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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. 10-FH-151
)
 Claimant.) Division Case No. [REDACTED]
_____)

FAIR HEARING DECISION

STATEMENT OF THE CASE

Mr. [REDACTED] (Claimant) filed an application with the Division of Public Assistance (Division) on March 22, 2010 seeking Adult Public Assistance (APA) and Food Stamp Program benefits.¹(Exs. 2.0-2.9) The Division issued Claimant benefits from both Programs because he received Supplemental Security Income (SSI) and therefore was categorically eligible for benefits. (Ex. 4; Ex. 6.0; Ex. 11.0) Subsequently, Claimant's receipt of SSI was terminated and on April 8, 2010 the Division sent Claimant written notice it had determined him no longer eligible for Adult Public Assistance.² (Ex. 7.1) On April 13, 2010, the Division notified Claimant it had terminated his Food Stamp benefits because he failed to timely provide information. (Ex. 9) On May 5, 2010, the Division notified Claimant it was continuing to deny him Food Stamps because he had resources valued in excess of the amount allowed for eligibility for Food Stamps. (Ex. 11) Claimant requested a fair hearing on May 6, 2010. (Ex. 12.1)

This office has jurisdiction pursuant to 7 AAC 49.010.

Claimant's Fair Hearing began on June 15, 2010. At that time, Claimant withdrew his hearing request conditionally, until he could review the Division's evidence and determine if his concerns could be resolved by conference with Division staff. On June 21, 2010, Claimant requested the hearing be re-scheduled. The reinstated hearing was held on July 7, 2010. Claimant attended the hearing telephonically, testified on his behalf, and represented himself. Ms. [REDACTED], Public Assistance Analyst with the Division, attended in person and testified for the Division.

¹ Claimant also applied for Medicaid benefits. (Ex. 2.0) Medicaid is not at issue and is not discussed further.

² Claimant's loss of SSI benefits also made him no longer categorically eligible for Food Stamp benefits but the Division did not send Claimant a notice informing him of this. However, on March 25, 2010, the Division did request Claimant provide information on which it could determine if he was eligible for Food Stamps without being categorically eligible for Food Stamps. (Ex. 5)

ISSUE

There are two issues in this case. One is whether the Division was correct to terminate Claimant's receipt of Food Stamp benefits, effective May 2010.³ The other issue is whether the Division was correct to terminate Claimant's Alaska Public Assistance benefits, effective June 2010.

FINDINGS OF FACT

The following facts have been proved by a preponderance of the evidence:

1. On March 22, 2010, shortly after moving to Alaska, Claimant applied for Adult Public Assistance and Food Stamp benefits. (Application). (Ex. 2.0-2.9; Ex. 3) Claimant wrote on his Application that he received Supplemental Security Income (SSI) in [REDACTED], where he lived before he moved to Alaska. (Ex. 2.1, 2.3; Ex. 3) He also wrote he owned 4 vehicles: a 2001 Dodge pickup he valued at \$500; a 1999 GMC Yukon he valued at \$100; a 2000 Mack Semi truck he valued at \$600; and a 1995 Dodge pickup, which he stated had no value except for parts. (Ex. 2.4)
2. On March 23, 2010, Claimant participated in an eligibility interview. (Ex. 3) The Eligibility Technician wrote in a case note that Claimant left three vehicles in [REDACTED], including the 2000 Mack Semi truck. (Ex. 3) The Eligibility Technician also wrote that Claimant had received SSI since 1993. (Ex. 3)
3. Based on the information provided on his March 22, 2010 Application and interview, the Division issued Claimant Food Stamps on an expedited basis for March 2010 and April 2010. (Ex. 5) The Division also issued Adult Public Assistance benefits to Claimant for April 2010. (Ex. 7)
4. In its March 25, 2010 notice approving expedited issuance of Food Stamps, the Division requested Claimant provide specific information concerning his property, and other items, no later than April 9, 2010. (Ex. 5) The notice expressly requested Claimant provide a model number and an explanation why he valued his 2000 Mack Semi truck at \$600. (Ex. 5) The notice stated failure to provide the information would result in the "closure of your food stamp case effective 4/30/10." (Ex. 5)
5. On April 7, 2010, the Eligibility Technician processing Claimant's Application learned Claimant's SSI benefits had been suspended effective May 2010. (Ex. 6.0)
6. On April 8, 2010, the Division sent Claimant a written notice informing him that because he no longer was getting SSI benefits his Adult Public Assistance (APA) case was closed and he would not

