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

In the Matter of:	)	
	)	
К К	)	OAH No. 14-0169-HAP
	)	DPA No.
	)	

#### **DECISION**

### I. Introduction

The issue in this case is whether the Division of Public Assistance (Division) correctly calculated Ms. K' heating assistance program (HAP) award. The Division's calculation was correct based on Ms. K application. However, at hearing Ms. K clarified that she is not a self-harvester of wood. Therefore, the Division's January 17, 2014, HAP calculation is reversed and recalculation is ordered.

#### II. Facts

Ms. K submitted a HAP application on December 30, 2013. On her HAP application, Ms. K noted that she does not use fuel oil, that she previously received wood from No Name Wood Products, needs 4-5 cords per winter, and gathers the wood herself.<sup>2</sup>

The Division calculated Ms. K' HAP award based on her application, which states she self-harvests wood.<sup>3</sup> The Division approved Ms. K for a \$405 grant amount.<sup>4</sup> The Division sent half of Ms. K' grant award, \$202, to No Name Electric to prevent shut-off and sent the remaining \$203 directly to Ms. K to use toward self-harvest costs (chains, files, bar oil, etc...).<sup>5</sup>

Ms. K appealed the Division's calculation and requested a fair hearing. Hearings were held on February 20, 2014, and February 26, 2014. Ms. K represented herself and Ms. Terri Gagne represented the Division.

At hearing, Ms. K credibly testified that she does not have a chainsaw and does not "self-harvest" wood in the traditional sense. Ms. K testified that she tries to gather sticks to burn and goes to the dump in an attempt to find some wood to burn. 6 Ms. Gagne, hearing representative for

Ex. 1.

<sup>&</sup>lt;sup>2</sup> Ex. 1.1.

Ex. 5; Ex. 5.1; Gagne hearing presentation.

Ex. 5; Ex. 3.

<sup>&</sup>lt;sup>5</sup> Ex. 5.1.

<sup>6</sup> K testimony.

the Division, stated that this type of wood gathering is not considered self-harvesting per the HAP program.<sup>7</sup>

Ms. K also stated and submitted documentation requesting additional HAP funds because she has received more funding in the past. At hearing, Ms. K requested a cord of wood and an additional \$600 for electric. 9

#### III. Discussion

The Heating Assistance Program provides financial assistance for heating bills to eligible households. <sup>10</sup> The program year runs from September 1 through April 30 of the following year. <sup>11</sup> Only one heating assistance payment is awarded per household per program year. <sup>12</sup> The amount of assistance is determined by a formula with a number of factors. <sup>13</sup>

The Division correctly determined Ms. K' HAP award based on her application and the HAP regulations. However, Ms. K established that she is not a self-harvester of wood. Ms. K HAP award should be recalculated based on this new information.

## IV. Conclusion

The Division's \$405 HAP grant calculation is reversed. Ms. K' HAP grant should be recalculated based on the new information that she does not self-harvest wood. The Division's calculation of Ms. K' HAP award is otherwise upheld.

Dated this 23<sup>rd</sup> day of March, 2014.

Signed
Bride Seifert
Administrative Law Judge

<sup>&</sup>lt;sup>7</sup> Gagne hearing presentation.

Ex. 4; K testimony. Ms. K faxed this office additional documentation on March 21, 2014. This decision does not address the additional information because it was received after the fair hearing.

<sup>&</sup>lt;sup>9</sup> K testimony.

<sup>&</sup>lt;sup>10</sup> 7 AAC 44.010.

<sup>&</sup>lt;sup>11</sup> 7 AAC 44.020(c); 7 AAC 44.900(20).

<sup>&</sup>lt;sup>12</sup> 7 AAC 44.030(b).

<sup>&</sup>lt;sup>13</sup> 7 AAC 44.080.

# **Adoption**

The undersigned, by delegation from of 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 10<sup>th</sup> day of April, 2014.

By: Signed

Name: Bride Seifert

Title: Administrative Law Judge

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