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**STATE OF ALASKA  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
OFFICE OF HEARINGS AND APPEALS**

In the Matter of )  
 )  
 [REDACTED] ) OHA Case No. 08-FH-389  
 )  
 Claimant. ) Division Case No. [REDACTED]  
 )  
 \_\_\_\_\_ )

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

[REDACTED] (Claimant) is a Food Stamp recipient. (Ex. 1.0) She submitted a recertification application for Food Stamp benefits on April 23, 2008. (Ex. 2) On May 29, 2008, the Division of Public Assistance (Division) sent the Claimant notice her recertification application for Food Stamp benefits was approved, but her monthly Food Stamp benefit amount was reduced. (Ex. 5) The Claimant requested a fair hearing on June 3, 2008. (Ex. 6.1) This office has jurisdiction pursuant to 7 AAC 49.010.

The hearing was held on June 25, 2008. The Claimant appeared telephonically and represented herself. [REDACTED], Public Assistance Analyst with the Division, attended in person to represent the Division.

**ISSUE**

Did the Division properly determine Claimant's Food Stamp benefits when it failed to consider her medical expenses in the calculations?

**FINDINGS OF FACT**

1. The Claimant has a one person household. (Ex. 2) She was born on [REDACTED]. She currently is [REDACTED] years old, and at time of application she was [REDACTED]. (Ex. 2). On April 29, 2008, she submitted an Eligibility Review Form and her Food Stamp benefits were recalculated. (Ex. 2)

2. Both parties agree Claimant's income increased since the Division had last calculated Claimant's Food Stamp benefits. The Division calculated her income at \$1,305.46. When calculating the Claimant's monthly benefits rent (\$500.00) and telephone (\$30.00) were taken into consideration as deductions. Based on the increase in income, her Food Stamp benefits were reduced from \$194.00 per month to \$10.00 per month. The Division did not take into consideration the Claimant's medical expenses. (Ex. 4).

3. At the June 25, 2008 hearing, Claimant stated she had a large amount of medical expenses. She had a \$189.00 emergency room bill, a \$200.00 dental bill, and a \$45.00 medical doctor bill. She expects her dental expenses to continue because she is getting teeth pulled. She argues these medical expenses should be included when calculating her Food Stamp benefits.

4. The Claimant does not claim a disability.

### **PRINCIPLES OF LAW**

This case involves a reapplication for Food Stamp benefits. If the applicant does not like the result of the reapplication, the applicant has the burden of proof<sup>1</sup> by a preponderance of the evidence.<sup>2</sup> Thus, the Claimant has the burden of proof.

Food Stamps is a federal program administered by the State. 7 CFR 271.4(a). The Code of Federal Regulations (CFR) contains the rules for calculating the amount of a recipient's monthly Food Stamp benefit.

The Division must follow the Federal Food Stamp program regulations which sets forth a mathematical formula. The household's gross income is totaled and then deductions are taken from it to arrive at the net income. 7 CFR 273.10. Medical deductions only apply to household members who are elderly or disabled. 7 CFR 273.9(d)(3). An elderly or disabled member must be 60 years of age or older, or meet a disability condition set forth in 7 AAC 271.2.

### **ANALYSIS**

The Claimant challenges the exclusion of her medical expenses in the Division's Food Stamp calculations. She is ■ years old. She has not claimed any disabilities. The Code

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<sup>1</sup> "Ordinarily the party seeking a change in the status quo has the burden of proof." *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985)

<sup>2</sup> *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, 1179 n. 14 (Alaska 1986).  
Preponderance of the evidence is evidence which as a whole shows the fact sought to be proved is more probable than not.

of Federal Regulations is very clear. Medical expenses can only be used as a deduction if a recipient is 60 years of age or older or meet a disability condition. The Claimant is not 60 years of age or older and does not meet a disability condition. 7 CFR 273.9(d). The Division followed the federal regulations when it did not take into consideration Claimant's medical bills and apply a deduction. Therefore, the Division correctly calculated Claimant's Food Stamp benefits.

### **CONCLUSIONS OF LAW**

The Division's failure to apply a medical deduction when calculating Claimant's Food Stamp benefits was correct.

### **DECISION**

The Division was correct to lower Claimant's Food Stamp benefits to \$10.00 per month.

### **APPEAL RIGHTS**

If for any reason the Claimant is not satisfied with this decision, The Claimant has the right to appeal by requesting a review by the Director. To do this, send a written request directly to:

Director of the Division of Public Assistance  
Department of Health and Social Services  
PO Box 110640  
Juneau, AK 99811-0640

If the Claimant appeals, the request must be sent within 15 days from the date of receipt of this Decision. Filing an appeal with the Director could result in the reversal of this Decision.

DATED this \_\_\_\_\_ day of July, 2008.

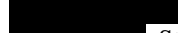
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Patricia Huna-Jines  
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this \_\_\_\_ day of July,  
2008, true and correct copies of the  
foregoing were sent to:

Claimant – Certified Mail, Return Receipt Requested.

, Director  
, Policy & Program Development  
, Staff Development & Training  
, Fair Hearing Representative

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Al Levitre, Law Office Assistant I