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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. 11-FH-300
) Division Case No. [REDACTED]
Claimant.)

FAIR HEARING DECISION

STATEMENT OF THE CASE

Ms. [REDACTED] (Claimant) applied for Alaska Temporary Assistance Program (ATAP) benefits by submitting an application she signed on August 7, 2011 and August 13, 2011.¹ (Exs. 2.0-2.9) On August 19, 2011, the Division of Public Assistance (Division) determined Claimant was eligible for ATAP benefits in August 2011 and September 2011. (Exs. 3.0-3.1) On August 22, 2011, the Division notified Claimant of her Alaska Temporary Assistance Program benefit amount for August 2011 and September 2011. (Ex. 4.0; Ex. 5.21) Displeased with the benefit amount, Claimant signed a request for a Fair Hearing on August 23, 2011, which the Division received on August 25, 2011. (Ex. 5.22)

This Office has jurisdiction pursuant to 7 AAC 49.010 *et. seq.*

The Fair Hearing requested by Claimant was held on September 15, 2011. Claimant appeared telephonically, represented herself, and testified in her own behalf. Ms. [REDACTED], Public Assistance Analyst with the Division of Public Assistance (Division), appeared in person, represented the Division and testified on its behalf. The evidentiary record was kept open after the hearing so Claimant could supply documentation of her utility expenses.² The evidentiary record closed on September 27, 2011.

¹ Claimant also applied for Food Stamp benefits, Medicaid, and General Relief Assistance. At the Fair Hearing, Claimant confirmed that only the ATAP benefits were at issue.

² At the hearing, Claimant testified she was eager to provide proof of her utility expenses. The evidentiary record was held open so that she could provide proof and so the Division of Public Assistance could review her documents. On September 23, 2011, Claimant provided proof as follows: a) a typewritten rental agreement dated August 15, 2011 (Ex. A); b) Chugach Electric Association invoice for September 7, 2011 showing a current month charge of \$68.78 (Ex. A1); c) a copy of Alaska Waste invoice for the months of August 1 through October 31, 2011 for \$45.10 (Ex. A2); d) a copy of an Enstar Gas bill dated July 29, 2011 for \$37.23 (Ex. A3); e) a copy of a telephone bill dated July 27, 2011 for \$83.33 (Ex. A4); e) a copy of a child care receipt dated September 20, 2011 for \$75.00 (A6). The Division reviewed Claimant's documents and, on September 26, 2011, determined there would be no change in Claimant's ATAP benefit amount. (Ex. 15.0)

ISSUE

Did the Division correctly calculate Claimant's Alaska Temporary Assistance Program benefit amount for August 2011 and September 2011?

PROCEDURAL MATTERS

On August 19, 2011, the Division first calculated Claimant's benefit based on the information provided in her application of August 13, 2011 and during her eligibility interview on August 19, 2011. (Ex. 3.0) This information did not include rent expense. (Ex. 3.0) On August 22, 2011, the Division notified Claimant her benefit amount was determined as \$44 for August 2011 and \$92 for September 2011. (Exs. 4.0, 5.21)

On August 25, 2011, Claimant discussed her benefit amount with the Division's representative and filed a Fair Hearing request because she was concerned the benefit amount was too low and did not cover her living expenses. (Exs. 5.0, 5.22; Claimant's testimony) That same day Claimant informed the Division of a rent expense of \$600, about which the Division had not known. (Ex. 5.0) The Eligibility Technician re-calculated Claimant's benefit amount, incorporating the \$600 rental expense, which resulted in a different benefit amount. *See* Exs. 5.0; 5.7; 5.14; 5.17; 5.18. Claimant's new benefit amount for August 2011 totaled \$155 (Exs. 4.0 & 5.17) and for September 2011 totaled \$322.³ (Ex. 5.18)

On September 15, 2011 during the fair hearing, Claimant testified she had to pay a share of the home utility expenses and that she should have been asked to provide proof of her expense for utilities. Claimant asserted the Eligibility Technician was to blame for the fact that no utility expense was included in the calculation of her benefit amount. The Division offered to reconsider Claimant's benefit amount upon receipt of proof of her utility expenses.

