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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-843
)
 Claimant.) Division Case No. [REDACTED]
)
 _____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

[REDACTED] (Claimant) began receiving Food Stamp benefits on or about June 2, 2008 (Ex. 1). On or about November 7, 2008 the Claimant applied for recertification of his Food Stamp benefits (Ex. 1). On the same date, the Claimant submitted an initial application for Alaska Temporary Assistance Program (ATAP) benefits (Ex. 1).

On or about November 13, 2008 the State of Alaska Division of Public Assistance (DPA or Division) notified the Claimant that his application for ATAP benefits had been denied due to excess resources (Ex. 2.5). On or about November 17, 2008 the Division notified the Claimant that his application for recertification of Food Stamp benefits had been denied due to excess resources (Ex. 2.3). On or about November 13, 2008 the Claimant requested a fair hearing (Ex. 3). This office has jurisdiction pursuant to 7 AAC 49.010.

A hearing was held on December 23, 2008. The Claimant appeared telephonically. [REDACTED], Public Assistance Analyst with the Division, attended in person to represent and testify on behalf of the Division.

ISSUE

Was the Division correct to deny the Claimant's application for ATAP benefits, and to deny the Claimant's recertification application for Food Stamp benefits, based on the allegation that the value of the Claimant's non-exempt resources exceeded the maximum allowable resource limits for the ATAP and Food Stamp programs?

FINDINGS OF FACT

1. The Claimant began receiving Food Stamp benefits on or about June 2, 2008 (Ex. 1). On or about November 7, 2008 the Claimant applied for recertification of his Food Stamp benefits (Exs. 1, 2.3). On the same date, the Claimant submitted an initial application for Alaska Temporary Assistance Program (ATAP) benefits (Exs. 1, 2.5).
2. Pursuant to the DPA's standard practice, a face-to-face eligibility interview was held between the Claimant and DPA personnel on or about November 10, 2008 (Ex. 2.0). During the interview the Claimant advised the Division of his ownership of a 2005 Polaris Indy 800 XC SP snowmachine (Exs. 2.0, 2.5, 2.6, 4). The Division's records indicate that, on that date, the Claimant told the Division that the fair market value of the snowmachine was \$2,500.00 and that there was no balance owed on the snowmachine (there were no liens or encumbrances against the snowmachine) (Ex. 2.0, Ex. 2.5). The Claimant did not dispute this valuation at the hearing.
3. The Division's documentation indicates various values for the snowmachine. Two caseworker statements indicate that the NADA value of the snowmachine was \$8,199.00 (Exs. 2.0, 4). One printout from the NADA website dated December 8, 2008 (Ex. 2.8) indicates the low retail value of a 2005 Polaris Indy 800 XC SP, with certain specified options, to be \$4,360.00, and the average retail value of that snowmachine to be \$6,405.00. However, another printout from the same NADA website, also dated December 8, 2008 (Ex. 2.6) indicates the low retail value of a 2005 Polaris Indy 800 XC SP (with no options listed) to be \$3,795.00, and the average retail value of that snowmachine to be \$5,340.00.
4. On or about November 13, 2008 the Division notified the Claimant that his application for ATAP benefits had been denied due to excess resources (Ex. 2.5). The denial notice stated in relevant part that "[t]he resource limit is \$2,000.49," that "[t]he amount of your countable resources is \$2,500.00," and that the "[r]esource counted [was] the 2005 Polaris snowmachine you valued at \$2,500.00" (Ex. 2.5).
5. On or about November 17, 2008 the Division notified the Claimant that his application for recertification of Food Stamp benefits had been denied due to excess resources (Ex. 2.3). The denial notice stated in relevant part as follows:

Your resources exceed the limit for the Food Stamp program. \$2,511.13 is the value of your countable resources. \$2,000.00 is the resource limit for the Food Stamp program. This action is based on Food Stamp Manual Section 602-2 Resource counted is your 2005 Polaris Snowmobile you valued at \$2,500.00.

