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

In the Matter of)	
)	
F. H.,)	OHA Case No. 12-FH-189
)	
Claimant.)	DPA Case No.
_____)	

FAIR HEARING DECISION and ORDER

I. Introduction

The issue in this case is whether F. H.'s April 10, 2012 Food Stamp application should be denied because she allegedly refused to provide information requested by the Division of Public Assistance (Division).

The Division sent Ms. H. notice on May 3, 2012 that her Food Stamp application was denied.¹ She requested a fair hearing on May 14, 2012.²

The Office of Hearings and Appeals held a hearing on May 31, 2012. Ms. H. represented herself. She and her husband, W. H., Sr., both appeared telephonically and testified. Terri Gagne, Public Assistance Analyst with the Division, appeared in-person and represented the Division. The hearing was recorded.

This decision concludes that Ms. H. did not refuse to provide the information requested by the Division and that her Food Stamp application should be approved. The Division's decision denying her April 10, 2012 Food Stamp application is REVERSED.

II. Facts

Ms. H. was receiving Food Stamp benefits in April 2012.³ She filed an application to renew those benefits on April 10, 2012.⁴ The application disclosed that there were two new persons in her household, B. G. and A. T., both of whom were 18 years old and not related to

¹ Ex. 1.

² Exs. 9.1 – 9.2.

³ Ex. 1.

⁴ Exs. 2.0 – 2.4.

Ms. H.⁵ The application did not list any income or resources for either A.T. or B.G.⁶ The application also indicated that Ms. H.'s work hours had been reduced.⁷

Ms. H. participated in an in-person intake interview, as part of the Food Stamp application process, on April 13, 2012.⁸ The Division's casenote, which is the Eligibility Technician's notes of the interview, states that Ms. H. informed the Eligibility Technician her work hours were being reduced because she was "unable to work for the afternoon client."⁹ She also told the Eligibility Technician that A.T. had a job and a vehicle.¹⁰ There is no mention in the casenote of B.G. having either resources or income.¹¹ The casenote further states that the application was placed on hold pending proof of Ms. H.'s income, and A.T.'s income and resources; it does not state a need to obtain proof of B.G.'s income and resources.¹² Ms. H. testified, at the hearing, that B.G. came to their household with only the clothes on his back and that she told the Eligibility Technician that B.G. did not own anything.

On April 16, 2012, the Division sent Ms. H. notice that she needed to provide, in relevant part, the following information by April 26, 2012 or her application might be denied:

1. Proof of her employment income, either through her providing copies of her pay stubs or an employer statement.
2. Proof from her employer that her work hours were being reduced.
3. Information regarding whether A.T. and B.G. were attending school, and if so what school.
4. Proof of A.T.'s employment and a report of her resources.
5. Proof of B.G.'s income and a report of his resources.¹³

On April 26, 2012, Ms. H. provided the Division with copies of her paystubs.¹⁴

On April 27, 2012, the Division determined that it had not received any of the requested information.¹⁵

⁵ Ex. 2.0;

⁶ Exs. 2.1 – 2.2.

⁷ Ex. 2.1.

⁸ Exs. 3.0 – 3.1.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² Ex. 3.1.

¹³ Ex. 4.

¹⁴ This finding is based on Ms. H.'s testimony that she provided the Division with her paystubs on April 26, 2012, the same day she picked up a new application form from the Division, which she filed with the Division the next day on April 27, 2012.

Also on April 27, 2012, Ms. H. filed a new application for other public assistance benefits with the Division.¹⁶ Along with her application, she provided copies of her pay stubs dated March 23, April 6, and April 20, 2012.¹⁷ The new application stated that A.T. was no longer part of her household, that B.G. was attending the local high school, that only Ms. H. and her 18 year old daughter were employed, and that the only source of income for B.G. was his PFD payment.¹⁸ The application did not list any resources owned by B.G.¹⁹

On April 30, 2012, a Division Eligibility Technician spoke to Mr. H.²⁰ The Eligibility Technician's casenote states that she told Mr. H. that the Food Stamp application was denied because the information the Division previously requested was not provided.²¹ During that conversation, Mr. H. verified that A.T. was no longer living in the household and stated that B.G. was attending the local high school.²²

A Division Eligibility Technician was able to contact one of Ms. H.'s employers.²³ on May 2, 2012 and verified her work hours and wages.²⁴ That same Eligibility Technician called Ms. H's other employer at the same time to verify that she no longer had work available, which telephone call was not answered.²⁵

The Division sent Ms. H. notice on May 3, 2012 that her Food Stamp application was denied because she had not provided the Division with the following requested information:

1. Verification that her one part-time job had ended.
2. Income and resource information for B.G.²⁶

III. Discussion

The issue in this case was whether Ms. H.'s Food Stamp application should be denied because she did not provide the Division with the following requested information:

1. Verification that her one part-time job had ended.

¹⁵ Ex. 5.0.

