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

In the Matter of)	
)	
V. G. L.,)	OHA Case No. 12-FH-211
)	
Claimant.)	DPA Case No.
_____)	

FAIR HEARING DECISION and ORDER

I. Introduction

The issue in this case is whether V. G. L. is required to pay back Food Stamp¹ benefits that were issued to him in error.

On May 10, 2012, the Division sent Mr. L. written notice he had received \$1,620 more in Food Stamp benefits than he should have, and that it was requiring repayment of that amount.² Mr. L. verbally requested a fair hearing.³ The Division sent Mr. L. a corrected notice stating the amount of benefits he owed was \$1,624.⁴

The Office of Hearings and Appeals held a hearing on June 19, 2012. Mr. L. and his wife C. T. appeared in-person. Mr. L. represented himself and testified on his own behalf. Terri Gagne, Public Assistance Analyst with the Division of Public Assistance (Division), appeared telephonically and represented the Division. M T, an interpreter with InSync Interpreters, attended telephonically and translated for the parties. The hearing was recorded.

This decision concludes that Mr. L. received \$1,624 more in Food Stamp benefits than he should have and that he is required to repay that amount. The Division's decision to require Mr. L. to repay the Division \$1,624 in overpaid Food Stamp benefits is **AFFIRMED**.

¹ Congress amended the Food Stamp Act in 2008. *See* Food, Conservation, and Energy Act of 2008, Public Law No. 110-246 Section 4001, 122 Statutes at Large 1651, 1853. The 2008 amendment changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program ("SNAP"). This decision follows the common usage of referring to SNAP as the Food Stamp program.

² Exs. 4.0 – 4.12.

³ Ex. 5.0.

⁴ Exs. 7.1 – 7.13.

II. Facts

Mr. L. receives Food Stamp benefits for his four-person household, which is composed of himself, his wife, and their two minor children.⁵ Mr. L. notified the Division on November 29, 2011 that Ms. T., his wife, had been approved for unemployment benefits.⁶ The Division then determined that it had been undercounting Mr. L.'s monthly income by \$4 (\$1,234.40 when he was actually receiving \$1,238.40) and that Ms. T.'s monthly unemployment income was \$1014.80.⁷ Mr. L.'s total monthly household income was therefore \$2,253.20.

The Division, however, did not recalculate Mr. L.'s benefits based upon his household's actual monthly income of \$2,253.20. Instead, it issued him benefits based upon total monthly household income of \$1,234.40 for the months of January through April 2012.⁸ He received \$602 in benefits for each of those four months, for a total of \$2,408.⁹

The Division found out on April 7, 2012 that it had failed to adjust Mr. L.'s benefits based upon his household's actual income.¹⁰ Based upon the undisputed monthly household income of \$2,253.20 and housing expenses (rent of \$728, electricity of \$42.95, and telephone allowance of \$26)¹¹, the Division calculated he should have received \$196 per month in benefits, rather than the \$602 he received, an overpayment of \$406 during each of the months of January through April 2012.¹² This was a total overpayment of \$1,624.

Mr. L. did not dispute the Division's calculations of the amount overpaid.¹³

III. Discussion

The issue in this case is whether Mr. L. is required to pay back \$1,624 in Food Stamp benefits that were issued to him in error. The overpayment was issued due to agency error, because the Division failed to count Mr. L.'s entire income and did not count his wife's unemployment income at all, when it calculated and distributed his household's benefits for the months of January through April 2012.

⁵ Ex. 1.

⁶ Ex. 2.0.

⁷ Ex. 2.1.

⁸ Ex. 7.6.

⁹ Ex. 4.12.

¹⁰ Ex. 3.0.

¹¹ Exs. 3.4, 3.9, 3.14, 3.19.

¹² Ex. 7.6.

¹³ L testimony.

Food Stamps is a federal program administered by the State.¹⁴ The Code of Federal Regulations (C.F.R.) contains the rules for determining a household's monthly Food Stamp payment. Food Stamp benefit amounts are calculated based upon the monthly income, after applicable deductions, received by all household members and upon the number of people living in the household.¹⁵

Mr. L. did not dispute that he received \$1,624 more in benefits than he should have received.¹⁶ Instead, he argued that the Division was not entitled to repayment because its own error had caused the overpayment. The federal regulations are clear that the Food Stamp agency "must establish and collect any claim" for overpaid Food Stamp benefits issued.¹⁷ This is even when the overpayment is caused by the Division's error.¹⁸ Adult members of the Food Stamp recipient's household are the persons responsible for repaying overpaid Food Stamp benefits.¹⁹ As a matter of law, Mr. L. was overpaid \$1,624 in Food Stamp benefits and is required to repay those benefits to the Division.

IV. Conclusion

The Division's decision to require Mr. L. to repay the Division \$1,624 in overpaid Food Stamp benefits is AFFIRMED.

V. Appeal Rights

Mr. L. has the right to appeal this decision by requesting a review by the Director. To do this, he 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 28, 2012.

/Signed
Lawrence Pederson
Hearing Authority

¹⁴ 7 C.F.R. § 271.4(a).

¹⁵ 7 C.F.R. § 273.10(e)(2)(ii)(A).

¹⁶ The Division's calculations are located at Exs. 7.7 – 7.10.

¹⁷ 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

¹⁸ 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS 203 P.3d 1155, 1164 - 1166* (Alaska, 2009)

¹⁹ 7 C.F.R. § 273.18(a)(4)(i).

Certificate of Service

I certify that on this 28th day of June, 2012, true and correct copies of the foregoing were sent to:

Mr. L. 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