6. On or about November 13, 2008, the Claimant submitted a Fair Hearing Request (Ex. 3). In that document, the Claimant indicated that the snowmachine was worth \$2,000.00 (Ex. 3).

7. The Division's records indicate that, at a prehearing conference on November 19, 2008, the Claimant admitted that he owned the snowmachine at issue, although he stated that he did not have a title for it (Ex. 4). He indicated that he had purchased the snowmachine for his son to use as a reward for getting good grades (Ex. 4). He indicated that, when he purchased the snowmachine, he did not know that owning it would disqualify him from participation in the ATAP and Food Stamp programs (Ex. 4). The Claimant's hearing testimony was consistent with the Division's records (Ex. 4).

8. At the hearing Mr. ██████ testified that the DPA caseworker looked up the NADA book value of the snowmachine and found that NADA valued the machine at between \$3,500 - \$6,000. However, Mr. ██████ stated that, at his eligibility interview, the Claimant stated that the value of the snowmachine was \$2,500.00. Mr. ██████ stated that the Division accepted that value for purposes of determining the amount or value of the Claimant's resources. The Division's denial notices (Exs. 2.3, 2.5) are consistent with Mr. ██████'s hearing testimony.

9. At the hearing the Claimant testified that he was currently unemployed and looking for work; that he had been denied unemployment benefits; that he had two children; and that his family was currently "living off the food banks."

10. At the hearing, the Claimant stated that he still owned the snowmachine as of November 10, 2008, (3 days after the date of his applications). He stated that he "didn't realize that by purchasing a snowmachine for my son that I would get penalized." He stated that, at some point, the snowmachine engine's crankshaft bearings had failed and that the cost to replace those bearings would be \$900.00. He stated that, "toward the end of November" 2008, he had sold the snowmachine for \$250.00, and that he "did bring a bill of sale . . . to the Public Assistance Office" to confirm this.

PRINCIPLES OF LAW

I. Burden of Proof and Standard of Proof.

The first issue involved in this case is the Division's denial of the Claimant's initial application for ATAP benefits. Ordinarily, the party seeking a change in the status quo has the burden of proof. State of Alaska Alcoholic Beverage Control Board v. Decker, 700 P.2d 483, 485 (Alaska 1985). In this case, the Claimant is attempting to change the existing status quo by obtaining ATAP benefits. Accordingly, the Claimant bears the burden of proof with regard to his application for ATAP benefits.

The second issue involved in this case is the Division's denial of the Claimant's recertification application for Food Stamp benefits. Because of the manner in which the Food Stamp program is administered, the federal courts have held that each recertification application involves a new and independent eligibility determination. See Banks v. Black, 700 F.2d 292, 296-297 (6th Cir.

1983). Accordingly, the Claimant also bears the burden of proof with regard to his application for Food Stamp benefits.

The regulations applicable to this case do not specify any particular standard of proof. Therefore, the “preponderance of the evidence” standard is the standard of proof applicable to this case.¹ This standard is met when the evidence, taken as a whole, shows that the facts sought to be proved are more probable than not or more likely than not. Black’s Law Dictionary 1064 (5th Ed. 1979).

II. Alaska Temporary Assistance Program.

The Temporary Aid to Needy Families (TANF) program was created by Congress when it passed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pubic Law No. 104-193, 110 Stat. 2105 (Aug. 22, 1996); 42 U.S.C. § 601 et seq. Under TANF, each state receives a predetermined block of funding to distribute as the state sees fit. 42 U.S.C.A. § 601 et seq.

The Alaska Temporary Assistance Program (ATAP) is a state program created to implement the federal TANF program in the state of Alaska. See A.S.47.05.010(1); A.S.47.27.005 – A.S.47.27.990. The Alaska Temporary Assistance Program’s governing regulations are found in the Alaska Administrative Code at 7 AAC 45.149 – 7 AAC 45.990.

