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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-224  
 )  
 Claimant. ) Division Case No. [REDACTED]

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

Ms. [REDACTED] (Claimant) applied for Food Stamp benefits on June 21, 2010. (Ex. 2, 2.7) On July 8, 2010, the Division of Public Assistance (Division) sent Claimant notice she was not eligible for Food Stamp benefits for three months, beginning June 12, 2010 and ending September 9, 2010, because Claimant quit her job on June 12, 2010. (Ex. 5) Claimant requested a fair hearing on July 12, 2010. (Ex. 6.1)

This office has jurisdiction pursuant to 7 AAC 49.010.

Claimant's Fair Hearing was held on August 17, 2010. Claimant attended the hearing telephonically, represented herself and testified on her own behalf. [REDACTED], Public Assistance Analyst with the Division, attended in person, represented the Division and testified on its behalf.

**ISSUE**

Was the Division correct to impose a job quit penalty against Claimant, which caused her to become not eligible to receive Food Stamp benefits for a three-month period beginning June 12, 2010 through September 9, 2010, because Claimant voluntarily quit her job at [REDACTED]?

**FINDINGS OF FACT**

1. Claimant applied for Food Stamp benefits on June 21, 2010 (Application). (Ex. 2-2.2.9) The Division received Claimant's Application on June 22, 2010. (Ex. 2)

2. Claimant had been working at [REDACTED] beginning May 1, 2010 until June 9, 2010. (Ex. 8) On June 12, 2010, Claimant intentionally did not go to work at [REDACTED]. (Claimant's testimony) A few days later, Claimant told her supervisor at [REDACTED] that she had quit her job there. (Claimant's testimony) Claimant's date of termination at [REDACTED] was June 12, 2010, nine (9) days before she applied for Food Stamp benefits. (Ex. 3)

3. Claimant's regular wage was \$9.74 per hour and she was paid weekly by [REDACTED] for work hours as follows:

Pay period 5/09/10 to 5/15/10	39.99 hours
Pay period 5/16/10 to 5/22/10	39.52 hours
Pay period 5/23/10 to 5/29/10	39.50 hours
Pay period 5/30/10 to 6/05/10	34.20 hours
Pay period ending 6/12/10 (last day worked 6/9/10)	19.60 hours

(Ex. A, pp. 2-6; Ex. 3.1)

4. Claimant did not quit working for [REDACTED] to start employment elsewhere. (Claimant's testimony) Claimant quit because she could not earn enough money by working at [REDACTED] to pay for the expenses of her household. (Claimant's testimony) A few days after quitting [REDACTED], Claimant was called for an interview for a job at higher pay but she could not attend the interview. (Claimant's testimony)

5. On June 22, 2010, Claimant participated in an interview to determine her eligibility for Food Stamps. (Ex. 3) During the interview, Claimant explained that she had quit her job at [REDACTED] because the income she was making was insufficient to meet her household needs and did not have another job to start immediately. (Ex. 3)

6. During the June 22, 2010 interview, the Eligibility Technician told Claimant she was not eligible for Food Stamps and determined a job quit penalty applied to Claimant. (Claimant's testimony)

7. The Eligibility Technician obtained information from Claimant's former supervisor at [REDACTED] that Claimant been working more than 30 hours weekly between June 4, 2010 and June 11, 2010. (Exs. 3; 3.1) The Eligibility Technician also learned [REDACTED] set Claimant's termination date as June 12, 2010. (Exs. 3; 3.1) Later, on July 14, 2010, the Eligibility Technician learned from Claimant's supervisor that Claimant worked an average of 34-37 hours per week, which varied from week to week, before she quit. (Ex. 7; 7.1)

8. On July 7, 2010, the Eligibility Technician determined a (second) job quit penalty should be imposed on Claimant for having quit on June 12, 2010. (Ex. 4.1)

9. On July 8, 2010, the Division notified Claimant it was imposing a second job quit penalty and that she would be disqualified from receiving Food Stamps for three months, starting June 12, 2010 continuing through and ending on September 9, 2010. (Ex. 5)

10. Claimant has one prior job quit penalty applicable to Food Stamps benefits. (Ex. 13, pp. 3-4; Claimant's testimony) The penalty was imposed for one month beginning March 1, 2007. (Ex. 13, p. 4)

## **PRINCIPLES OF LAW**

### **I. Burden of Proof**

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).

