

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

In the Matter of)	
)	
H N)	OAH No. 19-0198-MDE
)	Agency No.

DECISION

I. Introduction

H N applied for Alaska Medicaid benefits on December 28, 2018. He requested benefits from December 25, 2018 forward. The Division of Public Assistance (Division) denied coverage for December 2018, but granted coverage beginning January 1, 2019. Mr. N appealed the denial of Medicaid for December 2018 on January 18, 2019.¹

The Division contends Mr. N is ineligible for Alaska Medicaid coverage between December 25 and December 31, 2018, because Mr. N received Pennsylvania Medicaid in December 2018. Mr. N contends he should be eligible for Alaska Medicaid, beginning December 25, 2018, based on his financial need and his belief that he would be eligible for Alaska Medicaid upon arrival in Alaska. Because Mr. N used benefits from Pennsylvania Medicaid in December, the Division’s denial of his Alaska application for December is affirmed.

II. Facts

The facts are undisputed and are based on Mr. N’s testimony, the Division’s position statement and exhibits 1-8.2, which were admitted without objection.

Mr. N moved from Alaska to Pennsylvania in 2017. He received Medicaid benefits from Pennsylvania in December 2018.² He moved back to Alaska in late December 2018. Prior to returning to Alaska, Mr. N arranged to enter a residential treatment program in Alaska. He believed he would receive Alaska Medicaid to cover the cost of that program immediately upon returning to Alaska and entering treatment, after speaking with a program employee.³

Mr. N arrived in Alaska on December 25, 2018 and entered the treatment program the same day.⁴ Mr. N applied for Alaska Medicaid on December 28, 2018. When Mr. N applied for Alaska Medicaid, he was still receiving Medicaid from Pennsylvania. His Pennsylvania Medicaid

¹ Pursuant to 7 AAC 49.080, the Division is required to refer a hearing request to the Office of Administrative Hearings “no later than 10 days after [it] receives a hearing request.” The Division of Public Assistance did not refer this case for hearing until March 12, 2019, 53 days after it received Mr. N’s hearing request.

² *Id.*; Exhibit 2.8; Exhibit 2.11; Exhibit 2.14.

³ *Id.*

⁴ *Id.*

benefits remained open until January 12, 2019, although his last use of Pennsylvania Medicaid was December 11, 2018.⁵

Alaska Medicaid denied coverage for Mr. N for December 2018 and approved his coverage beginning January 1, 2019.⁶ Mr. N requested a fair hearing on January 18, 2019 for Medicaid coverage from December 25 to December 31, 2018.⁷

The hearing occurred March 27, 2019. Ms. Dial, a Public Assistant Analyst for the Division, and Mr. N, appellant, each appeared telephonically.

III. Discussion

Because Mr. N is an applicant for new services, he bears the burden of proof by a preponderance of the evidence.⁸

Alaska Medicaid permits “[a]n applicant who has recently arrived in the state with the intent to remain and who is still receiving assistance from another state” to be viewed as an Alaska resident for purposes of qualifying for Alaska Medicaid benefits.⁹ As a general rule, Alaska Medicaid benefits will not be authorized until the other state’s Medicaid benefits have been terminated.¹⁰ An exception allows a recipient to receive Alaska Medicaid benefits even when another state’s Medicaid remains open, if the applicant “did not use the other state’s Medicaid benefits during the month for which he or she requests Alaska Medicaid coverage.”¹¹

Mr. N’s Pennsylvania Medicaid case remained open until January 12, 2019.¹² So, Mr. N’s eligibility for Alaska Medicaid benefits depends on the last day he used Pennsylvania Medicaid. It is undisputed that Mr. N used Pennsylvania Medicaid benefits until December 11, 2018. Consequently, he is not eligible for Alaska Medicaid coverage in December.

Mr. N makes two arguments that his Alaska Medicaid application should have been approved beginning in December, even though he received and used Pennsylvania Medicaid benefits in December. First, Mr. N argues he should receive Alaska Medicaid based on his need. However, there is no legal exception that would allow coverage for Mr. N after he received Pennsylvania Medicaid in December.

⁵ Exhibit 2; Exhibit 4; Exhibit 6; N testimony.

⁶ Exhibit 3.

⁷ Exhibit 5; Exhibit 6.

⁸ 7 AAC 49.135.

⁹ 7 AAC 100.062 (a); *In re M.Q.*, OAH No. 12-0969-MDE. (Comm’r of Dep’t of Health and Soc. Servs., February 2013), available at <https://aws.state.ak.us/OAH/Decision/Display?rec=2131>

¹⁰ *Id.*

¹¹ *Id.*

¹² Exhibit 2; Exhibit 4; Exhibit 6; N testimony.

Second, Mr. N argues that if he knew he would not receive Alaska Medicaid immediately, he would have made different plans and started the treatment program in January 2019. This is an equitable estoppel argument. To prevail, Mr. N must show the Division made a representation to him, either actually, implicitly, or by omission, that he was eligible for Alaska Medicaid immediately when he applied.¹³ However, Mr. N's relied on information provided by an employee of the treatment program, not the Division. Any alleged representations made by the treatment program staff cannot form the basis for an argument that the Division somehow made a misrepresentation pertinent to Mr. N's eligibility.¹⁴ Mr. N failed to establish that a Division representative misinformed him about his eligibility. Accordingly, equitable estoppel has not been established.

IV. Conclusion

The Division's decision that Mr. N is not eligible for Medicaid in December 2018 is affirmed.

DATED: April 8, 2019

Signed _____

Hanna Sebold
Administrative Law Judge

¹³ The elements required to successfully assert equitable estoppel against the government are: 1. The assertion of a governmental position by either conduct or words; 2. An act done in reasonable reliance upon the governmental position; 3. Resulting prejudice; and 4. "[E]stoppel serves the interest of justice so as to limit public injury." *Wassink v. Hawkins*, 763 P.3d 971, 975 (Alaska 1988).

¹⁴ *In re S.J.*, OAH No. 18-0051-MDE (Comm'r of Dep't of Health and Soc. Servs., April 2018), available online at <https://aws.state.ak.us/OAH/Decision/Display?rec=2194>

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 16th day of April, 2019.

By: Signed
Name: Cheryl Mandala
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.]