to the Division's conclusion that Mr. Q was no longer an Alaska resident for the purposes of maintaining his eligibility for Food Stamps, Adult Public Assistance, and Medicaid. Given the lack of response, the evidence shows that it is more likely true than not true that Mr. Q did not satisfy the temporary absence exception for Adult Public Assistance and Medicaid and was not physically present in Alaska. This means that the Division was correct to terminate Mr. Q's eligibility for all three programs as of the end of January 2021, based upon the information it had at the time it notified Mr. Q that those benefits were terminated.

Mr. Q supplied his written declaration of his intent to return to Alaska and a brief February 2, 2021 written statement from his mother's physician that stated his mother was "recently diagnosed" with a serious medical condition and would need extensive assistance. This information, however, is insufficient to show that the Division's termination decision should be revisited. It does not show that Mr. Q satisfied the qualification for an extended absence exception to the physical residency requirement. This is because the physician's letter of February 2, 2021 said that Mr. Q's mother was "recently diagnosed," *i.e.*, it did not show that Mr. Q's absence from the state from sometime in May 2020 through the end of the year was allowable under the public assistance and Medicaid program requirements.

Mr. Q also supplied a letter from that same physician, dated April 1, 2021, which contained generic information that Mr. Q's mother required "family assistance with basic activities of daily living and transportation during the months of June, July, August and September 2020, as the family struggled with the aftermath of deaths in the extended family, and the aftermath of Covid-19 virus related health impacts." That letter, similar to the February 2, 2021 letter, does not show that Mr. Q's extended absence was necessary due to his mother's illness. Instead, it merely provides that she needed help with her activities of daily living and transportation.

The evidence at hearing showed that although Mr. Q values his Alaska residency and intends to return to the state, that his absence is of an indefinite duration due to a number of factors, including the current pandemic and his mother's health/care needs. Regardless, the extended duration of his absence means that he is not eligible for Food Stamps in Alaska, and his absence does not fall within an allowed exception to the physical residency requirement for Adult Public Assistance and Medicaid. This means that he is not an Alaska resident for benefit

eligibility purposes for each of these three benefit programs. This conclusion is corroborated by his pattern of multiple absences, each exceeding 30 days, in 2018 and 2019, in addition to his extended absence in 2020. As a result, the Division's termination of Mr. Q's Food Stamp, Adult Public Assistance, and Medicaid benefits is upheld.

IV. Conclusion

Mr. Q has been living outside the State of Alaska continuously since sometime in May 2020. As a result, he does not satisfy the physical residency requirements for the Food Stamp, Adult Public Assistance, and Medicaid programs. The Division's termination of those benefits effective the end of January 2021 is AFFIRMED.

Dated: April 19, 2021.

Signed

Lawrence A. Pederson
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 30th day of April, 2021.

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.]