7 AAC 45.280 provides in relevant part as follows:

(a) An assistance unit is not eligible for ATAP benefits if the assistance unit has nonexempt resources with a total value, as determined under 7 AAC 45.310, in excess of \$2,000 or, if the assistance unit includes an individual age 60 or older, \$3,000. Resources are determined to be exempt or nonexempt in accordance with 7 AAC 45.300 and 7 AAC 45.301.

(b) Eligibility under (a) of this section is determined (1) for an applicant, as of the date of the interview required by 7 AAC 45.170(a) , [and] (2) for a recipient, as of the first day of the month for which eligibility is being determined.

7 AAC 45.300(n) provides in relevant part as follows:

A motor vehicle is exempt if the motor vehicle is used for family transportation necessary to meet basic needs, including obtaining food, medical care, other essentials, or for transportation to or from school, work, or training. A motor vehicle also is exempt if necessary to transport a disabled family member, to produce self-employment income, or for a family member to participate in a work activity approved by the department, or if used as the family's home. The equity

¹ A party in an administrative proceeding can assume that preponderance of the evidence is the applicable standard of proof unless otherwise stated. Amerada Hess Pipeline Corp. v. Alaska Public Utilities Commission, 711 P.2d 1170 (Alaska 1986).

value of a motor vehicle that is not exempt under this subsection is considered a nonexempt resource.

Alaska Temporary Assistance Program Manual Section 752-10 provides in relevant part as follows:

A vehicle is any passenger car or other motorized vehicle used to provide transportation of persons or goods. This includes cars, trucks, recreational vehicles (RVs), boats, snow machines, all terrain vehicles (ATVs), motorcycles, airplanes, or other motorized vehicles. Vehicles may or may not be exempt depending on their use. If a vehicle is not exempt, its equity value counts in the resource determination.

Alaska Temporary Assistance Program Manual Section 752-10B provides in relevant part as follows:

A vehicle that is not exempt counts against the resource limit. The countable amount is the owner's equity (fair market value minus the amount owed on the vehicle).

7 AAC 45.310(a) provides in relevant part as follows:

(a) The department will determine the value of an available nonexempt resource by determining the applicant's or recipient's equity in that resource. Equity value is equal to the dollar amount that results from subtracting all legitimate debt secured by legal encumbrance on the title to the property from the fair market value of the property. For purposes of this subsection, "legal encumbrance" means a security interest or lien that is enforceable by a legal action.

III. Food Stamp Program.

The Food Stamp program was established by the federal Food Stamp Act of 1977, codified at 7 USC Sections 2011 – 2029. The United States Department of Agriculture's Food and Nutrition Service has promulgated regulations to implement the Food Stamp Act. These regulations are codified primarily at 7 CFR Sections 271-274.

The Food Stamp Program has been delegated to the states for administration. 7 CFR Section 271.4. The Department of Health and Social Services (DHSS) administers the Food Stamp Program in Alaska. AS 47.25.975. DHSS has promulgated regulations which adopt the federal regulations (with certain minor variations as allowed by federal law). 7 CFR Section 272.7; 7 AAC Sections 46.010 - .990.

7 CFR 273.8(b), titled *Maximum Allowable Resources*, establishes the maximum resource limit for a Food Stamp household. The limit is \$2,000.00 for households with no members over age 59; the limit is \$3,000.00 for those households with at least one member age 60 or older.

Pursuant to 7 CFR 273.8(c)(2), “resources” include “licensed and unlicensed vehicles.” Vehicles used by the household for certain purposes, such as for producing income, for employment (other than for commuting back and forth to work), for transporting a disabled household member, or a vehicle used as a residence, are excluded from the resource limit. 7 CFR 273(e)(3). Any vehicles owned by the household which do not fall within one of these narrow exceptions are non-excluded vehicles and are counted as a resource.

Alaska Food Stamp Manual Section 602-2 C, entitled “Vehicles”, provides in relevant part as follows:

Most vehicles are exempt based on their use by the household. If a vehicle is not exempt, its equity value counts in the resource determination.

