

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

In the Matter of)
)
B C) OAH No. 18-0198-HAP
) Agency No.
_____)

DECISION

I. Introduction

The Division of Public Assistance (Division) denied B C's application for Heating Assistance, and Ms. C appealed. A hearing was held on March 8, 2018. Ms. C represented herself and testified on her own behalf. Sally Dial, a Public Assistance Analyst, represented the Division. Because the Division correctly concluded that Ms. C was over the income limit for eligibility for Heating Assistance, the Division's decision is affirmed.

II. Facts

On November 22, 2017, Ms. C prepared an application for Heating Assistance, which the Division received on November 24, 2017.¹ As part of her application, Ms. C stated that she was employed by No Name Business and she provided a series of her recent paychecks.² Subsequently, the Division determined that she was also sporadically receiving child support for her two children.³

The Division calculated Ms. C's income for October 2017 and determined that her gross income was \$3,525.08.⁴ However, at the hearing and in its position statement, the Division noted that it had recalculated Ms. C's gross income and determined that her gross income in October 2017 was \$4,823.08.⁵

Noting that the income limit for receiving Heating Assistance is \$3,190 for a three-person household, the Division concluded that Ms. C was over the income limit for Heating Assistance based on her countable income in October 2017.⁶ Next, the Division examined Ms. C's gross income for November 2017 to ascertain if she might be eligible for Heating Assistance based on

¹ See Ex. 1-1.12.

² Ex. 1.4 & 1.7-1.10.

³ See Ex. 1.6.

⁴ Ex. 2; Division's Position Statement, at p. 2.

⁵ Division's Position Statement, at p. 2; Presentation of Ms. Dial.

⁶ Ex. 2.

that information.⁷ However, Ms. C's gross income in November, which was comprised of her wages and child support she had received that month, was \$3,450.70.⁸ Thus, she was still over the \$3,190 income limit for Heating Assistance.⁹

On January 24, 2018, the Division sent Ms. C a notice stating that her application for Heating Assistance was denied because her household was over the maximum allowable income of \$3,190 for a three-person household.¹⁰ Ms. C requested a fair hearing on February 7, 2018.¹¹ In that request she observed that her rent consumed one paycheck a month.¹² Ms. C also stated that she had to pay for daycare and her utilities from her remaining monthly wages so she needed help with her heating costs.¹³

At the hearing, Ms. Dial explained that the Division first examined Ms. C's gross income for October 2017 by reviewing her paychecks dated October 3, 2017 and October 17, 2017.¹⁴ Since Ms. C had not submitted a paycheck covering her wages for the remainder of October, the Division then extrapolated that amount by comparing her year-to-date gross income amounts on her October 17, 2017 and November 14, 2017 paychecks.¹⁵ According to the Division's calculation, this extrapolation showed that Ms. C received a third paycheck for \$1,260 in October.¹⁶ Ms. C received \$4,388 in gross income in wages spread over three paychecks in October 2017.¹⁷ In addition, she received \$435 in child support in October 2017.¹⁸ Altogether, Ms. C received gross income in the aggregate amount of \$4,823.08 from her wages and from child support.¹⁹

To determine whether Ms. C might qualify for Heating Assistance based on her November 2017 gross income, the Division examined Ms. C's paychecks for that month and determined that her gross income from wages was \$3,116.²⁰ However, adding this amount to the

⁷ Ex. 3; Presentation of Ms. Dial.

⁸ See Division's Position Statement, at p. 2; Presentation of Ms. Dial.

⁹ See Ex. 5 & 7.

¹⁰ Ex. 2.

¹¹ Ex. 3.

¹² Ex. 3.

¹³ Ex. 3. There are no deductions from gross income for rent or daycare under the regulations. See Presentation of Ms. Dial.

¹⁴ Presentation of Ms. Dial.

¹⁵ Presentation of Ms. Dial; see also Division's Position Statement, at p. 2.

¹⁶ Presentation of Ms. Dial; Division's Position Statement, at p. 2.

¹⁷ Division's Position Statement, at p. 2.

¹⁸ Division's Position Statement, at p. 2; Presentation of Ms. Dial; Ex. 1.6.

¹⁹ Division's Position Statement, at p. 2.

²⁰ Presentation of Ms. Dial; Division's Position Statement, at p. 2.

