

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

In the Matter of)	
)	
B U)	OAH No. 14-1182-ADQ
)	Agency No.
_____)	DPA/FCU No.

ORDER ON CONSENT

I. Background

A hearing in this case was scheduled for August 25, 2014. Shortly before the hearing, the Division of Public Assistance (“Division”) received a promissory note in the amount of \$787 dated August 20, 2014, that had been signed by Mr. U in the presence of a notary public. This is the amount that the Division had sought to recover from Mr. U for receiving \$787 worth of Food Stamp benefits to which he otherwise was not entitled to receive¹ during the time period from January 2014 through May 2014. In addition, the Division had received a 2014 Dividend Assignment of Rights that Mr. U signed in the presence of two witnesses. However, the Division did not receive from Mr. U a signed “Notice of Suspected Program Violation and Your Options to Waive an Administrative Disqualification Hearing.”

The Division appeared at the scheduled hearing through its representative, Dean Rogers. Mr. U was contacted by telephone in order to determine if he wanted to go forward with the hearing. Mr. U confirmed on the record that he was voluntarily and knowingly waiving his right to an administrative disqualification hearing. He further stated that he wanted to resolve this matter by paying back the monetary amount the Division was seeking.

II. Conclusion and Order

Mr. U has committed a first-time Intentional Program Violation of the Food Stamps Program. He is, therefore, disqualified for a twelve-month period, and is required to reimburse the Division for benefits that were overpaid as a result of his Intentional Program Violation.²

¹ Mr. U was ineligible for Food Stamp benefits because of a prior drug-related felony conviction which he failed to disclose on his Food Stamp Application. *See* Exhibits 7, 8, and 10.

² 7 C.F.R. § 273.16(b)(1)(i); 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

The Food Stamp disqualification period shall begin on November 1, 2014.³ This disqualification applies only to Mr. U, and not to any other individuals who may be included in his household⁴ in the future.⁵ For the duration of the disqualification period, Mr. U's needs will not be considered when determining Food Stamp eligibility and benefit amounts of his household. However, he must report his income and resources so that they can be used in these determinations.

The Division shall provide written notice to Mr. U and, if applicable, any remaining household members of the benefits they will receive during the period of disqualification, or that they must reapply because the certification period has expired⁶.

DATED this 28th day of August, 2014.

Signed

Kathleen A. Frederick
Administrative Law Judge

³ 7 C.F.R. § 273.16(b)(13) and (e)(8)(i); *Garcia v. Concannon*, 67 F. 3d 256, 259 (9th Cir. 1995). Insofar as 273.16(e)(9)(ii) is inconsistent with this result, it must be disregarded as contrary to statute, as discussed in *Garcia* and in *Devi v. Senior and Disabled Serv. Div.*, 905 P.2d 846 (Or. App. 1995).

⁴ 7 C.F.R. § 273.16(b)(11).

⁵ Mr. U currently is incarcerated and does not expect to be released from prison until January of 2015.

⁶ 7 C.F.R. § 273.16(e)(9)(ii).