A vehicle is any passenger car or other motorized vehicle used to provide transportation of persons or goods. This includes cars, trucks, recreational vehicles (RVs), boats, snow machines, all-terrain vehicles (ATVs), motorcycles, airplanes, or other motorized vehicles.

1. Exempt Vehicles. The vehicle is exempt if it is necessary and used:

- a. For family transportation to meet the household’s basic needs, such as getting food, medical care or other essentials. This includes vehicles used: For subsistence hunting and fishing . . . To carry the household's primary source of heating fuel or primary source of water.
- b. To go to and from work, school, training, or a work activity such as community work service or job search.
- c. As the household's home.
- d. To produce self-employment income.
- e. To transport a disabled household member or disabled excluded household member whose income and resources are considered available to the household. Disabled, in this section, covers both permanent and temporary disabilities. For instance, it includes disabilities caused by chemotherapy, a broken leg, and respiratory illnesses. The vehicle need not have special equipment or be used primarily for transportation of the disabled person.

* * * * *

2. Countable Vehicles. A vehicle that is not exempt under this section counts against the resource limit. The countable amount is the owner’s equity (fair market value minus the amount owed on the vehicle.)

* * * * *

Find the fair market value of countable vehicles by using the NADA Appraisal Guides on the Internet at www.NADAguides.com. . . The fair market value is the base amount quoted as Average Trade-in or Low Retail.

* * * * *

If the household questions the value assigned to their vehicle, discuss with them the reason they think the vehicle is worth less and document this information in the case file. For example, they may explain that the vehicle is not running or needs significant repairs. Accept the household's stated value unless the explanation provided is questionable.

If the claimed value is questionable, the household must be given an opportunity to verify the lower value

Alaska Food Stamp Manual Section 602-2 A provides in relevant part as follows:

* * * * *

3. Determining Resource Eligibility . . .

Interview held during the month the application is filed - The total value of all household resources on the date of the interview is used to determine the eligibility for that household. If the household's total countable resources exceed the resource limit, the household is ineligible and the application is denied. The household can reapply anytime.

* * * * *

ANALYSIS

I. Introduction.

The issue in this case is whether the Division was correct to deny the Claimant's application for ATAP benefits, and to deny the Claimant's recertification application for Food Stamp benefits, based on the allegation that the value of the Claimant's non-exempt resources exceeded the maximum allowable resource limits for the ATAP and Food Stamp programs. While the ATAP and Food Stamp programs' rules regarding non-exempt resources are similar, they are not identical. Accordingly, the Claimant's resource eligibility must be analyzed separately under each of the two programs.

II. Alaska Temporary Assistance Program.

A. Household Composition Determines Resource Limit.

The first issue relevant to the Claimant's ATAP eligibility is the composition of the Claimant's household. Pursuant to 7 AAC 45.280(a), an assistance unit which does not include an individual age 60 or older is not eligible for ATAP benefits if the assistance unit has nonexempt resources in excess of \$2,000.00. For households with at least one person aged 60 or older, a higher limit applies. In this case there was no allegation that the Claimant's household included an individual age 60 or older. Accordingly, in order to be eligible for ATAP benefits, the Claimant was required to have \$2,000.00 or less in non-exempt resources.

B. Resource as Exempt or Non-Exempt.

The next issue relevant to the Claimant's ATAP eligibility is whether the Claimant's snow-machine was a non-exempt resource. A snowmachine is classified as a vehicle pursuant to Alaska Temporary Assistance Program Manual Section 752-10. Vehicles used for certain purposes are exempt (i.e. are not included as resources for purposes of determining ATAP eligibility) pursuant to 7 AAC 45.300(n). These purposes include "obtaining food, medical care, other essentials, or for transportation to or from school, work, or training . . . [or] to transport a disabled family member, [or] to produce self-employment income, or [to allow] a family member to participate in a work activity approved by the department, or if used as the family's home." In this case, however, the Claimant never asserted that the snowmachine at issue was used for any of these exempt purposes. Vehicles that are not exempt under 7 AAC 45.300(n) are considered nonexempt resources. See Alaska Temporary Assistance Program Manual Section 752-10B ("A vehicle that is not exempt counts against the resource limit"). Accordingly, the Claimant's snowmachine was a non-exempt asset for purposes of the ATAP program.