On September 23, 2011, Claimant provided copies of utility bills (see footnote 2), which were in her landlord's name. On September 23, 2011, Claimant also provided a rental agreement dated August 15, 2011 in support of her testimony she had to pay rent and utility expenses.⁴ The Division considered Claimant's supplementary proof and determined that her ATAP benefit amount would not change. (Ex. 15.0)

This decision addresses the ATAP benefit amount calculated by the Division on August 29, 2011 which resulted in a determination Claimant was entitled to a total of \$155 for August 2011 and \$322 for September 2011 and which was in effect at the time of the fair hearing on September 15, 2011.

³ For purposes of this decision, the benefit amount examined is the Division's re-calculation of the benefit amount, after incorporating the rental expense of \$600 per month. There is no evidence in the hearing record showing Claimant actually paid \$600 rent, but on August 29, 2011 (after the hearing request was filed but before the hearing) the Eligibility Technician did re-calculate Claimant's benefit including this expense. (Exs. 5.7, 5.14)

⁴ Had the rental agreement been notarized, it would have definitively shown the date Claimant signed it. There is an apparent inconsistency between Claimant's statement on August 19, 2011 to the Eligibility Technician that she did not have to pay rent and the date of the signed agreement (August 15, 2011). (*Compare* Ex. 3.0-3.1 with Ex. A)

FINDINGS OF FACT

The following facts were proved by a preponderance of the evidence:

1. On August 13, 2011, Claimant completed an application requesting Alaska Temporary Assistance Program (ATAP) benefits for herself and her minor child as a household of two persons.⁵ (Exs. 2.0-2.9)
2. The Division of Public Assistance received Claimant's application on August 17, 2011. (Ex. 2.0) On the application, Claimant provided information as follows:
 - a. Claimant's income consisted exclusively of unemployment insurance benefits of \$330 which she received "on the 13th." (Ex. 2.3) Claimant receives no child support. (Ex. 2.3)
 - b. Claimant had no (zero) expenses for shelter or utilities and "a [f]riend I live w/pays all because I can only afford minimal." (Ex. 2.5)
 - c. Claimant signed the application below a "Statement of Truth" certifying "[u]nder penalty of perjury, I certify that all information contained in this application, ... is true and correct to the best of my knowledge. I have read or had read to me the "Rights and Responsibilities" section of the application and I understand my rights and responsibilities, including fraud penalties, as described in this application."
3. On August 19, 2011, Claimant participated in an eligibility/intake interview with the Division's Eligibility Technician. (Ex. 3.0-3.1) The Eligibility Technician made notes during the interview including as follows:
 - a. Claimant re-affirmed she was living with a friend.
 - b. Claimant "stated she would start paying rent when she gets a job or assistance" but did not pay rent at that time.
 - c. Claimant observed the Eligibility Technician confirm the amount of her unemployment insurance benefit to be \$184 per week and that she was eligible to continue receiving unemployment insurance benefits for 20 more weeks.
 - d. Claimant stated she was driving her friend's car and had to pay for gas.
 - e. The Eligibility Technician noted Claimant had only telephone expenses.
4. On August 19, 2011, the Eligibility Technician determined Claimant was eligible for ATAP benefits.
5. The Division obtained documentation from the Alaska Division of Labor of Claimant's unemployment insurance benefit at \$184 per week. (Ex. 3.2)
6. On August 22, 2011, the Division notified Claimant in writing that her August 2011 ATAP benefit amount would be \$44.00 and her "second month" (September 2011) benefit amount would be \$92.00.

⁵ Claimant dated the first page of this application "8/7/11" (Ex. 2.0) but dated the signature page, under the Statement of Truth on August 13, 2011 (Ex. 2.7) and dated the Authorization for Release of Information "8/19/11." (Ex. 2.9) For purposes of this decision, the date Claimant completed her application is August 13, 2011.

