

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

In the Matter of	)	
	)	OAH No. 13-0510-HAP
K K	)	Division No.
_____	)	

**DECISION**

**I. Introduction**

K K applied for Heating Assistance benefits twice during program year 2012 - 2013. Her first application was approved. The Division of Public Assistance (Division) denied her second application. Ms. K requested a hearing.

Ms. K' hearing was held on June 4, 2013. She represented herself and testified on her own behalf. Jeff Miller, Public Assistance Analyst with the Division, represented the Division.

A household is only entitled to receive one Heating Assistance program payment per program year. Because Ms. K had already receiving one Heating Assistance payment during the 2012 – 2013 program year, the Division's decision denying her second application is affirmed.

**II. Facts**

The following facts were established by a preponderance of the evidence.

Ms. K applied for Heating Assistance benefits on September 20, 2012.<sup>1</sup> On December 10, 2012, her application was approved for the total amount of \$900. \$680 of that was for firewood and the remaining \$220 was for electricity.<sup>2</sup> Ms. K testified that this amount was a reduction from the \$1,300 to \$1,700 she had received in previous years, and that there were substantial delays in the processing and the payment of her benefits. She also testified that her wood vendor did not provide her with the full amount of the wood for which it was paid. Ms. K requested a hearing regarding that application, Office of Administrative Hearings (OAH) Case No. 12-0970-HAP; that case was dismissed on April 22, 2013.

The Division received another Heating Assistance application from Ms. K on April 3, 2013.<sup>3</sup> The Division notified Ms. K that her application was denied on April 3, 2013 because

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<sup>1</sup> Ex. 1.  
<sup>2</sup> Ex. 2.  
<sup>3</sup> Ex. 5.

“heating assistance is only awarded once per program year, which runs from November 1, 2012 through April 30, 2013.”<sup>4</sup>

### III. Discussion

The Heating Assistance program provides financial assistance for heating bills to eligible households.<sup>5</sup> The program year runs from September 1 through April 30 of the following year.<sup>6</sup> Only one heating assistance payment is awarded per household per program year.<sup>7</sup>

At the outset of this case, the Division petitioned to dismiss this case as being duplicative of Ms. K’ earlier Heating Assistance case, OAH Case No. 12-0970-HAP, which was dismissed on April 22, 2013. A hearing was held on that motion to dismiss on May 7, 2013. At that hearing, it appeared that Ms. K was protesting the difficulties she had encountered with regard to the processing of her firewood payment and the delivery of her firewood from the vendor. It also appeared that Ms. K was protesting the amount of her electricity payment. The Division’s petition was partially granted with regard to the firewood issue. The petition was denied with regard to the electricity payment issue.

At the evidentiary hearing held on June 4, 2013, it became apparent that Ms. K requested this hearing to protest the delay in the processing of her September 2012 application.<sup>8</sup> She also disagreed with the total amount of the heating assistance that she received as a result of her September 2012 application, which was \$900 when she had received larger amounts in previous years. These were all issues that could have been raised by her in her previous case, OAH Case No. 12-0970-HAP. Consequently, she cannot raise them in this case.<sup>9</sup>

However, Ms. K not only disagreed with the lower benefit amount she received from her September 2012 application, she applied again for Heating Assistance benefits. That application was denied. The denial of that application entitled her to request a new hearing.<sup>10</sup> That application, which the Division received on April 3, 2013, was Ms. K’ second application during

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<sup>4</sup> Ex. 6.

<sup>5</sup> 7 AAC 44.010.

<sup>6</sup> 7 AAC 44.020(c); 7 AAC 44.900(20).

<sup>7</sup> 7 AAC 44.030(b).

<sup>8</sup> The Division is to make its eligibility determination “no later than 45 calendar days after receipt of the completed application.” 7 AAC 44.030(c). The Division did not make its eligibility determination on Ms. Juelfs’ September 20, 2012 application until December 10, 2012, a period in excess of 45 calendar days. See Exs. 1 – 2.

<sup>9</sup> The legal doctrine of *res judicata* “precludes relitigation by the same parties, not only of claims raised in the first proceedings, but also those relevant claims that could have been raised.” *Larson v. State*, 254 P.3d 1073, 1077 (Alaska 2011).

<sup>10</sup> 7 AAC 44.070(1); 7 AAC 49.020(2).

the 2012 – 2013 program year. Her first application was received on September 20, 2012, and resulted in her receiving a Heating Assistance payment during the 2012 – 2013 program year. A household is only eligible to receive one Heating Assistance payment per program year.<sup>11</sup> Because Ms. K had already received one Heating Assistance payment during the 2012 – 2013 Heating Assistance program year, the Division was required to deny her second application.<sup>12</sup>

#### **IV. Conclusion**

The Division’s decision denying Ms. K’ April 3, 2013 Heating Assistance application is affirmed.

DATED this 27<sup>th</sup> day of June, 2013.

*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 11<sup>th</sup> day of July, 2013.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge, DOA/OAH

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

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<sup>11</sup> 7 AAC 44.030(b).

<sup>12</sup> The Division is advised that its denial letter refers to the program year as being from November 1, 2012 through April 30, 2013. See Ex. 6. The regulations, 7 AAC 44.020(c) and 7 AAC 44.900(20), provide that the program year is from September 1 of a year through April 30 of the following year. In addition, the denial letter does not comply with the regulatory requirement that a denial notice refer to the “statute, regulation, or policy” relied upon by the Division. See 7 AAC 49.070.