C. Resource Value = Equity (Fair Market Value Minus Debt Owed).

The next issue relevant to the Claimant's ATAP eligibility is the value of the snowmachine at issue. 7 AAC 45.310(a) provides in relevant part that "the department will determine the value of an available nonexempt resource by determining the applicant's or recipient's equity in that resource," and that "equity value is equal to the dollar amount that results from subtracting all legitimate debt secured by legal encumbrance on the title to the property *from the fair market value of the property*" (emphasis added). Thus, pursuant to 7 AAC 45.310(a), in order to determine the Claimant's equity in the snowmachine, the fair market value of the snowmachine must first be determined.

1. Determination of Fair Market Value.

The valuation sources consulted by the Division indicated that the Claimant's 2005 Polaris Indy 800 XC SP (the snowmachine) was worth between \$3,795.00 and \$8,199.00 (Exs. 2.0, 2.6, 4). However, the Division's records indicate that, during the eligibility interview of November 10, 2008, the Claimant advised the Division that the fair market value of the snowmachine was \$2,500.00 (Ex. 2.0, Ex. 2.5). The Division accepted this lower valuation

for purposes of its eligibility determination (Exs. 2.3, 2.5). The Claimant did not dispute this \$2,500.00 valuation at the hearing. Accordingly, the fair market value of the snow machine was \$2,500.00 for purposes of ATAP eligibility.

2. Determination of Debt Owed.

The next step is to determine the amount of debt secured by legal encumbrances on the snow machine. This will determine how much equity the Claimant had in the snowmachine. Pursuant to 7 AAC 45.310(a):

(a) The department will determine the value of an available nonexempt resource by determining the applicant's or recipient's equity in that resource. Equity value is equal to the dollar amount that results from subtracting all legitimate debt secured by legal encumbrance on the title to the property from the fair market value of the property. For purposes of this subsection, "legal encumbrance" means a security interest or lien that is enforceable by a legal action.

The record indicates that, at the time of his eligibility interview, the Claimant owned the snowmachine "free and clear" (Ex. 2.0).

3. Determination of Equity (Fair Market Value Minus Debt Owed).

As discussed in subsection (1), above, the fair market value of the snowmachine was \$2,500.00. As discussed in subsection (2), above, there was no debt owed on the snowmachine. Accordingly, pursuant to 7 AAC 45.310(a), the Claimant's equity interest in the snowmachine was \$2,500.00.

D. Resources Valued as of Date of Eligibility Interview.

The last issue relevant to the ATAP eligibility determination is *when* the Claimant's resources are analyzed for purposes of ATAP eligibility. Pursuant to 7 AAC 45.280(b), resource eligibility for new program applicants (like the Claimant) is determined "as of the date of the [eligibility] interview." During the eligibility interview of November 10, 2008 the Claimant advised the Division that the fair market value of the snowmachine as of that date was \$2,500.00 and that there was no balance owed on the machine (i.e. no liens / encumbrances) (Ex. 2.0, Ex. 2.5).

The Claimant testified at the hearing that the snowmachine engine's crankshaft bearings had failed and that "toward the end of November" 2008 he had sold the snowmachine for \$250.00. However, the failure of the crankshaft bearings and the sale of the snowmachine occurred at least several days *after* the eligibility interview. As stated above, pursuant to 7 AAC 45.280(b), resource eligibility is determined as-of the date of the interview. The Claimant's own testimony was that the snowmachine was worth \$2,500.00 on the date of the interview. Accordingly, the snowmachine's fair market value, at the time of the ATAP eligibility interview, was \$2,500.00.

