

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

In the Matter of )  
 )  
S J ) OAH No. 18-0197-HAP  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

The Division of Public Assistance (Division) denied S J’s application for heating assistance benefits, and Mr. J appealed. The hearing in this matter was held on March 7, 2018. Mr. J represented himself and testified on his own behalf. Sally Dial, a Public Assistance Analyst, represented the Division. Because the Division correctly calculated Mr. J’s qualifying points, the Division’s decision is upheld.

**II. Facts**

On October 18, 2017, Mr. J submitted an application for the heating assistance program to the Division.<sup>1</sup> On his application, he wrote that he lived in No Name City in a one-bedroom rental apartment and was legally disabled.<sup>2</sup> His application noted that his income the prior month had consisted of Supplemental Security Income benefits (SSI) in the amount of \$661.50 and Adult Public Assistance (APA) benefits in the amount of \$362, giving him an aggregate monthly income of \$1,023.50.<sup>3</sup> Mr. J’s application further noted that natural gas was his sole heat source.<sup>4</sup> It is undisputed that Mr. J lives in subsidized housing.<sup>5</sup>

Using the information provided on Mr. J’s application, the Division then evaluated whether Mr. J was eligible for heating assistance. Based on Mr. J’s location, type of dwelling, fuel type, monthly income, and his disability status, the Division determined that Mr. J did not qualify for heating assistance. It sent Mr. J a notice on January 22, 2018 to that effect. The notice explained the factors and the formula used to determine Mr. J’s eligibility before concluding that he had not met the burden of showing the he was eligible for heating assistance. Specifically, the notice stated that Mr. J had an eligibility score of 1.60.<sup>6</sup> The regulations applicable to the heating assistance program state that

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<sup>1</sup> Ex. 1-1.6.  
<sup>2</sup> Ex. 1-1.1.  
<sup>3</sup> Ex. 1.3; Testimony of Ms. Dial.  
<sup>4</sup> Ex. 1.1.  
<sup>5</sup> Testimony of Mr. J; Testimony of Ms. Dial.  
<sup>6</sup> Ex. 2.

households with heating costs points determined to be less than 2.0 are not eligible for heating assistance.<sup>7</sup>

The record was held open until March 14, 2018 to allow Ms. Dial to include the remainder of section 3004-5 of DPA's manual and to include the most recent version of 7 AAC 44.080(l)-(m), which she had referred to during the presentation of the Division's case.<sup>8</sup>

### III. Discussion

The heating assistance program provides financial assistance to low-income residents to offset the cost of home heating. Eligibility for heating assistance is determined under a formula adopted in the regulations. Based on the record, the Division erred in applying the formula to Mr. J's application.

The regulations contain a series of steps, outlined in 7 AAC 44.080(a)-(n), for determining whether a person qualifies for heating assistance. The first step, set forth in 7 AAC 44.080(a)-(b), requires the Division to use the community heating cost points for natural gas, which is the type of heat that Mr. J uses. Mr. J thus received 5 points at the first step of this process.<sup>9</sup> Those points, under 7 AAC 44.080(g)(5), are multiplied by .55, which reflects the factor for a one-bedroom dwelling like Mr. J's one-bedroom apartment. The number resulting from this calculation is 2.75. Under 7 AAC 44.080(i), each household is then assigned a percentage of heating cost points based on the household's monthly income, expressed as a percentage of the Alaska poverty level. Since Mr. J's income was \$1,023 a month, the Division correctly determined that the income factor for his one-person household was .8.<sup>10</sup> Multiplying 2.75 times .8 results in 2.2 heating cost points for Mr. J. However, since he is legally disabled, under 7 AAC 44.080(k), one point is then added to the heating costs points, which increases Mr. J's heating cost points to 3.2.

New regulations that went into effect on December 27, 2017, allow the heating costs points to be reduced by 50% if a household satisfies the following criteria: (1) resides in subsidized housing; (2) is responsible for paying all or a portion of the household's heating costs directly to a vendor; and (3) receives a utility allowance as part of the household's housing cost calculation.<sup>11</sup> Mr. J's situation satisfied all three criteria, so it was appropriate for the Division to reduce his heating cost points to 1.6

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<sup>7</sup> Ex. 8.2.

<sup>8</sup> Ms. Dial submitted the requested documents within the allowable time frame.

<sup>9</sup> Ms. Dial erroneously concluded that Mr. J was only entitled to .5 heating cost points at this step. However, the Division's denial correctly reflects that the Division used the correct number, which was "5." Compare Division's position statement and its presentation *with* Ex. 2; *see also* Ex. 4.5 & 6.

<sup>10</sup> *See* Testimony of Ms. Dial; Ex.1.3 & 7.

<sup>11</sup> *See* 7 AAC 44.080(l); Ex. 8.1-8.2.

pursuant to 7 AAC 44.080(l). Under 7 AAC 44.080(m), if an applicant has a score of less than 2.0, the applicant is ineligible for heating assistance.<sup>12</sup> Consequently, the evidence shows that Mr. J is not eligible for heating assistance.

#### **IV. Conclusion**

The Division's decision denying Mr. J's October 18, 2017 heating assistance application is upheld.

Dated: March 29, 2018

*Signed* \_\_\_\_\_  
Kathleen A. Frederick  
Administrative Law Judge

### **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 13<sup>th</sup> day of April, 2018.

By: *Signed* \_\_\_\_\_  
Name: Kathleen A. Frederick  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

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<sup>12</sup> The notice sent to Mr. J denying his hearing assistance application suggested that the scores were rounded at each step of the process. *See* Ex. 2. However, the regulations and the heating assistance manual make it clear that the heating cost points determined under 7 AAC 44.080(a)-(l) must be 2.0 or greater for a household to be eligible for heating assistance. *See* Ex. 5.1. Mr. J did not meet this threshold. It is only when a household *is deemed eligible* for heating assistance that the total heating costs points computed in (a)-(k) are *then* rounded to the nearest whole number to calculate the amount of heating benefits the applicant should receive. *See* Ex. 5.1 & 4.4-4.5.