(Ex. 4; Ex. 5.21) This same notice informed Claimant the benefit amount was based on unemployment insurance income of \$791.20 per month. (Ex. 4; Ex. 5.21)

7. On August 25, 2011, Claimant met with an Eligibility Technician to inquire why her benefit amount was so low. (Ex. 5.0) The Eligibility Technician “noticed that we had not put her rent in the system.” (Ex. 5.0) The rent amount of \$600 was “put in the system” and Claimant was given a supplemental benefit for August 2011 of \$111 and an increase in benefit amount for September 2011 to \$322. (Ex. 5.0; Exs. 5.17-5.18)

8. On August 29, 2011, the Division re-calculated Claimant’s Alaska Temporary Assistance Program benefit amount, based on the included rent expense of \$600, to be \$155.00 for August 2011 and \$322 for September 2011. (Exs. 5.7; 5.14)

9. On August 29, 2011, The Division calculated Claimant’s ATAP benefit for August 2011 using the following process:

- a. The Claimant’s only income of \$791.20 of unemployment insurance benefits served as her “countable income.” (Ex. 5.7)
- b. Claimant’s “need standard” was determined to be \$1,301. Claimant’s \$791.20 income was deducted from the need standard of \$1,301, yielding a monthly benefit amount of \$509.80. There was no “shelter adjustment.” (Ex. 5.7)
- c. Claimant’s benefit amount was pro-rated for the month of August 2011 because Claimant’s application was received on August 17, 2011. The amount of prorated benefit amount was \$246.68. (Ex. 5.7)
- d. The process yielded a “after max pay deduction” amount of \$155. This became the “new benefit amount.” (Ex. 5.7)

10. On August 29, 2011, The Division calculated Claimant’s ATAP benefit for September 2011 using the following process:

- a. The Claimant’s only income of \$791.20 of unemployment insurance benefits served as her “countable income.” (Ex. 5.14)
- b. Claimant’s “need standard” was determined to be \$1,301. Claimant’s \$791.20 income was deducted from the need standard of \$1,301, yielding a monthly benefit amount of \$509.80. There was no “shelter adjustment.” (Ex. 5.14)
- c. The process yielded a “after max pay deduction” amount of \$322. This became the “new benefit amount.” (Ex. 5.7)

11. Claimant testified at the Fair Hearing as follows:

- a. The only income she receives is \$322 of unemployment benefits every two weeks as “take-home” money, received in a check. The amount of unemployment insurance benefit she actually receives is \$644 per month. She does not understand why the Division calculated her unemployment benefits at \$184 per week.

b. Her rent is \$600 per month. On August 17, 2011, when Claimant submitted her application she had no arrangement with her landlord/friend concerning rent but she knew that there would be some arrangement forthcoming and that she would have to pay rent later.⁶

c. She is responsible to pay half the utility expenses for water, garbage and heat, and her landlord-friend must pay the other half. As of the day of the Fair Hearing, September 15, 2011, she did not know what her expenses for these utilities were because she believed her landlord had not yet received any bills for these utilities for August. During the hearing on September 15, 2011, Claimant estimated these utilities cost about \$600 per month, of which her share would be \$300. As of September 15, 2011, she had not yet paid any money for utilities.

d. She pays about \$100 per month for her telephone. She uses a cell phone. She does not feel comfortable using her landlord/friend's in-home, land-line telephone.

e. She pays about \$300 monthly for gas and uses her friend's car. She recently paid \$300 to repair the windshield wiper on the car.

f. She began having a monthly day care (co-pay) expense of \$75.00 for her child on September 3, 2011.

g. She has about \$1,500 of expenses per month, including the additional expenses of diapers at \$60 per month⁷, a gym membership of \$89 monthly, credit card payments of \$50 monthly, online credit card monitoring of \$20 monthly, dog food for two dogs, and miscellaneous other expenses.

h. She is very angry and frustrated because a Division staff member told her she had to go in person to Nine Star to look for work and when she arrived there she learned she did not have to go in person and was told to go look for work. She is also upset because she had to go to the Division to get her benefit amount sorted out and she does not understand why she is eligible for only \$300 in public assistance when her expenses are over \$1500 monthly.

PRINCIPLES OF LAW

I. Burden of Proof

“Ordinarily the party seeking a change in the status quo has the burden of proof.” *State, Alcoholic 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*

⁶ This testimony is inconsistent with the copy of the rental agreement, dated August 15, 2011, submitted by Claimant on September 23, 2011. *See* Ex. A.

⁷ This testimony is inconsistent with the diaper expense of \$40 per month, that Claimant wrote on her Fair Hearing request form on August 23, 2011. (Ex. 5.22)

Corp. v. Alaska Public Utilities Comm'n, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). Therefore, the standard of proof in this case is the preponderance of the evidence.