E. Summary.

In summary, as an initial applicant for ATAP, the Claimant had the burden of proving that his household owned an equity interest of no more than \$2,000.00 in non-exempt resources as of the date of the eligibility interview. However, due to the Claimant's ownership of the 2005 Polaris Indy 800 XC SP snowmachine, the Claimant clearly had an equity interest of more than \$2,000.00 in non-exempt resources as of the date of his ATAP eligibility interview. Accordingly, the Division was correct to deny the Claimant's application for ATAP benefits based on the Claimant's ownership of excess non-exempt resources.

III. The Food Stamp Program.

A. Household Composition Determines Resource Limit.

The first issue relevant to the Claimant's eligibility for Food Stamp benefits is the composition of the Claimant's household. Pursuant to 7 CFR 273.8(b), a household which does not include an individual age 60 or older is not eligible for Food Stamp benefits if the household has nonexempt resources in excess of \$2,000.00. For households with at least one person aged 60 or older, a higher limit applies. In this case there was no allegation that the Claimant's household included an individual age 60 or older. Accordingly, in order to be eligible for Food Stamp benefits, the Claimant was required to have \$2,000.00 or less in non-exempt resources.

B. Resource as Exempt or Non-Exempt.

The next issue relevant to the Claimant's Food Stamp eligibility is whether the Claimant's snowmachine was a non-exempt resource. Pursuant to 7 CFR 273.8(c)(2), "resources" include "licensed and unlicensed vehicles." Vehicles used by the household for certain purposes, such as for producing income, for employment (other than for commuting back and forth to work), for transporting a disabled household member, or a vehicle used as a residence, are excluded from the resource limit. 7 CFR 273(e)(3). In this case, however, the Claimant never asserted that the snowmachine at issue was used for any of these exempt purposes. Vehicles that are not exempt under 7 CFR 273(e)(3) are considered nonexempt resources. Accordingly, the Claimant's snowmachine was a non-exempt asset for purposes of the Food Stamp Program.

C. Determination of Countable Amount.

The next issue relevant to the Claimant's Food Stamp eligibility is determination of the "countable amount." Pursuant to Alaska Food Stamp Manual Section 602-2C(2), "the countable amount is the owner's equity (fair market value minus the amount owed on the vehicle)." Thus, in order to determine the "countable amount," it is necessary to determine the owner's equity in the vehicle. In order to determine the owner's equity in the vehicle, it is first necessary to determine fair market value of the vehicle, and whether there is any amount owed on the vehicle.

1. Determination of Fair Market Value.

The valuation sources consulted by the Division indicated that the fair market value of the Claimant's snowmachine (2005 Polaris Indy 800 XC SP) was between \$3,795.00 and \$8,199.00 (Exs. 2.0, 2.6, 4). However, the Division's records indicate that, during the eligibility interview of November 10, 2008, the Claimant advised the Division that the fair market value of the snowmachine was \$2,500.00 and that there was no balance owed on the machine (i.e. no liens / encumbrances) (Ex. 2.0, Ex. 2.5). The Division accepted this lower fair market value for purposes of its eligibility determination (Exs. 2.3, 2.5). In addition, the Claimant did not dispute this \$2,500.00 valuation at the hearing. Accordingly, both parties agreed that the fair market value of the snowmachine was \$2,500.00 for purposes of Food Stamp eligibility.

2. Determination of Any Amount Still Owed.

The next issue is the amount owed on the snowmachine. During the eligibility interview of November 10, 2008, the Claimant advised the Division that there was no balance owed on the snowmachine (i.e. no liens / encumbrances) (Ex. 2.0, Ex. 2.5). Thus, the amount owed on the snowmachine was zero.

Having determined the fair market value of, and amount owed on, the snowmachine, the "countable amount" may now be determined. Pursuant to Alaska Food Stamp Manual Section 602-2 C, "the countable amount is the owner's equity (fair market value minus the amount owed on the vehicle)." Here, the Claimant asserted that the fair market value of the snowmachine was \$2,500.00, and this value was accepted by the Division (Ex. 2.0). The Claimant admitted that there was no money owed on the snowmachine (Ex. 2.0). Pursuant to Manual Section 602-2C(2), "the countable amount is . . . the . . . fair market value minus the amount owed on the [snowmachine]." Accordingly, the Claimant's equity in the snowmachine was \$2,500.00 for purposes of the Food Stamp Program.