### **II. Standard of Proof**

The regulations applicable to this case do not specify any particular standard of proof. A 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). Therefore, the standard of proof is the preponderance of the evidence.

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 (5<sup>th</sup> Ed. 1979)

### **III. Food Stamp Program**

The Code of Federal Regulations at 7 CFR §273.7 govern the work requirements applicable to persons applying for and receiving Food Stamp benefits. Regulation 7 CFR §273.7(a)(vii) provides that a condition of eligibility for Food Stamp benefits is that an applicant or participant not "voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week, in accordance with paragraph (j) of this section." 7 CFR §273.7(a)(vii).

Paragraph (j) of 7 CFR §273.7 addresses voluntary quit and reduction of work hours by an applicant or participant in the Food Stamp Program. This section provides the State may choose a period between 30 and 60 days before an application for Food Stamps is made during which to determine if an applicant voluntarily quit a job or reduced work hours. 7 CFR§273.7(j)(1). The regulation further provides an individual is not eligible to participate in the Food Stamp Program if, within a period of 30 to 60 days before application or at any time thereafter, an individual

voluntarily and without good cause quits a job of 30 hours a week or more or reduces work hours below 30 hours a week. 7 CFR §273.7(j)(2)(i) & (ii).

After the State has determined a voluntary job quit has occurred within an applicable period of time, it must evaluate whether the job quit was for good cause. 7 CFR §273.7(j)(3)(v). Types of good cause include reasons such as circumstances beyond the individual's control and acceptance of other employment of more than 30 hours of work. 7 CFR §273.7(i)(2) & (3). In determining whether good cause exists when a person voluntarily quits a job, the State must consider the facts and circumstances particular to each case. 7 CFR §273.7(i)(1). There is specific delineation of what is good cause for voluntarily quitting employment. 7 CFR §273.7(i)(1).

The period of disqualification from eligibility for benefits for a person found to have failed to comply with the work requirements of the Food Stamp Program for a second time is the later of:

- (A) The date the individual complies, as determined by the State agency;
- (B) Three months; or
- (C) Up to six months, at State agency option.

7 CFR § 273.7(f)(2)(ii).

## ANALYSIS

### I. Issue

Was the Division correct on July 8, 2010 to impose a second job quit penalty against Claimant that made her household not eligible to receive Food Stamp Program benefits beginning June 12, 2010 and ending September 9, 2010?

### II. Burden of Proof and Standard of Proof

Imposing a penalty is a change from the status quo. The Department seeks to penalize Claimant's household. Therefore, the Division has the burden of proof.

### III. Facts Applied to Pertinent Law

Claimant admitted she voluntarily quit her job at [REDACTED] about ten (10) days before she applied for Food Stamp benefits. Claimant did not dispute she was working more than 30 hours per week at [REDACTED] and the Division proved she was paid for over 30 hours of work per week from May 9, 2010 through June 5, 2010, the period she worked for [REDACTED]. The sole exception was the pay period for the week Claimant stopped going to work, when she was paid for 19.60 hours of work. Furthermore, Claimant testified that she did not quit her job at [REDACTED] because she already had another job but that she was attempting to get a better job and was unable to become employed. These facts are undisputed.

Regulation 7 CFR § 273.7(a)(vii) provides that a condition of eligibility for Food Stamp benefits is that an applicant or participant not "voluntarily and without good cause quit a job of 30 or

more hours a week or reduce work effort to less than 30 hours a week, in accordance with paragraph (j) of this section.” Paragraph (j) provides an individual is not eligible to participate in the Food Stamp Program if, within a period of 30 to 60 days before application the individual voluntarily and without good cause quits a job of 30 hours a week or more. 7 CFR § 273.7(j)(2)(i) & (ii).

