

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

In the Matter of )  
 )  
T Q ) OAH No. 17-1117-HAP  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION AND ORDER**

**I. Introduction**

The Division of Public Assistance (Division) denied T Q’s application for heating assistance on the ground that her income was over the limit allowed for the heating assistance program. Ms. Q requested a fair hearing.

A telephonic hearing was held on December 19, 2017. Ms. Q represented herself. Sally Dial presented the position of the Division. Because the undisputed evidence shows that Ms. Q’s income is over the income limit to qualify for the program, the division’s decision is affirmed.

**II. Facts**

Ms. Q applied for heating assistance on September 1, 2017. According to her application, her monthly income is \$1,932.40.<sup>1</sup> In the cover letter accompanying her application, Ms. Q acknowledged that her income was over the amount allowed, but asked the Division to consider her age and the large rate increase in her heating bills.<sup>2</sup> The Division denied her application on September 13, 2017, on the grounds that Ms. Q’s household income is over the allowable amount of \$1,883.00 for a one-person household.<sup>3</sup> In her fair hearing request, Ms. Q asked the Division to make an exception to the income limit due to her age, poor health, and increased heating costs.<sup>4</sup>

There are no disputed issues of fact, so the only issue is whether the Division has any discretion to grant an exception to the income cap.

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<sup>1</sup> Exh. 1 p. 3.  
<sup>2</sup> Exh. 1 p. 8.  
<sup>3</sup> Exh. 2.  
<sup>4</sup> Exh. 3.

### III. Discussion

The purpose of the home heating assistance program is to provide assistance to low income households to offset the cost of home heating.<sup>5</sup> According to 7 AAC 44.040, a household is eligible to participate in the program only if:

(4) the household's gross monthly income is no more than 150 percent of the level set in the federal poverty guidelines for Alaska established annually by the United States Department of Health and Human Services, at Fed. Reg. 7555-7557 (February 15, 2000), as amended from time to time and adopted by reference.

The parties do not dispute that the maximum allowable number under this provision for a one-person household in Alaska is \$1,883.00. Ms. Q simply asks for an exception due to her difficult financial and personal circumstances. However, the Division is bound by the statutes and regulations that apply to it.<sup>6</sup> Thus, the Division does not have the discretion to grant her application for heating assistance since Ms. Q is over the income limit. At the hearing, Ms. Q also noted that a deadline had been missed and asked if that could affect the decision of the Department.<sup>7</sup> However, any such delay would not affect the Division's decision on Ms. Q's eligibility for benefits.<sup>8</sup>

### IV. Conclusion

Ms. Q's income, though just a few dollars over the program cap, exceeds the amount permitted for eligibility for the heating assistance program. Accordingly, the Division's decision to deny Ms. Q's heating assistance application is AFFIRMED.

Dated: December 22, 2017

Signed  
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Karen L. Loeffler  
Administrative Law Judge

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<sup>5</sup> 7 AAC 44.200.

<sup>6</sup> See *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851-869 (Alaska 2010) ("Administrative agencies are bound by their regulations just as the public is bound by them").

<sup>7</sup> See *Testimony of Ms. Q*. Ms. Q appears to have been referring to the Division's delay in referring the matter to the Office of Administrative Hearings.

<sup>8</sup> Having reviewed applicable regulations and the dates of action in this matter, there does not appear to be any legal authority that would permit the Division to grant benefits to someone otherwise ineligible based on internal delays in fair hearing deadlines.

## 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 5<sup>th</sup> day of January, 2018.

By: Signed  
Signature  
Karen L. Loeffler  
Name  
Administrative Law Judge  
Title

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