

Office of Hearings and Appeals
3601 C Street, Suite 1322
P. O. Box 240249
Anchorage, AK 99524-0249
Ph: (907)-334-2239
Fax: (907)-334-2285

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

In the Matter of)
)
 [REDACTED],) OHA Case No. 08-FH-457
 Claimant.) Division Case No. [REDACTED]
_____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) was receiving Alaska Temporary Assistance, Food Stamp and Medicaid benefits in June 2008. (Ex. 1) On June 18, 2008, the Division of Public Assistance (Division) sent the Claimant written notices it was terminating her Temporary Assistance, Food Stamp and Medicaid benefits after June 30, 2008 because she did not comply with the Division's request for information. (Exs. 2.5 – 2.6) The Claimant requested a fair hearing on July 1, 2008. (Ex. 3.1) This office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, a hearing was held on August 5, 2008. The Claimant attended the hearing telephonically and represented herself. [REDACTED], Public Assistance Analyst with the Division, attended in person and represented the Division. [REDACTED], a case manager with Maximus Alaska Works (Maximus),¹ attended telephonically and testified on behalf of the Division.

ISSUES

1. Was the Division correct to terminate the Claimant's Temporary Assistance, Food Stamp, and Medicaid benefits after June 30, 2008 because she had failed to comply with the Division's requests for information?

¹ Maximus Alaska Works is a private company that provides workplace training, education, and development assistance to public assistance recipients.

FINDINGS OF FACT

1. Claimant was receiving Temporary Assistance, Food Stamp, and Medicaid benefits in May 2008. (Ex. 1) The Claimant was receiving Medicaid benefits under the Family Medicaid coverage category. *Id.*
2. On May 23, 2008, the Claimant went to see her caseworker, [REDACTED], at Maximus and requested that she receive money for gasoline because she had a new job in Soldotna. ([REDACTED] testimony; Exs. 12.15 – 12.16) The Claimant received \$80 for gasoline. (Ex. 12.15)
3. On May 28, 2008, the Claimant again contacted Ms. [REDACTED] and requested additional funds for automobile registration and insurance. (Exs. 12.12 – 12.13)
4. Ms. [REDACTED] then completed and signed a Family Self-Sufficiency Plan (FSSP) for the Claimant on May 28, 2008. The FSSP provided that the Claimant was to “[t]urn in verification of employment to your E[ligibility] T[echnician] and case manager by 6/2/08.” (Exs. 2.7 – 2.8) The Claimant signed the FSSP on June 3, 2008. *Id.*
5. On June 4, 2008, the Division sent the Claimant written notice it needed “information from you to reevaluate your eligibility for cash, food, or medical assistance.” (Ex. 2.2) The notice requested information about her new job, including the name and phone number for the employer, when the job started, the number of expected hours, the pay rate, and other employment details. *Id.* The Claimant was given a deadline of June 16, 2008 to provide the information, and warned “[i]f we do not receive this information by this date, your assistance may be stopped or your benefits reduced.” *Id.* The notice was mailed to the Claimant at [REDACTED]. *Id.*
6. The Claimant did not supply the requested information to the Division.
7. The Claimant testified she did not receive the June 4, 2008 notice requesting information about her new job. She verified that the address used in the written notice, [REDACTED] was her correct address.
8. The Division sent the Claimant written notice on June 18, 2008 that her Food Stamp benefits would end after June 30, 2008 because she had not provided it with the information it had requested about her employment. (Ex. 2.5) The Division sent the Claimant a separate written notice on June 18, 2008 that her Temporary Assistance and Medicaid benefits would end after June 30, 2008 because she had not provided it with the information it had requested about her employment. (Ex. 2.6) Both notices were mailed to [REDACTED]. (Exs. 2.5 – 2.6)
9. The Claimant received the two June 18, 2008 written notices notifying her that her Temporary Assistance, Medicaid, and Food Stamp benefits would be terminated after June 30, 2008. (Claimant testimony)
10. The Claimant did not actually become employed until June 23, 2008. However, she did not inform her case manager at Maximus about that fact until June 30, 2008 when her case manager at Maximus telephoned her asking for the Claimant’s pay stubs. (Ex. 12.4)

PRINCIPLES OF LAW

This case involves the issue of whether or not the Division was correct when it terminated the Claimant's Temporary Assistance, Food Stamp, and Medicaid benefits because she allegedly failed to comply with the Division's June 4, 2008 request for information.