\$334.70 that Ms. C received in child support meant that Ms. C's gross income in November 2017 was \$3,450.²¹ Thus, her gross income in November 2017 was still over the maximum income limit of \$3,190 for a three-person household.²² Accordingly, the Division denied Ms. C's application.²³

Ms. C testified that she had indeed received three paychecks in October 2017 and did not dispute the Division's calculations.²⁴ She stated that she usually works 80 hours a week, gets no paid holidays, and is paid \$21.50 an hour.²⁵ She also testified that she only occasionally receives child support, which was corroborated by a print-out showing the child support she had received over the past couple of years.²⁶ Ms. C explained how difficult it was for her to make ends meet with two children and stated that she needed Heating Assistance benefits because her heating costs were over \$240 a month.²⁷ Ms. C noted that she has received those benefits in the past.²⁸

III. Discussion

Ms. C gave compelling testimony about her struggles to support her two children on a limited income with infrequent child support payments.²⁹ However, she can only receive Heating Assistance if she is deemed eligible for such benefits under the current regulations. Unfortunately for Ms. C, the regulations provide no flexibility in cases like this, where the applicant earns more than the maximum income amount in the month preceding their Heating Assistance application.

The applicable regulation states, in pertinent part, that a household is eligible to participate in the Heating Assistance program only if:

the household's gross monthly income is no more than 150 percent of the level set in the poverty guidelines for Alaska established annually by the United States Department of Health and Human Services.³⁰

²¹ Division's Position Statement, at p. 2.

²² Compare Division's Position Statement, at p. 2 with Ex. 5.

²³ Ex. 2.

²⁴ Testimony of Ms. C.

²⁵ Testimony of Ms. C.

²⁶ Testimony of Ms. C; Ex. 1.6.

²⁷ Testimony of Ms. C.

²⁸ Testimony of Ms. C.

²⁹ Ms. C said that she only gets child support two or three times a year because her ex-husband does not work, and he has arrearages relating to child support for a child from a prior relationship.

³⁰ Ex. 7.

The FY 2017 federal poverty income guidelines specify that for a three-person household, \$3,190 is 150% of the income level set forth in those guidelines.³¹ Thus, if a three-person household has monthly income exceeding \$3,190, the household will be ineligible for Heating Assistance.³²

The regulations instruct how the household's gross monthly income is to be calculated. The Division examines the household's total earned and unearned income before taxes derived from any source by any member of the household in the calendar month *before* the date of signature on the completed application.³³ Earned income includes wages, while child support is deemed unearned income.³⁴ Here, the record establishes that Ms. C's household had \$4,823.08 in gross income in October 2017.³⁵ Although it had no obligation to do so, the Division also looked at Ms. C's November 2017 income to see if she might qualify for Heating Assistance for the month of November.³⁶ However, she had a gross income of \$3,450.70 during that month.³⁷ Thus, Ms. C's gross income exceeded the maximum allowable gross income (\$3,190) for a three-person household, rendering her ineligible for Heating Assistance in both October and November 2017.³⁸

IV. Conclusion

Despite her strained financial circumstances, Ms. C was not eligible for Heating Assistance because her November 2017 application put her beyond the eligibility cut-off under the regulations. Therefore, the Division's denial of Heating Assistance benefits is affirmed.

Dated: March 27, 2018

Signed _____
Kathleen A. Frederick
Administrative Law Judge

³¹ See Ex. 5 & 7.

³² Ex. 2.

³³ Ex. 7.1.

³⁴ Ex. 4-4.1.

³⁵ See Division's Position Statement, at p. 2.

³⁶ Presentation of Ms. Dial; Division's Position Statement, at p. 2.

³⁷ Ex. 3. Although the regulations state that the applicant's income in the month prior to the date of the signed application is to be considered, the Division in this instance recognized Ms. C's financial constraints and tried to see if Ms. C might qualify based on her November 2017 income. Although Ms. C only had two paychecks in November, the child support she received that month put her beyond the maximum allowable gross income for approving Heating Assistance to a three-person household. See Division's Position Statement and Presentation of Ms. Dial. Ms. C can reapply for Heating Assistance if her situation changes and she files a new application on or before April 30, 2018. See Ex. 2.

³⁸ See Division's Position Statement, at p. 2.

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 11th 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.]