³ The Division alleged the fair hearing concerned its *denial* of Claimant's "Adult Public Assistance services for no Social Security eligibility and Food Stamp's (FS) for failure to provide." (Division's Fair Hearing Position Statement) Because the Division initially issued both Food Stamp and Adult Public Assistance benefits, based on Claimant's application and receipt of SSI, the issue is stated correctly as whether the Division properly *terminated* Claimant's benefits from each program.

get APA benefits after April 2010. (Ex. 7.1) The notice informed Claimant if he could resolve his “issues with Social Security by 4/30/10,” he could receive APA benefits without re-applying. (Ex. 7.1)

7. On April 12, 2010, the Eligibility Technician closed Claimant’s Food Stamp case effective April 30, 2010 because the Division had not received the information it requested by April 9, 2010. (Ex. 8)

8. In a written notice sent to Claimant on April 13, 2010, the Eligibility Technician informed Claimant his Food Stamp case was closed because he did not provide needed information and again requested information, including the model number for the Mack Semi truck and an explanation why Claimant valued it at only \$600. (Ex. 9)

9. On April 20 and 23, 2010, Claimant provided verbal information in response to the Division’s information request. (Ex. 10.0)

10. On May 5, 2010, the Division gave Claimant written notice his Food Stamp case would remain closed because he owned resources valued in excess of the \$2000 resource limit applicable to recipients of Food Stamp benefits. (Ex. 11.0) The notice stated that two items of property caused Claimant to have excess resources: a) the trailer Claimant valued at \$4,000 and b) the 2000 Mack Semi truck, which the Division valued at \$20,000. (Ex. 11.0) The notice also informed Claimant he previously had been considered “categorically eligible” for Food stamp benefits because he received SSI but “now that SSI has stopped, you must qualify under normal program rules....” (Ex. 11.0)

11. Claimant owns resources valued in excess of \$2,000. This Finding is based on the following undisputed facts:

a. During his in-person visit on April 20 and April 23, 2010, Claimant valued a trailer he owned in ██████████ at about \$4,000. (Ex. 10.0) Claimant also explained that he paid \$600 for the Mack Semi truck when he bought it. (Ex. 10.0)

b. Claimant restored the 2000 Mack Semi truck so that he valued its worth at \$6,000-\$10,000 as of the date he moved from ██████████ to Alaska in March 2010. (Claimant’s testimony)

c. The Eligibility Technician researched comparative values for 1999-2001 Mack Semi trucks at www.commercialtrucktrader.com and valued Claimant’s 2000 Mack Semi truck at over \$20,000.

12. Also on May 5, 2010, the Division gave Claimant written notice it denied⁴ his March 22, 2010 Application for Adult Public Assistance (APA) benefits because the Social Security Administration had stopped issuing him SSI. (Ex. 11.1) However, by then it was too late to stop issuance of Claimant’s May 2010 APA benefits. (Ex. 11.1) The Eligibility Technician did not issue benefits for June 2010 and closed Claimant’s APA case. (Ex. 11.1)

⁴ Because the Division issued two months of Adult Public Assistance Benefits based on Claimant’s application, its action technically was a termination of benefits and not a denial of the application. However, this matters primarily for purposes of establishing which party has the legal burden of proof at the in this case, which is unrelated to benefit issuance.

13. On May 6, 2010, Claimant filed a Request for Reconsideration of the denial of SSI benefits with the Social Security Administration (SSA). (Ex. 12.3-12.4) On July 7, 2010, Claimant's SSI had not been reinstated yet. (Claimant's testimony)

PRINCIPLES OF LAW

This case involves a termination⁵ of benefits by the Division, which is a change in the *status quo*. The party seeking a change in the *status quo* generally has the burden of proof⁶ by a preponderance of the evidence.⁷ Therefore, the Division bears the burden of proof.