“Where one has the burden of proving asserted facts by a preponderance of the evidence, he must induce a belief in the minds of the [triers of fact] that the asserted facts are probably true.” *Robinson v. Municipality of Anchorage*, 69 P.3d 489, 495 (Alaska 2003) (quoting *Saxon v. Harris*, 395 P.2d 71, 72 (Alaska 1964)).

III. Alaska Temporary Assistance Program (ATAP)

Temporary Assistance is a program that provides “cash assistance . . . to needy children and their families.” AS 47.27.005(1). The regulations that control how Temporary Assistance eligibility and benefit amounts are determined are contained at 7 AAC 45.149 – 45.990.

The Temporary Assistance program uses the term “assistance unit” for “those individuals whose needs are considered in determining eligibility for assistance and the amount of the ATAP payments.” 7 AAC 45.335(a). In order for an assistance unit to be eligible for Temporary Assistance, the assistance unit must have a dependent child in the home, and the assistance unit must meet financial eligibility requirements. AS 47.27.010; 7 AAC 45.210(a)(4) and (b); 7 AAC 45.225(a). A parent (or parents) and the dependent children who reside with them are mandatory members of the assistance unit. 7 AAC 45.195(a).

Temporary Assistance financial eligibility and monthly benefits levels are based upon the “need standard” for the appropriate assistance unit size and the assistance unit’s gross monthly income. 7 AAC 45.470. The need standard for a two person assistance unit is \$1,301. 7 AAC 45.520; Alaska Temporary Assistance Manual Addendum 2. (accessed on November 18, 2011 at <http://dpaweb.hss.state.ak.us/manuals/ta/ta.htm>)

The income of parents, who reside with their dependent child or children, is normally considered to be part of the assistance unit’s income for eligibility and benefit determination purposes. 7 AAC 45.325(b)(1). Unemployment income is classified as “unearned” income and is counted for the purposes of determining Temporary Assistance eligibility and benefit levels. 7 AAC 45.375(b).

Weekly income is accumulated to reach an average monthly total by multiplying one week’s income by a 4.3 conversion factor because there are several months with more than four weeks per month. *See* 7 AAC 45.425(d); *Alaska Temporary Assistance Manual* Section 756-1.

The assistance unit’s monthly Temporary Assistance benefit payment is determined by first calculating the total non-exempt gross monthly assistance unit income, and then subtracting deductions as specified in the Temporary Assistance regulations. 7 AAC 45.470; 7 AAC 45.525. The Temporary Assistance regulations do not allow for any deductions from unearned income. *See* 7 AAC 45.475 – 485.

The Temporary Assistance regulations also do not provide an income deduction for shelter costs such as rent, mortgage or utilities. Although such costs may be included in the shelter cost amount, these costs are not direct deductions from income, but are considered when incorporated into the assistance unit’s shelter cost, which then is compared to the standard shelter allowance. 7 AAC 45.525(b)(2); 7 AAC 45.527(a).

“The portion of the ATAP payment allocated as the standard shelter allowance under AS 47.27.025(d) is 30 percent of the assistance unit’s need standard....” 7 AAC 45.527. Therefore, if a Temporary

Assistance recipient's shelter cost is less than 30 percent of the appropriate Need Standard, the Temporary Assistance benefit amount is adjusted (by a reduction). *Id.* If the shelter cost is greater than 30 percent of the appropriate Need Standard, there is no adjustment to the benefit amount. The adjusted need amount is determined by reducing the assistance unit's Need Standard by the difference between the family's allowable shelter cost and the maximum shelter allowance.

The resulting net monthly assistance unit income figure (gross monthly income less deductions) is then subtracted from the applicable Temporary Assistance Need Standard. 7 AAC 45.470(c); 7 AAC 45.525(b). The Need Standard for a two person assistance unit, consisting only of a parent and one dependent child, is \$1,301. 7 AAC 45.520; *Alaska Temporary Assistance Manual Addendum 2*.

The result, after subtracting the net monthly assistance unit income from the Need Standard, is then multiplied by the "maximum payment level payable to an assistance unit of two individuals under 7 AAC 45.523(a)(1), divided by the Need Standard applicable to an assistance unit of two individuals under 7 AAC 45.520(a)(1)." 7 AAC 45.525(c). This process embodies a "ratable reduction," defined as "a percentage reduction in a benefit amount to less than 100% of need. Once a Temporary Assistance family's amount of need is determined, the payment amount is calculated by multiplying the amount of need by the percentage of need payable." *Alaska Temporary Assistance Manual Section 780-1G*. "Effective January 2009, Temporary Assistance payments are 63.22% of need, with a ratable reduction of 36.78%." *Alaska Temporary Assistance Manual Section 780-1G*.

