

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

In the Matter of)	
)	
M N)	OAH No. 16-1382-HAP
_____)	Agency No.

DECISION

I. Introduction

M N challenges the Division of Public Assistance’s denial of her application for heating assistance. Her application was denied because the division concluded her annual unsubsidized heating expense was less than \$200. Ms. N disputes this conclusion.

A telephonic hearing was held on December 27, 2016. Ms. N represented herself. Sally Dial presented the Division’s position. Nicole Whitesides, Division eligibility technician, and B J, with Alaska Housing Finance Corporation’s (AHFC) rental assistance program, testified on the Division’s behalf.

Because the evidence shows that Ms. N’s unsubsidized heating costs do not exceed \$200 per year, the Division’s decision is affirmed.

II. Facts

Ms. N’s monthly income is \$1,252.¹ She lives in a one bedroom apartment.² The rent is \$1,050 per month, which does not include utilities.³ Ms. N pays \$357 per month towards the rent.⁴ Alaska Housing Finance Corporation’s (AHFC) rental assistance program provides a \$693 monthly rental subsidy for the remaining rent.⁵ A utility allowance is included in the subsidy calculation.⁶ Ms. N’s utility allowance is \$190, broken down into: heat - electric (\$93), cooking - electric (\$72); electric light-refrigerator (\$35) hot water (\$53), and trash (\$24).⁷ The utility credit is applied to the rental subsidy, not paid directly to the utility or renter.

¹ Exhibit 2.

² Ex. 1.1.

³ Ex. 2.

⁴ Ex. 2.

⁵ Ex. 2.

⁶ Ex. 2; Ex. 2.4; Whitesides testimony; J testimony. The utility allowance is not available to renters whose utilities are included.

⁷ July 10, 2013 J Hearing Submission, Allowances for Tenant-Furnished Utilities and Other Services.

Ms. N's rent subsidy, including the utility allowance, goes toward her rent.⁸ Ms. N's electric costs are \$800 - \$900 per year.⁹

III. Discussion

The purpose of the HAP is to provide assistance to low income households to offset the cost of home heating.¹⁰ One of the eligibility requirements is that the annual unsubsidized home heating costs exceed \$200.¹¹ To prevail, Ms. N must establish that it is more likely than not that she meets this eligibility requirement.¹²

In order to determine how much Ms. N pays in unsubsidized heating costs, the Division multiplied \$190 by twelve months, for a total of \$2280. Under its calculation, in order to qualify for heating assistance Ms. N would need to pay at least \$2,480 per year in electric costs. The Division used the entire \$190 per month utility subsidy, not just the heat portion, to calculate unsubsidized costs. It argued that because the electric bill did not break out heat from cooking, etc., it could not break out the actual heating costs. This was incorrect.

The purpose of the HAP is to provide heating assistance to eligible individuals.¹³ The eligibility requirement at issue here is whether Ms. N's "annual *unsubsidized* home heating costs exceed \$200."¹⁴ To expand the inquiry to include all subsidized utility costs is contrary to the regulation and to the program's purpose.

The AHFC program includes a subsidy for heating, cooking, refrigerator, hot water and trash. Only a portion of the subsidy is allocated to heating. 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. N receives a monthly heat subsidy (in the form of a rent credit) in the amount of \$93.¹⁵ This results in an annual heat subsidy of \$1,116, not \$2,280, as argued by the Division. In order to qualify for heating assistance, Ms. N's annual heating costs would need to exceed \$1,316.¹⁶ They do not. Ms. N's actual average monthly heating expense is \$72.65 per month, an

⁸ N testimony;

⁹ Ex. 3; N testimony.

¹⁰ 7 AAC 44.200.

¹¹ 7 AAC 44.230(a)(3). This was the basis for the Division's denial so it is the only requirement addressed.

¹² 7 AAC 49.135.

¹³ 7 AAC 44.200.

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

¹⁵ Ex. 2.4.

¹⁶ \$1,116 + \$200 = \$1,316.

annual expense of \$871.83. Ms. N's heating subsidy exceeds her actual heating costs. Therefore, her unsubsidized heating cost is zero, which does not exceed the \$200 annual eligibility limit.

Ms. N argues that because all of her utility subsidy goes toward rent, without payment to the electric company, her heat is actually not subsidized. This argument is unpersuasive. AHFC credits Ms. N with a \$1,116 annual heating allowance. She pays less rent than she would for her home otherwise. Although not paid directly to the utility, Ms. N is receiving the benefit of that heating allowance.

IV. Conclusion

Ms. N has failed to establish that it is more likely than not that she is eligible for the Division's heating assistance program. The Division's decision to deny Ms. N's heating assistance application is affirmed.

DATED this 13th day of February, 2017.

Signed

Bride Seifert
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 1st day of March, 2017.

By: *Signed*

Signature
Bride A. Seifert

Name
Administrative Law Judge

Title

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