Adult Public Assistance

An individual who receives Supplemental Security Income from the federal government is automatically eligible to receive Adult Public Assistance benefits from the State of Alaska. AS 47.25.430; 7 AAC 40.060. If an applicant who is receiving SSI benefits later is determined by the Social Security Administration to be ineligible, the Division will terminate assistance, regardless of whether the applicant files an appeal with the Social Security Administration. 7 AAC 40.060(c).

When a person applies for Adult Public Assistance (APA) the Division is charged to "investigate promptly and record the circumstances of each applicant to determine the facts supporting the application and other information required by the department." AS 47.25.450.

The Alaska Adult Public Assistance regulations provide the Division with the authority to request information from Adult Public Assistance recipients upon receipt of information that a change in circumstances may have occurred:

Upon receipt of information from any source that indicates that a change in circumstances affecting an applicant's eligibility or amount of assistance may have occurred, the division shall investigate and, if necessary, adjust the amount of assistance or suspend or terminate assistance in accordance with 7 AAC 49.060.

7 AAC 40.450.

Food Stamp Program

⁵ This case deals with the Division's termination of benefits after issuing them for two months based on Claimant's March 22, 2010 Application. The Division Hearing Representative erroneously presented the case as a denial of an application for benefits. (Fair Hearing Position Statement; Hearing Representative's testimony)

⁶ "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)

⁷ Preponderance of the evidence is the normal standard of proof in an administrative proceeding. *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). Preponderance of the evidence is defined as "[e]vidence 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)

Individuals who suffer from a disability considered permanent by the Social Security Act, such as persons receiving SSI, are categorically eligible to receive Food Stamp benefits. 7 CFR § 273.23(a).

If an individual or household is not categorically eligible for Food Stamp benefits, the individual or household is not eligible if the maximum value of all its liquid and non-liquid assets exceeds \$2,000. 7 CFR § 273.8(b).

ANALYSIS

There are two issues in this case. One is whether the Division was correct to terminate Claimant's receipt of Food Stamp benefits, effective May 2010. The other issue is whether the Division was correct to terminate Claimant's Alaska Public Assistance benefits, effective June 2010.

Claimant moved to Alaska and applied for Adult Public Assistance and Food Stamps on March 22, 2010. The Division issued Food Stamp benefits to Claimant in March and April 2010 on an expedited basis. The Division issued Claimant Adult Public Assistance (APA) benefits in April and May 2010. Because Claimant had been receiving Supplemental Security Income (SSI) since 1993, he was categorically eligible for benefits from each program.

Later, the Division learned the Social Security Administration (SSA) first suspended and then stopped Claimant's receipt of SSI benefits. Because Claimant lost his SSI benefits, he no longer was categorically eligible to receive Adult Public Assistance and Food Stamps. Consequently, to continue receiving Food Stamps, Claimant had to meet the eligibility criteria of the Food Stamp Program. The Division terminated Claimant's Adult Public Assistance benefits because he was no longer eligible for them after he no longer was eligible to receive SSI.

On March 25, 2010, the Division requested Claimant provide information pertaining to eligibility for Food Stamps. Claimant did not provide the information until April 20 and 23, 2010, by which time he no longer was receiving SSI and therefore had to meet the Food Stamp Program's eligibility requirements.

The Division initially closed Claimant's Food stamp case because he failed to provide requested information in time. However, after considering Claimant's information, the Division kept his case closed because it determined he had resources valued in excess of the resource eligibility limits of \$2,000 for the Food Stamp Program. The Division's determination was based on its valuation of Claimant's 2000 Mack Semi truck at about \$20,000 and he had a trailer valued at \$4,000.

Food Stamps

Claimant initially was automatically eligible for Food Stamp benefits because he received SSI. 7 CFR § 273.2(j)(2)(D); 7 CFR § 271.2. The Division correctly issued Food Stamp benefits to Claimant during the month of his Application (March 2010) because he received SSI in March 2010.