When an application is received after the first day of the month, the ATAP benefit is pro-rated. 7 AAC 45.540(b).

The benefit amount is rounded down to the nearest dollar, "[f]or example, if the payment is calculated as \$25.99 the payment amount would be \$25." 7 AAC 45.525(d).

ANALYSIS

I. Issue

Did the Division correctly calculate Claimant's Alaska Temporary Assistance Program benefit amount for August 2011 and September 2011?

II. Burden of Proof and Standard of Proof

"[T]he party seeking a change in the status quo has the burden of proof." *State, Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985). Claimant is seeking an increase in her benefit amount by asserting the Division's calculated benefit amount is too low. Because Claimant is seeking to change the status quo, Claimant has the burden of proving by a preponderance of the evidence that the Division miscalculated her ATAP benefit amount for August 2011 and September 2011.

III. The Division's Calculation of Claimant's ATAP Benefit Amount

A. Undisputed Facts

Claimant applied for Alaska Temporary Assistance benefits for her household of two persons by completing an Application for Services which the Division received on August 17, 2011. Claimant

participated in an eligibility interview on August 19, 2011 during which the Eligibility Technician was led to believe that Claimant was living with a friend and would pay rent when she got a job or public assistance, but had no present rent or utility expenses. On Claimant's written application, she stated her friend paid "all" expenses. The Eligibility Technician believed Claimant had no rent or utility expense. (Ex. 3.0) During that interview, the Eligibility Technician learned Claimant's sole income was unemployment insurance benefits. The Eligibility Technician checked Department of Labor records and determined that Claimant was receiving unemployment compensation of \$184 per week which resulted in an average of \$791.20 monthly income.⁸

The Division first calculated Claimant's ATAP benefits on the basis of the facts Claimant wrote on her August 17, 2011 application and during her eligibility interview on August 19, 2011. Those facts were that her income was exclusively derived from her unemployment benefits, which the Division determined, based on Department of Labor information, to be \$791.20 monthly. The Division relied on Claimant's representations that she was not paying rent. On August 22, 2011, the Division notified Claimant she was eligible for ATAP benefits for the month of August and September 2011 based on her unemployment income of \$791.20.

On August 25, 2011, Claimant requested a Fair Hearing and disclosed to an Eligibility Technician that she had a rent expense of \$600. (Ex. 5.0) Claimant also sought to have considered her expenses of gasoline, diapers, and toddler needs. (Ex. 5.0) The Eligibility Technician re-calculated Claimant's benefit amount, including the rent expense of \$600 but no utility expense.

On August 26, 2011, Claimant was notified her August 2011 benefit would be \$155.00 and that her September 2011 benefit amount would be \$322.

B. Disputed facts

Claimant disputes the Division's attribution of her unemployment income at \$791.20 monthly.

Claimant disputes that the Division properly calculated her benefit because it did not consider all of her actual expenses of living and did not include her rent expense or utility expense.

IV. The Division Correctly Calculated Claimant's Income.

Claimant's sole income is her unemployment insurance income. Unemployment income is required to be counted when calculating a Temporary Assistance recipient's monthly benefit amount. 7 AAC 45.375(b).

The Division obtained the correct amount of Claimant's gross unemployment insurance income of \$184 weekly from the Alaska Department of Labor. Claimant's belief that she was paid \$330 monthly, as written on her August 13, 2011 Application for Services, reflected Claimant's recollection of the amount she received in her unemployment check. However, Claimant's recollection is not as reliable evidence as the official records of the agency which disburses the unemployment insurance benefit, and therefore the Department of Labor records are deemed correct.

⁸ Weekly income is accumulated to reach an average monthly total by multiplying one week's income by a 4.3 conversion factor because there are several months with more than four weeks per month. See 7 AAC 45.425(d); *Alaska Temporary Assistance Manual* Section 756-1.

