

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

In the Matter of)
)
S L) OAH No. 17-0358-HAP
) Agency No.
_____)

DECISION

I. Introduction.

S L 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. L disputes this conclusion.

A telephonic hearing was held on April 27, 2017. David Hansen, with Alaska Legal Services, represented Ms. L. Jeff Miller presented the Division’s position. The record remained open until May 5, 2017, in order for the Division to provide additional information on the effect of the listed utility subsidy. Because the evidence does not show that Ms. L receives a benefit from the listed heating subsidy, and her unsubsidized heating costs exceed \$200 per year, the Division’s decision is reversed.

II. Facts

Ms. L’s monthly income is \$1,290.¹ Her rent is \$900 per month, which does not include utilities.² Ms. L’s home is heated with natural gas, and her heating costs are approximately \$169 per month during the colder months of the year.³ Ms. L participates in Alaska Housing Finance Corporation’s (AHFC) rental assistance program. Ms. L pays \$443 per month towards the rent.⁴ AHFC provides a \$457 monthly rental subsidy for the remaining rent.⁵

Ms. L’s rental calculation paperwork lists a \$94 utility allowance.⁶ However, the actual rent calculation does not appear to include a utility credit or otherwise apply this allowance to her rental subsidy.⁷

¹ Exhibit A.
² Ex. 3.1.
³ $\$507.52 \div 3 = \169.17 . Position statement; Ex. 4-4.2.
⁴ Ex. 3.1; L testimony.
⁵ Ex. 3.1; L testimony.
⁶ Ex. 3.1.
⁷ Ex. 3.1.

III. Discussion

The purpose of the HAP is to provide assistance to low income households to offset the cost of home heating.⁸ One of the eligibility requirements is that the annual unsubsidized home heating costs exceed \$200.⁹ To prevail, Ms. L must establish that it is more likely than not that she meets this eligibility requirement.¹⁰

In order to determine how much Ms. L pays in unsubsidized heating costs, the Division deducted her utility allowance for January through March 2017 ($94 \times 3=282$) from her 1st quarter gas bills ($\$507.52 - 282$) for a total of $\$225.54$ in out of pocket costs the first quarter.¹¹ It then multiplied this by four to get Ms. L's annual out of pocket heating cost, or $\$902.08$. The Division stated, "This is less than the Alaska Housing's yearly utility allowance of $\$1128$."¹² This calculation is incorrect for two reasons.

First, and the basis for Ms. L's appeal, is her argument that she does not receive a utility subsidy at all. The $\$94$ "utility allowance" is added to the $\$900$ monthly rental cost to establish a gross rent of $\$994$.¹³ However, the $\$94$ subsidy is absent in the next column, where Ms. L's rent is actually calculated.¹⁴ The Division was unable to establish that Ms. L actually enjoys any benefit from the $\$94$ utility allowance listed on her rental calculation summary. The record was left open in order for the Division to contact AHFC and obtain an explanation or demonstration of the benefit. The Division was unable to do so. This alone is a basis for overturning its denial.

There is a second basis for reversal as well. The Division's calculation counts Ms. L's heating subsidy twice. Ms. L's heating subsidy was already considered in its initial calculation. Ms. L's annual out of pocket cost is $\$902.08$ – after applying the subsidy. The Division did not know Ms. L's annual heating cost and relied on her January – March utility bills, which average $\$169.17$ per month. This equates to an annual overall heating cost of $\$2030.08$.¹⁵ Subtracting her annual heating subsidy ($\$1128$) from this gives $\$902.08$ in unsubsidized heating costs. So

⁸ 7 AAC 44.200.

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

¹⁰ 7 AAC 49.135.

¹¹ Position statement.

¹² Ex. A-1.

¹³ Ex. A-1.

¹⁴ Ex. A-1.

¹⁵ $\$2030.08 - \$1128 = \$902.08$. This decision recognized that Ms. L's heating expenses are likely much lower in the summer months. However, it appears Ms. L's unsubsidized hearing costs would exceed $\$200$ even considering this.

even if Ms. L was receiving the benefit of her utility subsidy (which apparently she is not), she would still qualify because her out of pocket unsubsidized heating costs exceed \$200.

IV. Conclusion

The Division was unable to establish that Ms. L receives a benefit from the listed utility subsidy. Because her unsubsidized heating costs exceed \$200, Ms. L is eligible for the Division’s heating assistance program. The Division’s decision to deny Ms. L’s heating assistance application is reversed.

DATED May 9, 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 30th day of May, 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.]