The Division has the burden of proof² by a preponderance of the evidence³ when it seeks to terminate or modify benefits.

The agency is authorized to request verification that an applicant (or recipient) meets the eligibility requirements for the Temporary Assistance and Medicaid programs, and if the applicant (or recipient) refuses to provide the requested verification, the agency is authorized to deny eligibility. 7 AAC 100.016(a) and (b) (Medicaid); 7 AAC 45.175(a) (Temporary Assistance). An applicant/recipient's income, derived from employment or otherwise, is a factor used in determining if an individual is eligible for Temporary Assistance and Medicaid. 7 AAC 45.275(b) (Temporary Assistance); 7 AAC 100.102(c) (Family Medicaid).

Food Stamps is a federal program administered by the State. 7 CFR 271.4(a). The agency is entitled to request verification of an applicant/recipient's income and resources for the Food Stamp program. 7 CFR 273.2(f)(4) and (5). Failure to comply with a request for verification makes a recipient no longer eligible for Food Stamp benefits. 7 CFR 273.2(d).

Service by mail is complete upon mailing. *Jefferson v. Spenard Builder's Supply, Inc.*, 366 P.2d 714, 717 (Alaska 1961)

ANALYSIS

This case presents a narrow issue, whether or not the Division can terminate the Claimant's Temporary Assistance, Medicaid, and Food Stamps benefits because she did not timely comply with its June 4, 2008 written request for information, when she testified she never received the request for information. It is undisputed that the Claimant did not respond to the Division's June 4, 2008 written request for information.

It first needs to be noted that the June 4, 2008 written request for information was made for a valid purpose, finding out information about the Claimant's self-reported new job. Her new employment income would have been a factor in determining her financial eligibility for Temporary Assistance, Medicaid, and Food Stamp programs, and her benefit amount for the

² "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)

³ Preponderance of the evidence is defined as follows:

Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

Black's Law Dictionary 1064 (5th Ed. 1979)

Temporary Assistance and Food Stamp programs. The fact the Claimant did not actually become employed until June 23, 2008 does not negate the validity of the Division's June 4, 2008 information request, because the Claimant did not notify her case manager at Maximus of the delay in starting work until June 30, 2008.

It also needs to be noted that the June 4, 2008 information request was sent to the Claimant's correct mailing address. Indeed, the June 18, 2008 written termination notices that Claimant acknowledges receiving were sent to the exact same address as the June 4, 2008 request for information that Claimant testified she did not receive. However, since the June 4, 2008 request for information was mailed to the correct address, the Claimant was "served" with it, and is presumed to have received it. *Jefferson v. Spenard Builder's Supply, Inc.*, 366 P.2d 714, 717 (Alaska 1961) Additionally, the Claimant was certainly aware of her obligation to provide information about her new job because she had signed an FSSP on June 3, 2008 stating she would provide verification of her employment to both her eligibility technician and case manager by June 2, 2008. (Exs. 2.7 – 2.8)

The June 4, 2008 request was mailed to the Claimant's correct address. The Division had a valid reason for requesting the information, because it had the potential to affect her public assistance eligibility and benefit levels. Under these circumstances, the Claimant's failure to respond, regardless of her allegation of non-receipt, was grounds for termination of her benefits for the Temporary Assistance, Medicaid, and Food Stamp programs. 7 AAC 100.016(a) and (b) (Medicaid); 7 AAC 45.175(a) (Temporary Assistance); 7 CFR 273.2(d) (Food Stamps).

CONCLUSIONS OF LAW

1. The Claimant is presumed to have received the Division's June 4, 2008 written information request.
2. The Claimant's failure to respond to the Division's June 4, 2008 written information request was grounds for termination of her Temporary Assistance, Medicaid, and Food Stamp benefits.
3. The Division's action terminating the Claimant's Temporary Assistance, Medicaid, and Food Stamp benefits, after June 30, 2008, was correct.

DECISION

The Division was correct to terminate the Claimant's Temporary Assistance, Medicaid, and Food Stamp benefits after June 30, 2008.

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, the Claimant must 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

An appeal 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 29th day of September, 2008.

/Signed/
Larry Pederson
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 29th day of September 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

Al Levitre
Law Office Assistant I