The Division arithmetically determined Claimant's gross monthly unemployment income was \$791.20. It did this by multiplying Claimant's weekly unemployment income of \$184 by the 4.3 conversion factor to yield an average monthly income of \$791.20. 7 AAC 45.425(d); *Alaska Temporary Assistance Manual* Section 756-1. Therefore, the Division correctly calculated Claimant's income as \$791.20 monthly.

V. The Division Applied the Correct Process to Calculate Claimant's ATAP Benefit

Claimant complains the Division did not reduce her income by any of her expenses of living, including her utility expenses. At first, Claimant told the Eligibility Technician she was not required to pay rent until she received public assistance or began working. After being notified of the amount of her ATAP benefit, Claimant asserted she did pay \$600 rent. The Eligibility Technician re-calculated Claimant's ATAP benefit considering her \$600 rent as a shelter cost.

The Temporary Assistance regulations do not allow for any deductions from unearned income. *See* 7 AAC 45.475 – 485. The Division correctly did not allow any deductions from Claimant's unemployment income.

The Temporary Assistance regulations also do not provide an income deduction for shelter costs such as rent, mortgage or utilities. Although such costs may be included in the shelter cost amount, these costs are not direct deductions from income, but are considered when incorporated into the assistance unit's shelter cost. 7 AAC 45.525(b)(2); 7 AAC 45.527(a). Instead of a direct deduction from income, the shelter cost is compared to the shelter allowance.

“The portion of the ATAP payment allocated as the standard shelter allowance under AS 47.27.025(d) is 30 percent of the assistance unit's need standard....” 7 AAC 45.527. Therefore, if a Temporary Assistance recipient's shelter costs are less than 30 percent of the appropriate need standard, the Temporary Assistance benefit amount is adjusted (by a reduction.) *Id.* If the shelter cost is greater than 30 percent of the appropriate need standard, there is no adjustment to the benefit amount. The adjusted need amount is determined by reducing the assistance unit's need standard by the difference between the assistance unit's allowable shelter cost and the maximum shelter allowance.

It is undisputed the Division's re-calculation of Claimant's ATAP benefit considered her rental expense of \$600 as a shelter cost. At the time of its calculation, the Division did not have any information concerning Claimant's utility expenses – Claimant supplied information concerning utility expenses on or about September 23, 2011, only after the Fair Hearing. Therefore, the Division was correct to calculate Claimant's shelter costs solely on her rental cost of \$600.

The need standard for a two person assistance unit, consisting only of a parent and one dependent child, is \$1,301. 7 AAC 45.520; *Alaska Temporary Assistance Manual* Addendum 2. Claimant has an assistance unit (household) of two persons and therefore her need standard is \$1,301. The maximum shelter allowance is 30% of the assistance unit's need standard. Therefore, Claimant's maximum shelter allowance is \$390.30.⁹

⁹ It is essential to distinguish between “shelter allowance” and “shelter costs.” The “shelter allowance,” which is fixed at a maximum of 30 percent of the family's “Need Standard” is a gross sum unrelated to a claimant's actual “shelter costs.” The “shelter costs” are the actual expenses which a claimant family pays for rent and other items. A claimant's monthly benefit amount is designed to include certain shelter costs and no more. Therefore, the shelter allowance is adjusted by the family's shelter costs.

Claimant's assistance unit's rental expense is \$600. Subtracting \$600 from \$390.30 results in a negative number, which is treated as zero. Otherwise stated, arithmetically, Claimant's shelter cost of \$600 is about 46 percent of the \$1,301 need standard for her assistance unit. Consequently, Claimant's ATAP benefit amount is not reduced by a shelter adjustment, because her rent is greater than 30 percent of her need standard.

Claimant's resulting net monthly assistance unit income figure (gross monthly income less deductions and allowances) is then subtracted from the applicable Temporary Assistance need standard. 7 AAC 45.470(c); 7 AAC 45.525(b). This is called the "adjusted need." The Division correctly calculated Claimant's adjusted need at \$509.80 ($\$1,301 - \$791.20 = \509.80).

Then the "maximum payment level payable to an assistance unit of two individuals under 7 AAC 45.523(a)(1) is divided by the need standard applicable to an assistance unit of two individuals under 7 AAC 45.520(a)(1)." 7 AAC 45.525(c). The maximum payment level for an assistance unit that includes one caretaker relative (Claimant) and one dependent child is \$821. 7 AAC 45.523(a)(1). Thus, \$821 is divided by \$1,301. This formulation yield a "ratable reduction" which is applied to the adjusted need to determine the appropriate percentage of need that is payable.

