

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

In the Matter of	)	
	)	
U J. T	)	OAH No. 16-1190-ADQ
_____	)	Agency No.

**DECISION**

**I. Introduction**

U T applied for and received food stamp benefits. Mr. T did not disclose in his application for benefits that he had a prior drug-related felony. The Division of Public Assistance found that Mr. T had committed an Intentional Program Violation. A hearing was held on November 15, 2016. Clear and convincing evidence showed that Mr. T intentionally made a false statement in his application for food stamps. The Division’s finding is affirmed.

**II. Facts**

In October 2009, U T pled guilty in Ohio to one count of trafficking in drugs.<sup>1</sup> For the amount and type of drugs that he pled to trafficking, Mr. T’s conviction was a felony in the fifth degree under Ohio law.<sup>2</sup> He was sentenced to one year of community control for this offense and one other related non-drug offense.<sup>3</sup>

From February 2013 to September 2015, Mr. T applied for food stamps in Alaska, filling out six different applications.<sup>4</sup> On each application, he checked “no” in answer to the question that asked whether any member of the household had ever been convicted of drug-related felony.<sup>5</sup> He signed under penalty of perjury that his applications were correct.<sup>6</sup> Based on his applications and his declarations, Mr. T was issued food stamps. The total benefit he received was \$6,751.00.<sup>7</sup>

Following his September 8, 2015, application, Mr. T attended the mandatory interview with an eligibility technician.<sup>8</sup> Initially, he again denied that he had a felony drug conviction.<sup>9</sup> Later in the interview, however, he mentioned that he was having a hard time finding work

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<sup>1</sup> Division Exhibit 11 at 4.

<sup>2</sup> Division Exhibit 10 at 1, 3; Division Exhibit 11 at 3 - 4.

<sup>3</sup> Division Exhibit 11 at 5.

<sup>4</sup> Division Exhibit 7.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Division Exhibit 12.

<sup>8</sup> Bassett testimony. Jamie Bassett is an eligibility technician II with the Division.

<sup>9</sup> *Id.*

because of his felony drug conviction. Upon close questioning by the technician, Mr. T admitted to his drug-related felony conviction.<sup>10</sup>

The Division obtained confirmation of the conviction from Ohio.<sup>11</sup> Based on this information, the Division concluded that Mr. T had deliberately made a false statement on his food stamp applications. He was notified that he was being charged with an intentional program violation.

A hearing was scheduled for November 15, 2016 at 9:00 a.m. Mr. T was sent a notice of the hearing.<sup>12</sup> Mr. T did not appear in person for the hearing. The telephone number he had provided was called. He did not answer the telephone. A voicemail message was left for him. The hearing was held in Mr. T's absence under 7 AAC 45.585(b), and the Division presented evidence of the facts described here.

### **III. Discussion**

In order to establish an Intentional Program Violation of the food stamp program, the Division must prove by clear and convincing evidence that Mr. T intentionally “made a false or misleading statement, or misrepresented, concealed, or withheld facts” in his application for food stamps.<sup>13</sup>

Mr. T's conviction for trafficking was a drug-related felony. Mr. T made false statements in food stamp applications when he certified that he had not been convicted of a drug-related felony. As Mr. T's statements at the interview show, he knew he had been convicted of a drug-related felony—he commented on how difficult it is to obtain employment with a drug felony. Yet, even in the interview he initially denied the conviction. That demonstrates that he deliberately gave false information regarding his application.

Under the law, “it is permissible to infer that an accused intends the natural and probable consequences of his or her knowing actions.”<sup>14</sup> The natural and probable consequence of Mr. T's misrepresentations is that he would obtain food stamps under false pretenses, which he did. He has not put forward any theory or evidence consistent with his misrepresentations being an innocent mistake or error. I conclude that he clearly intended these consequences, which means that he committed an intentional program violation.

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<sup>10</sup> *Id.*

<sup>11</sup> Canoy testimony; Division Exhibit 11.

<sup>12</sup> Division Exhibits 3-5.

<sup>13</sup> 7 C.F.R. §§ 273.16(c), 273.16(e)(6).

<sup>14</sup> *In re Disciplinary Matter of Friedman*, 23 P.3d 620, 626 (Alaska 2001) (quoting *In re Triem*, 929 P.2d 634, 648 (Alaska 1996)).

**IV. Conclusion**

1. U J. T committed a first-time intentional program violation of the food stamp program.
2. Mr. T is administratively disqualified from participation in the food stamp program for 12 months beginning January 1, 2017.
3. Mr. T is ordered to pay back to the division to total amount of overpaid food stamp benefits, \$6,751.

DATED November 22, 2016.

By: Signed  
Kathryn L. Kurtz  
Administrative Law Judge

**Adoption**

Under a delegation from the Commissioner of Health and Social Services and under the authority of AS 44.64.060(e)(1), I adopt this decision 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 7th day of December, 2016.

By: Signed  
Name: Kathryn L. Kurtz  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication.]