

Office of Hearings and Appeals  
3601 C Street, Suite 1322  
P. O. Box 240249  
Anchorage, AK 99524-0249  
Ph: (907)-334-2239  
Fax: (907)-334-2285

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

In the Matter of	)	
	)	
<b>[REDACTED]</b> ,	)	OHA Case No. 10-FH-263
	)	
Claimant.	)	Agency Case No. <b>[REDACTED]</b>
_____	)	

**FAIR HEARING DECISION**

**STATEMENT OF THE CASE**

**[REDACTED]** (Claimant) was receiving Food Stamp benefits in May 2010. (Ex. 1) Sometime thereafter, the Division reduced her monthly Food Stamp benefit amount beginning with the month of June 2010.<sup>1</sup> On August 2, 2010, the Claimant requested a Fair Hearing. (Ex. 12.2) On August 3, 2010, the Division issued the Claimant supplemental Food Stamp benefits for each of the months of June, July, and August 2010. (Ex. 13)

This office has jurisdiction pursuant to 7 AAC 49.010.

Pursuant to the Claimant's request, a hearing was held on August 31, 2010. The Claimant attended the hearing telephonically; she represented himself and testified on her own behalf. **[REDACTED]**, a Public Assistance Analyst with the Division, attended the hearing in person; she represented the Division and testified on its behalf.

**ISSUES**

The Claimant originally requested a hearing because she alleged the Division did not act in a timely manner in processing her Food Stamp benefit changes. (Ex. 12.2) At hearing, she

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<sup>1</sup> The record does not contain a copy of a notice that informs the Claimant that her benefits were reduced, or the reason for the reduction. The Agency Hearing Representative was not able to provide this information at hearing. The factual conclusion that the Claimant's benefits were reduced beginning in June 2010, is arrived at by looking at the Division's August 3, 2010 notice that informed her that she would receive \$214.00 in supplemental benefits for each of the months of June, July, and August to bring her monthly benefit amount current. (Ex. 13) Because there is no notice in the record, it is also not possible to determine when, if at all, the notice was sent.

acknowledged that her Food Stamp benefits had been paid in full and were current. She, however, wished to pursue her hearing in order to make sure the Division did not treat others as poorly as she had been treated.

The issue is therefore whether the Claimant is entitled to a Fair Hearing when her benefits are current, there is no outstanding benefit payment issue, and the benefits have not been modified, reduced, or terminated.

### **FINDINGS OF FACT**

The following facts are established by a preponderance of the evidence.

1. The Claimant applied to renew her Food Stamp benefits on April 26, 2010. (Exs. 2.1 – 2.6) At the same time, she informed the Division that she was going to be changing her residence on May 20, 2010. (Ex. 2.7)
2. On May 17, 2010, the Division sent the Claimant written notice her Food Stamps were approved through the month of October, 2010 and that her monthly Food Stamp benefit amount was \$627.00 (Ex. 3)
3. The Division subsequently reduced the Claimant's monthly Food Stamp benefit amount beginning with the month of June, 2010.<sup>2</sup>
4. On May 26, 2010, the Claimant informed the Division that her job had ended. (Exs. 4.0 – 4.1) She also provided the Division with a copy of her last paystub. (Ex. 12.0)
5. On June 14, 2010, the Division sent the Claimant a written notice requesting information about her job ending and information about her planned move. (Ex. 6) The Division gave the Claimant until June 24, 2010 to provide the information.
6. On June 23, 2010, the Claimant responded to the Division's June 14, 2010 information request in writing. (Ex. 6) She wrote down her last pay date, May 26, 2010, provided a name and phone number to contact about the job ending, and stating that she was not moving. (Ex. 6)
7. On June 29, 2010, the Claimant telephoned and spoke to the Division Eligibility Technician notifying her that she had submitted the requested information. (Ex. 7.0) A copy of her final paycheck is date stamped as having been received by the Division on June 29, 2010. (Ex. 7.1)
8. On July 8, 2010, the Claimant telephoned and spoke to the Division Eligibility Technician, inquiring as to why her benefits had gone down and that she had turned in the requested information. (Ex. 8) The Division Eligibility Technician located the information which had been turned in on June 23, 2010. *Id.*
9. On July 15, 2010, the Claimant wrote the Division stating that she had notified the Division of her work change on May 26, 2010 and provided it with her last pay stub on that date.

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<sup>2</sup> See fn. 1 above.

(Ex. 9.1) That same letter stated the Division had reduced her benefits for both June and July 2010 in the amount of \$214 for each month, and asked when she would be reimbursed for those reductions.