Here, the undisputed facts are that Claimant voluntarily quit her job at ██████████ where she was employed over 30 hours each of the weeks she worked there, excepting the week she quit. Thus, the Division has met its burden of proving Claimant voluntarily quit her job under the terms of 7 CFR § 273.7(j).

Once a voluntary job quit has been shown, the Division is required to determine if there was good cause for the individual to voluntarily quit her employment. 7 CFR § 273.7(j)(3)(v). Claimant asserts she had to quit her job because she was unable to pay all household expenses from the income she received from her work at ██████████. Therefore, the issue in this case is resolved on a determination of whether Claimant’s reason for quitting her job at ██████████ constitutes good cause for terminating her employment.

Good cause is not expressly defined by the Food Stamp regulations. 7 CFR § 273.7(i). Whether an individual had good cause to voluntarily quit her employment is determined by evaluating the “facts and circumstances” involved. 7 CFR § 273.7(i)(1).

#### IV. Claimant did not have good cause to voluntarily quit her employment with ██████████.

Claimant testified she quit working at ██████████ because she had household expenses she could not meet on the income she received while working there. This reason has nothing to do with the circumstances of her employment. Therefore, Claimant’s reason for quitting cannot be good cause justifying her termination of employment with ██████████. Moreover, Claimant did not substitute any other employment providing income in lieu of the income she lost as a result of quitting her ██████████ job. These facts and circumstances surrounding Claimant’s voluntary termination do not constitute good cause for quitting her job at ██████████.

The Division had the burden of proof in this case by a preponderance of the admitted evidence. The undisputed evidence proved Claimant voluntarily quit a job that provided her with more than 30 hours of work each week, did not quit for good cause and did not quit to start another job.

The Division has met its burden of proving Claimant voluntarily quit her job at ██████████ without good cause. Therefore, the Division was correct to impose a job quit penalty against the Claimant that made her not eligible to receive Food Stamp benefits for a three-month period beginning June 12, 2010 and ending September 9, 2010.

Finally, Claimant admitted she had previously received a job quit penalty and the Division provided proof she had a first job quit penalty imposed in March 2007 under the Food Stamp Program. Therefore, the Division has proved it was correct to impose a second job quit penalty against Claimant.

## CONCLUSIONS OF LAW

1. The Division has met its burden of proof, by a preponderance of the evidence, to establish Claimant voluntarily quit her job at [REDACTED], where she worked 30 or more hours each week, on or about June 12, 2010, and that her quitting occurred fewer than 30 days before applying for Food Stamp benefits on June 21, 2010.
2. The Division did meet its burden of proving that Claimant did not have good cause for her voluntary termination of employment. The evidence in this case established that the Claimant voluntarily quit her job because she wanted to earn more money, and not for reasons related to her job.
3. The Division proved Claimant had a first job quit penalty imposed on her and this would be a second job quit penalty imposed under the Food Stamp Program.
4. The Division was correct when it imposed a second job quit penalty against the Claimant that made her not eligible to receive Food Stamp benefits for a three-month period beginning June 12, 2010 continuing to and ending on September 9, 2010.

## DECISION

The Division was correct when it imposed a job quit penalty against the Claimant, which made her not eligible to receive Food Stamp benefits for a three-month period beginning June 12, 2010 continuing to and ending on September 9, 2010.

## 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 19<sup>th</sup> day of August 2010.

\_\_\_\_\_/signed/\_\_\_\_\_

-  
Claire Steffens

Hearing Authority

CERTIFICATE OF SERVICE

I certify that on this 19<sup>th</sup> day of August 2010,  
true and correct copies of the foregoing were  
sent to:

Claimant by Certified Mail, Return Receipt Requested  
and to other listed persons by e-mail:

██████████ Miller, Public Assistance Analyst  
██████████, Director  
██████████, Policy & Program Development  
██████████, Staff Development & Training  
██████████, Administrative Assistant II  
██████████, Eligibility Technician I  
██████████, Chief of Field Services

*/signed/*

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J. Albert Levitre, Jr.  
Law Office Assistant I