

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of )  
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 F S ) OAH No. 16-1025-APA  
 ) Division No.  
 \_\_\_\_\_ )

In the Matter of )  
 )  
 N S ) OAH No. 16-1026-APA  
 ) Division No.  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

F S<sup>1</sup> and N S<sup>2</sup> are husband and wife. They each receive Adult Public Assistance (APA) benefits. The Division of Public Assistance (Division) notified them that their monthly benefit amount would be reduced to \$74 each beginning with the month of September 2016. A joint hearing was held on the Ss' cases on October 19, 2016. Mr. and Ms. S represented themselves. Public Assistance Analyst Jeff Miller represented the Division.

APA benefits for a married couple, when both are eligible for those benefits, are based solely upon their joint gross income. There are no deductions available to them for any expenses. There is no increased benefit amount available to them for minor children in their home. After Ms. S was approved for APA benefits, the Division initially miscounted their income, which resulted in them each receiving \$264 per month in APA benefits. The Division reviewed their cases, counted their joint income at its actual value of \$1,500 per month, and calculated that their monthly benefit payment should be \$74 apiece. The Division's reduction of the Ss' monthly benefit amount is consistent with both the evidence and the APA program's regulatory requirements. Consequently, the reduction in Mr. and Ms. S's monthly benefit amount to \$74 apiece is AFFIRMED.

**II. Facts<sup>3</sup>**

Mr. S and Ms. S have each been determined to be disabled by the Social Security Administration. Mr. S receives Supplemental Security Income (SSI) of \$733 per month.<sup>4</sup> Ms. S

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<sup>1</sup> OAH Case No. 16-1025-APA.

<sup>2</sup> OAH Case No. 16-1026-APA.

<sup>3</sup> Unless otherwise specified, all references to exhibits are to those filed in OAH Case No. 16-1025-APA.

receives Supplemental Security Disability Income (SSDI) of \$767 per month.<sup>5</sup> They have minor children in their home.<sup>6</sup>

In May 2016, Mr. S had been receiving APA benefits of \$362 per month, based upon him being in a household where only one person was receiving APA benefits and having only SSI income of \$733 per month.<sup>7</sup> Ms. S applied for APA benefits. Her application was approved and she began receiving APA benefits in the amount of \$264 per month starting in July 2016.<sup>8</sup> Mr. S's benefit amount, beginning in July 2016, was reduced to \$264 per month.<sup>9</sup> The Division's calculations were based on the Ss being a combined household, where both were eligible for APA benefits and each received SSI, with a deemed combined income of \$1,100, instead of their actual combined income of \$1,500.<sup>10</sup> Neither Mr. nor Ms. S requested a hearing to challenge that benefit amount.

The Division reviewed the Ss' APA cases and discovered that it had erroneously coded Ms. S as also being an SSI recipient when she was an SSDI recipient. This caused it to count the total household income for Mr. and Ms. S as being \$1,100, which resulted in them each receiving \$264 per month in APA benefits.<sup>11</sup> After it corrected the miscoding, it counted their total monthly income as being \$1,500 (Ms. S's SSDI income of \$767 plus Mr. S's SSI income of \$733). This resulted in Mr. and Ms. S's monthly APA benefit amount being lowered to \$74 apiece.<sup>12</sup>

### III. Discussion

The APA program provides cash payments to financially eligible persons who are over 65, blind, or disabled.<sup>13</sup> The amount of benefits depends upon the applicant's living situation, whether he or she is single, or married, living by him or herself, residing with a spouse, or residing with other people. If an applicant is single, or is married but does not reside with a spouse, then the benefit amount is calculated based solely upon his or her other income, whether

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<sup>4</sup> Ex. 3.1.

<sup>5</sup> Ex. 3.1.

<sup>6</sup> Ex. 2.6.

<sup>7</sup> Ex. 38.

<sup>8</sup> Exs. 5, 39.

<sup>9</sup> Exs. 5.1, 38.

<sup>10</sup> Ex. 4.

<sup>11</sup> Exs. 6 – 7, 10.

<sup>12</sup> The Division initially lowered the Ss' benefits to \$64, beginning in July. (Ex. 8) They appealed that reduction. (Exs. 9 – 10) However, that appeal was dismissed by stipulation due to notice issues. (Ex. 12) The Division then renoticed the Ss, calculating their respective benefits at \$74 apiece. (Exs. 13 – 14).

<sup>13</sup> AS 47.25.430; 7 AAC 40.120.

it be from retirement, a disability program, or some other source. If an applicant resides with a spouse, then that spouse's income is also counted in determining benefits. If that spouse is also receiving APA benefits, that spouse's other non-APA income continues to be used in determining benefits.<sup>14</sup> An applicant's housing expenses and whether he or she has minor children in the home are not taken into account when determining an applicant's monthly benefit amount.<sup>15</sup>

Because Mr. and Ms. S are married and live together, their combined income must be considered in determining their benefit amount.<sup>16</sup> If Mr. S and Ms. S were both SSI recipients, their joint income would be legally considered to be \$1,100, even though it is actually \$1,500.<sup>17</sup> The maximum amount of income the two of them can receive, including their countable non-APA income, is \$1,628.<sup>18</sup> When the Division mistakenly treated them as both being SSI recipients, it counted their joint income at \$1,100, which resulted in them receiving a total of \$528, or \$264 apiece.<sup>19</sup> However, because Mr. S receives SSI, his income is legally counted as being \$733, which just happens to be the same as his actual income.<sup>20</sup> Because Ms. S receives SSDI and not SSI, her income is counted at its actual value of \$767.<sup>21</sup> Their combined income is \$1,500, not the \$1,100 figure initially used by the Division. They are entitled to a \$20 deduction from that income in arriving at their countable income.<sup>22</sup> When that deduction is applied, their combined countable income is \$1,480. Because they already have combined income of \$1,480, together they can only receive \$148.<sup>23</sup> When the amount of \$148 is divided by two, they are each entitled to receive \$74 per month in APA benefits. This is the process the Division used.

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<sup>14</sup> 7 AAC 40.240; 7 AAC 40.300(a); 7 AAC 40.370 – 380.

<sup>15</sup> See 7 AAC 40.320 – 330 for a list of applicable income deductions.

<sup>16</sup> 7 AAC 40.300(a)(1).

<sup>17</sup> 7 AAC 40.300(e); *Alaska Adult Public Assistance Manual Addendum 1* “Supplemental Security Income Eligibility Payment Standards”; Ex. 11.

<sup>18</sup> 7 AAC 40.370(b) and (c); *Alaska Adult Public Assistance Manual Addendum 1* “APA Maximum Payment Standards”; Ex. 11.2.

<sup>19</sup> \$1,100 + \$528 = \$1,628.

<sup>20</sup> 7 AAC 40.300(e).

<sup>21</sup> 7 AAC 40.300(d).

<sup>22</sup> 7 AAC 40.320(a)(23).

<sup>23</sup> \$1,480 + \$148 = \$1,628.

#### **IV. Conclusion**

The Division's reduction of the Ss' APA benefit amount to \$74 per month apiece, beginning with the month of September 2016, is **AFFIRMED**.

DATED this 31<sup>st</sup> day of October, 2016.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

#### **Adoption**

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 15<sup>th</sup> day of November, 2016.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge/OAH

[This document has been modified to conform to the technical standards for publication.]