After Claimant's SSI benefits were suspended by the Social Security Administration, effective May 2010, he no longer was categorically eligible to receive Food Stamp benefits. The Division was

correct to have requested from Claimant information on which to evaluate his eligibility to receive Food Stamp benefits under the Program's rules. 7 CFR § 273.8(b); 7 CFR § 273.10.

After Claimant responded to the Division's information request, the Eligibility Technician correctly determined he was not eligible for Food Stamp benefits because his resources exceeded the \$2,000 maximum resource limit allowed by the Food Stamp Program. *See*, 7 CFR § 273.8(b).

It is undisputed fact Claimant owns a 2000 Mack Semi truck that he valued at \$6,000 as of the day he left for Alaska. Although he valued the Mack Semi on his application at \$600, he clarified this was the purchase cost and not its value at the time of application for benefits in Alaska. To be eligible for Food Stamp benefits, an individual or household may not have resources in excess of \$2,000.⁸ 7 CFR § 273.8(b). Therefore, the value of the other resources Claimant owns is not important because the 2000 Mack Semi truck exceeds the resource value amount for eligibility for the Food Stamp Program.

The Division was correct to find Claimant not eligible for Food Stamp benefits because the value of his resources exceeded \$2,000 and correct to terminate his receipt of benefits after making that determination.

Adult Public Assistance

Claimant was eligible to receive Adult Public Assistance from Alaska in April 2010 because he was receiving Supplemental Security Income. An individual who receives Supplemental Security Income from the federal government automatically is eligible to receive Adult Public Assistance benefits from the State of Alaska. AS 47.25.430; 7 AAC 40.060. The Division correctly approved Claimant's application for APA benefits and correctly issued April 2010 benefits to him based on his receipt of SSI.

On April 7, 2010, the Division's Eligibility Technician learned Claimant's receipt of SSI had been suspended effective with the May 2010 benefit month because Claimant had not provided information about his resources to the Social Security Administration (SSA). The Eligibility Technician gave Claimant until April 30, 2010 to resolve his issues with the SSA.

On May 4, 2010, the Eligibility Technician learned from the SSA that Claimant had not resolved his issues with the SSA and therefore Claimant had not received SSI benefits for May 2010. By then, the May 2010 APA benefits already had been paid to Claimant. Therefore, the Eligibility Technician stopped issuance of Claimant's APA benefits effective June 2010. On May 6, 2010, Claimant filed an appeal with the SSA of the termination of his SSI benefits but the Division did not re-instate his APA benefits.

If an applicant who is receiving SSI benefits later is determined by the Social Security Administration to be ineligible, the Division will terminate assistance, regardless of whether the applicant files an appeal with the Social Security Administration. 7 AAC 40.060(c). Therefore, the Eligibility Technician correctly terminated Claimant's receipt of APA benefits effective June 2010.

⁸ It is undisputed Claimant owns a trailer valued at \$4,000. At the Fair Hearing, he testified he owed it with his father, which would make his share of its value \$2,000.

CONCLUSIONS OF LAW

1. The Division was correct to terminate Claimant's receipt of Adult Public Assistance benefits effective June 2010 because Claimant no longer received Supplemental Security Income.
2. The Division was correct to terminate Claimant's receipt of Food Stamp benefits effective May 2010 because he was not categorically eligible for Food Stamp benefits. The Division was correct to request information from Claimant on which basis it could determine if he met the eligibility requirements of the Food Stamp Program.
3. The Division was correct to terminate Claimant's receipt of Food Stamp benefits because Claimant owned resources valued in excess of \$2,000 and therefore did not meet the eligibility requirements.

DECISION

The Division was correct when it terminated the Claimant's Food Stamp benefits beginning May 2010 because he did not meet the eligibility requirements for the Food Stamp Program. The Division was correct to terminate Claimant's Adult Public Assistance benefits beginning June 2010 after he lost his eligibility to receive SSI.

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

An appeal request must be filed within 15 calendar days from the date of receipt of this Decision. Filing an appeal with the Director could result in the reversal of the Hearing Authority's decision.

DATED this 23rd day of July 2010.

/signed/
Claire Steffens