D. Resources Valued as of Date of Eligibility Interview.

The last issue relevant to the Food Stamp eligibility determination is *when* the Claimant's resources are analyzed for purposes of Food Stamp eligibility. The Claimant testified at the hearing that the snowmachine engine's crankshaft bearings had failed and that "toward the end of November" 2008 he had sold the snowmachine for \$250.00. However, pursuant to Alaska Food Stamp Manual Section 602-2 A(3), when the "interview [is] held during the month the application is filed," then "the total value of all household resources *on the date of the interview* is used to determine the eligibility for that household" (emphasis added).

In this case, the eligibility interview was held during the same month in which the Claimant's application was filed. Accordingly, pursuant to Manual Section 602-2A(3), a decline in value after the date of the interview is legally irrelevant; the pertinent value is the value of the asset on the date of the interview. During the eligibility interview of November 10, 2008 the Claimant advised the Division that the fair market value of the snowmachine as of that date was \$2,500.00 and that there was no balance owed on the snowmachine (i.e. no liens / encumbrances) (Ex. 2.0,

Ex. 2.5). Accordingly, the snowmachine's fair market value at the time of the Food Stamp eligibility interview, as asserted by the Claimant and accepted by the Division, was \$2,500.00.

E. Summary.

In summary, upon filing a recertification application for the Food Stamp Program, the Claimant had the burden of proving that his household owned no more than \$2,000.00 in non-exempt resources as of the date of the eligibility interview. However, due to the Claimant's ownership of the snowmachine, the Claimant clearly had more than \$2,000.00 in non-exempt resources as of the date of his Food Stamp eligibility interview. As of the date of the eligibility interview, the Claimant's "countable amount" or owner's equity in the snow machine (the fair market value minus the amount owed on the vehicle) was \$2,500.00. Accordingly, the Division was correct to deny the Claimant's application for Food Stamp benefits based on the Claimant's ownership of excess non-exempt resources.

CONCLUSIONS OF LAW

1. The Claimant failed to satisfy his burden of proof. Specifically, the Claimant failed to prove, by a preponderance of the evidence, that:

a. The Division erred in determining the equity value of the Claimant's available nonexempt resources for purposes of ATAP eligibility, or

b. The Division erred in determining the countable amount (Claimant's equity) in the Claimant's nonexempt resources for purposes of the Food Stamp Program.

2. The Division correctly determined that:

a. Pursuant to 7 AAC 45.280(a), 7 AAC 45.300(n), 7 AAC 45.310(a), and Alaska Temporary Assistance Program Manual Section 752-10, the equity value of the Claimant's non-exempt resources exceeded the \$2,000.00 ATAP limit as of the date of the Claimant's eligibility interview.

b. Pursuant to 7 CFR 273.8(b), 7 CFR 273.8(c)(2), 7 CFR 273(e)(3), and Alaska Food Stamp Manual Sections 602-2 A(3) and 602-2 C, the countable amount of the Claimant's non-exempt resources exceeded the \$2,000.00 Food Stamp Program limit as of the date of the Claimant's eligibility interview.

3. The Division was therefore correct to deny:

a. The Claimant's application for ATAP benefits based on the finding that the equity value of the Claimant's non-exempt resources exceeded the maximum allowable resource limits for ATAP.

b. The Claimant's recertification application for Food Stamp benefits based on the finding that the countable amount of the Claimant's non-exempt resources exceeded the maximum allowable resource limits for the Food Stamp Program.

DECISION

The Division was correct to deny the Claimant's application for ATAP benefits, and to deny the Claimant's recertification application for Food Stamp benefits, based on the finding that the equity value or countable amount of the Claimant's non-exempt resources exceeded the maximum allowable resource limits for the ATAP and Food Stamp programs.

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 February, 2009.

Jay Durych
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this _____ day of February, 2009, 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