¹⁶ Exs. 5.1 – 5.10.

¹⁷ Exs. 5.11 – 5.14.

¹⁸ Exs. 5.1 – 5.10.

¹⁹ Exs. 5.4 – 5.5.

²⁰ Ex. 6.1.

²¹ *Id.*

²² *Id.*

²³ Ms. H. has two affiliated employers, each of which employ her on a part-time basis. One of those part-time jobs ended because the client she had been caring for did not currently require care. (H. testimony)

²⁴ Ex. 7.

²⁵ *Id.*

²⁶ Ex. 8.

2. Income and resource information for B.G.²⁷

Food Stamps is a federal program administered by the State.²⁸ The Code of Federal Regulations (C.F.R.) contains the rules for determining a household's monthly Food Stamp payment. Food Stamp financial eligibility and benefit amounts are determined, in part, based upon the resources (assets) and monthly income, after applicable deductions, of all household members.²⁹

The agency is entitled to request verification of a household's information to determine eligibility for the Food Stamp program.³⁰ A refusal to cooperate with the Division's information request is grounds for denial of a Food Stamp application; a mere *failure to cooperate* is not:

To determine eligibility, the application form must be completed and signed, the household or its authorized representative must be interviewed, and certain information on the application must be verified. If the household refuses to cooperate with the State agency in completing this process, the application shall be denied at the time of refusal. For a determination of refusal to be made, the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take and that are required to complete the application process. For example, to be denied for refusal to cooperate, a household must refuse to be interviewed not merely failing to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency shall provide assistance required by paragraph (c)(5) of this section.^[31]

7 C.F.R. § 273.2(c)(5) requires that the agency notify Food Stamp applicants that it is responsible "to assist the household in obtaining required verification provided the household is cooperating with the State agency."

The specific information requested by the Division (her work hours and B.G.'s assets/income) was relevant to Ms. H.'s household Food Stamp eligibility and benefit level. However, in order to deny the application, Ms. H. must have refused to cooperate in providing the requested information, and not merely failed to cooperate.

With regard to Ms. H.'s reduction in work hours, the uncontroverted facts show she provided the Division with her paystubs, that the Division was aware of her employer, and that Division telephoned the employer, but was not able to speak with the employer. There is no

²⁷ Ex. 8.

²⁸ 7 C.F.R. § 271.4(a).

²⁹ 7 C.F.R. § 273.10(e)(2)(ii)(A).

³⁰ 7 C.F.R. § 273.2(d)(1).

³¹ 7 C.F.R. § 273.2(d)(1).

evidence in the record that would support a conclusion that Ms. H. refused to cooperate in providing the requested employment information. Similarly, Ms. H. testified that she told the Division Eligibility Technician that B.G. did not own anything. The two applications filed in this case, the April 10, 2012 Food Stamp application and April 27, 2012 application, both do not list any income or assets for B.G. other than his PFD. There is no evidence that Ms. H. refused to cooperate in providing the Division with B.G.'s income and resource information.

The evidence in this case shows that Ms. H. cooperated in providing the requested information, even though the Division did not manage to obtain the information on her work hour reduction. She did not refuse to cooperate with the Division. As a result, her Food Stamp application may not be denied.

IV. Conclusion

The Division's decision to deny Ms. H.'s Food Stamp application is REVERSED.

V. Appeal Rights

Ms. H. has the right to appeal this decision by requesting a review by the Director. To do this, she must send a written request directly to:

Director of the Division of Public Assistance
Department of Health and Social Services
PO Box 110640
Juneau, AK 99811-0640

An appeal request must be sent within 15 days from the date of receipt of this decision. Filing an appeal with the Director could result in the reversal of this decision.

DATED: June 26, 2012.

/Signed/
Lawrence Pederson
Hearing Authority

Certificate of Service

I certify that on this 26th day of June, 2012, true and correct copies of the foregoing were sent to:

Ms. H. by U.S.P.S First Class Certified Mail, Return Receipt Requested

and to the following by secure e-mail:

Jeff Miller, Public Assistance Analyst

Terri Gagne, Public Assistance Analyst

Erin Walker-Tolles, Policy & Program Development

Joy Dunkin, Staff Development & Training

Kari Lindsey, Administrative Assistant II

Courtney Wendel, Policy & Program Development

/Signed/

J. Albert Levitre, Jr.

Law Office Assistant I