The "ratable reduction" process is defined as "a percentage reduction in a benefit amount to less than 100% of need. Once a Temporary Assistance family's amount of need is determined, the payment amount is calculated by multiplying the amount of need by the percentage of need payable." *Alaska Temporary Assistance Manual* Section 780-1G. "Effective January 2009, Temporary Assistance payments are 63.22% of need, with a ratable reduction of 36.78%." *Alaska Temporary Assistance Manual* Section 780-1G. This results in the ATAP benefit payment amount.

Here the amount of need is \$509.80 which is multiplied by the percentage of need payable of 63.22 percent. The Division correctly applied the "ratable reduction" process to Claimant's adjusted need by multiplying \$509.80 by 63.22 resulting in an ATAP benefit amount of \$322.29.

The benefit amount is rounded down to the nearest dollar, "[f]or example, if the payment is calculated as \$25.99 the payment amount would be \$25." 7 AAC 45.525(d). Therefore, the Division correctly rounded Claimant's benefit amount to \$322 per month.

VI. The August 2011 ATAP Benefit Amount

Claimant's benefit amount is \$322 per month. The Division received Claimant's application on August 17, 2011. When an application is received after the first day of the month, the ATAP benefit is pro-rated. 7 AAC 45.540(b). Therefore, Claimant's benefit amount for August 2011 is pro-rated according to the number of days in the month for which she was eligible for benefits, in this case, fifteen days.

To pro-rate Claimant's monthly payment, the benefit amount of \$322 is multiplied by a decimal. The decimal is obtained by counting the days remaining in the month of application (including day of receipt) and dividing that number by the total days in the month. 7 AAC 45.540(b); *Alaska Temporary Assistance Manual* Section 780-13. In this case, August 2011 had 31 days and Claimant was eligible for 15 days. Arithmetically, \$322 divided by 31 is approximately \$10.39, and when multiplied by fifteen (days), results in a pro-rated ATAP benefit amount of \$155.95 for August. The benefit amount is rounded down to \$155. The Division correctly calculated the pro-rated ATAP benefit amount for August 2011.

VII. September ATAP Benefit Amount

Claimant is entitled to a full month of ATAP benefit amount in September 2011 of \$322.

VIII. Summary

Claimant did not offer proof of any error in the Division's calculations. Nevertheless, a step by step review of the Division's formulaic calculations for each month proves the Division did not err in its calculation of Claimant's ATAP benefit for August 2011 or September 2011. Claimant has failed to meet her burden of proof that the Division incorrectly computed her monthly ATAP benefit amount.

The Division was therefore correct when it calculated Claimant's Alaska Temporary Assistance Program benefit amount as \$155 for August 2011 and \$322 for August 2011.

CONCLUSIONS OF LAW

1. Claimant did not meet her burden of proving by a preponderance of the evidence that the Division erred when it calculated Claimant's income and expenses to determine her Alaska Temporary Assistance Program (ATAP) benefit amount for August 2011 and September 2011.
2. The Division correctly relied on Claimant's statement on August 25, 2011 that she was obligated to pay rent of \$600 and it correctly re-calculated Claimant's ATAP benefit amount for August 2011 as \$155 and for September 2011 as \$322.
3. The Division correctly applied 7 AAC 45.525 when it calculated Claimant's ATAP benefits for August 2011 and September 2011.

DECISION

The Division was correct when it calculated Claimant's Alaska Temporary Assistance Program benefit for August 2011 as \$155 and for September 2011 at \$322.

APPEAL RIGHTS

If for any reason Claimant is not satisfied with this decision, Claimant has the right to appeal by requesting a review by the Director. If 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. To appeal, 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

DATED November 22, 2011.

/signed/
Claire Steffens
Hearing Authority

CERTIFICATE OF SERVICE

I certify that on November 22, 2011 true and correct copies of the foregoing were sent to:

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

[REDACTED], Public Assistance Analyst
[REDACTED], Public Assistance Analyst
[REDACTED], Policy & Program Development
[REDACTED], Staff Development & Training
[REDACTED], Administrative Assistant II

/signed/

J. Albert Levitre, Jr. by Claire Steffens
Law Office Assistant I