10. On July 16, 2010, the Division sent the Claimant an additional notice asking for employment information with a deadline of July 26, 2010. (Ex. 10)

11. On July 19, 2010, the Claimant responded to the Division's July 16, 2010 information request with the following:

- a. A handwritten self-employment log showing that she made a total of \$405.00 in the entire month of June, 2010. (Exs. 11.2, 12.0)
- b. A written statement that she was receiving unemployment. (Ex. 11.0)

12. On August 2, 2010, the Claimant requested a Fair Hearing.<sup>3</sup> (Ex. 12.2)

13. On August 3, 2010, the Claimant was issued supplemental Food Stamp benefits in the amount of \$214.00 for each of the months of June, July, and August, 2010 for a total supplemental amount of \$642.00.

### **PRINCIPLES OF LAW**

A party who is seeking a change in the status quo has the burden of proof by a preponderance of the evidence. *State, Alcohol Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985); *Amerada Hess Pipeline v. Alaska Public Utilities Comm'n*, 711 P.2d 1170, n. 14 at 1179 (Alaska 1986). "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).

Food Stamps is a federal program. The federal agency that is responsible for overseeing the operation of the program is the Department of Agriculture Food and Nutrition Service (Food and Nutrition Service). 7 CFR 271.3(a). The day to day administration of handling applications and issuing benefits is delegated to State agencies. 7 CFR 271.4(a).

This Office's jurisdiction includes Food Stamp cases. It may only hear those cases under certain circumstances:

#### **7 AAC 49.020. Opportunity for hearing**

An opportunity for a hearing must be granted to a client whose

- (1) request for an application is denied;
- (2) claim to financial, food, or medical assistance, contained in his application, is denied or is not acted upon with reasonable promptness;
- (3) receipt of benefits the division intends to modify or terminate; or
- (4) request for a covered Medicaid service is denied.

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<sup>3</sup> The Claimant apparently requested a Fair Hearing earlier on July 20, 2010. (Ex. 12.1)

This Office may dismiss a hearing request if “the issues by which the client is aggrieved are not those set out in 7 AAC 49.020.” 7 AAC 49.100(1).

### **ANALYSIS**

The undisputed facts of this case show the Division at some point reduced the Claimant’s Food Stamp benefits beginning with the month of June 2010. *See* Finding of Fact 3 above. The record lacks an explanation of why the benefits were reduced, or when the Claimant was notified of the reduction. *See* footnote No. 1. After the reduction, the Division then sent the Claimant an informational request in June 2010 and another in July 2010. *See* Finding of Fact 5 and 10 above. The Claimant timely complied with both information requests. *See* Findings of Fact 6, 11 above.

The Claimant made several attempts to contact the Division and get her Food Stamp benefits restored. *See* Findings of Fact 7, 8, 9, and 12 above. On August 3, 2010, after the Claimant had requested a Fair Hearing, the Division restored the Claimant’s Food Stamp benefits to their full level. *See* Findings of Fact 12 and 13 above.

There is no current benefit issue in this case. As the Claimant acknowledged, she has been issued supplemental Food Stamp benefits and the Division does not currently owe her any benefits.

The Claimant stated her purpose in pursuing this hearing in order to make sure the Division did not treat others as poorly as she had been treated. This Office does not have jurisdiction to hear complaints against the Division except for the purposes set out in 7 AAC 49.020, i.e. when an application is denied, benefit processing is delayed, or when benefits have been modified or terminated.

In this case, the Claimant has not had an application denied, and her current Food Stamp benefits have not been modified or terminated. Her Food Stamp benefit processing was arguably delayed, given the amount of time involved between the reduction of her Food Stamp benefits which began with the month of June, 2010 and August 3, 2010 when they were fully restored. However, because her Food Stamp benefits were fully restored, there is no relief this Office can grant her. Under those circumstances, this case is moot and there is no hearable issue for this Office to decide. The case must be dismissed. *See* 7 AAC 49.100(1).

### **CONCLUSIONS OF LAW**

1. This Office’s jurisdiction is limited by regulation, 7 AAC 49.020, to cases where an application is denied, benefit processing is delayed, or when benefits have been modified or terminated. It does not have jurisdiction to hear complaints against the Division unless those involve the denial, delay, modification or termination of benefits.

2. Although the Claimant’s Food Stamp benefit processing was arguably delayed, her Food Stamp benefits have been restored to their full benefit level and the Claimant has no dispute over her Food Stamp benefit amount.

