

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

In the Matter of)	
)	
D J)	OAH No. 13-0747-HAP
_____)	Agency No.

DECISION

I. Introduction.

D J challenges the Division of Public Assistance’s (division) denial of her application for heating assistance. Her application was denied because the division concluded her annual unsubsidized heating expense was less than \$200. A hearing was held on July 10, 2013. All parties participated telephonically. The division’s decision is affirmed.

II. Facts

Ms. J lives in a three bedroom apartment. She receives housing assistance through Alaska Housing Finance Corporation. Her monthly housing voucher includes a \$209 utility allowance, which is a subsidy for heat (\$83), electric (\$72), hot water (\$30), and trash (\$24).¹

The primary source of heat for Ms. J is natural gas, although she does rely upon an electric ceramic heater to help keep heating costs down. In prior years she received heating assistance through the division’s heating assistance program (HAP). Her 2013 application was denied “because you live in subsidized rental housing which pays your heating costs” and because her annual unsubsidized heating cost did not exceed \$200. On level pay her electric bill is \$94 per month. AHFC apportions \$83 per month of the \$209 utility subsidy to Heating-Natural Gas.²

III. Discussion

The purpose of the HAP is to provide assistance to low income households to offset the cost of home heating.³ One of the eligibility requirements is that the annual unsubsidized home

¹ July 10, 2013 J Hearing Submission, Allowances for Tenant-Furnished Utilities and Other Services.

² *Id.*

³ 7 AAC 44.200.

heating costs exceed \$200.⁴ To prevail, Ms. J must establish that it is more likely than not that she meets this eligibility requirement.⁵

The division does not recognize that only a portion of the subsidy is allocated to heat, but instead looks to the entire \$209 per month to calculated unsubsidized costs. It reasons that Ms. J receives \$209 per month as a utility subsidy, and her heat is \$94 per month, so she does not have an unsubsidized heating expense.

Ms. J argues that there must be an apples-to-apples comparison; that she receives a monthly heating subsidy in the amount of \$83 per month and this is the amount that should be used for eligibility determination. In the alternative, Ms. J argues that because the subsidy includes all utilities (trash, water, etc.), her out-of-pocket cost should be calculated using total utility expenditures.

Addressing the second argument first, the purpose of the HAP is to provide *heating* assistance to eligible individuals.⁶ The eligibility requirement at issue here is whether Ms. J’s “annual *unsubsidized* home *heating* costs exceed \$200.”⁷ To expand the inquiry to include all subsidized utility costs is contrary to the regulation and to the program’s purpose.

Ms. J’s first argument, that there should be an apples-to-apples comparison, has merit. The AHFC voucher includes a subsidy for heating, electric, hot water and trash. Only a portion of the subsidy is allocated to heating. The division’s own internal policy recognizes the appropriateness of an apples-to-apples comparison in its manual at § 9.2.4, where it instructs the worker to first obtain the AHFC utility breakdown and then determine if “**the annual heating cost exceeds the annual heat subsidy** by over \$200.”⁸ If, as argued by the division, the entire utility subsidy is to be considered when determining out-of-pocket expenses, it would not be necessary to obtain the breakdown.

Ms. J receives a monthly heat subsidy in the amount of \$83. This results in an annual heat subsidy in the amount of \$996. Her actual monthly heating expense is \$94 per month, an annual expense of \$1,128. Her unsubsidized annual heating expense is \$132, which does not exceed the \$200 annual eligibility limit.

⁴ 7 AAC 44.230(a)(3). This was the basis for the division’s denial so it is the only requirement addressed.

⁵ 7 AAC 49.135.

⁶ 7 AAC 44.200.

⁷ 7 AAC 44.230(a)(3) (emphasis added).

⁸ Exhibit 1.1.

IV. Conclusion

Ms. J has failed to establish that it is more likely than not that she is eligible for the division’s hearing assistance program. The decision of the division to deny Ms. J’s 2013 application is affirmed.

DATED this 7th day of August, 2013.

Signed _____
Rebecca L. Pauli
Administrative Law Judge

Adoption

The undersigned adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 3rd day of September, 2013.

By: *Signed* _____
Name: Ree Sailors
Title: Deputy Commissioner, DHSS

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