

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

In the Matter of	)	
	)	
K E	)	OAH No. 17-1289-APA
_____	)	Agency No.
In the Matter of	)	
	)	
T E	)	OAH No. 17-1290-APA
_____	)	Agency No.

**DECISION**

**I. Introduction**

The Division of Public Assistance reduced the amounts of T and K E’s monthly Adult Public Assistance (APA) benefits when it combined their individual APA cases into a single household for purposes of benefits calculation. The Es appealed. This decision concludes that because the Es are married and living together, the Division correctly combined their APA benefits cases into a single household, and did not err in lowering their individual monthly benefit amounts accordingly.

**II. Facts**

T and K E are married and live together in No Name.<sup>1</sup> Although married and living together, the Es have at times had separate public benefits cases, apparently at least in part due to giving inconsistent information to Division representatives.<sup>2</sup>

In August 2017, the Division of Public Assistance combined the Es’ Food Stamps cases because they were living together.<sup>3</sup> Only Mrs. E appealed this action. After a hearing at which both Es testified, a Final Decision issued November 13, 2017 affirmed the Division’s decision, concluding that the Es were appropriately treated for food stamps purposes as a single household, since they were both married and cohabitating.<sup>4</sup> Mrs. E did not appeal this decision.

After the issuance of the final decision in the Food Stamps case, the Division adjusted the Es’ APA benefits in accordance with the reasoning of that decision.<sup>5</sup> That is, the Division

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<sup>1</sup> Ex. 2.1.

<sup>2</sup> See Ex. 2.

<sup>3</sup> Ex. 2.1.

<sup>4</sup> Ex. 2.3. The Decision relied on the Es’ hearing testimony, their testimony in another fall 2017 OAH proceeding, and the testimony of Division employees about prior statements by the Es.

<sup>5</sup> Ex. 3.

merged the two APA cases, and began treating Mr. and Mrs. E as a single household for APA purposes.

As a result of this reclassification, Mr. E's monthly APA benefit was reduced from \$362 to \$268, and Mrs. E's monthly APA benefit was reduced from \$362 to \$267.<sup>6</sup>

Mr. and Mrs. E requested a fair hearing to challenge the Division's determination.<sup>7</sup> After a postponement requested by the Es, a single hearing was held on both appeals on January 19, 2018.<sup>8</sup> The Es represented themselves and both testified. Jeff Miller represented the Division. No other witnesses were called by either party. The agency's position statement and accompanying exhibits were admitted into evidence.

### **III. Discussion**

APA eligibility is based upon age, disability, and financial need in terms of both income and resources.<sup>9</sup> In determining financial need, the Division considers an individual's household composition, living arrangements, and individual or household income.<sup>10</sup> Different needs standards exist, and different payments amounts are set, for individuals and couples, and depending on whether the individual or couple lives independently, in another's household, or independently.<sup>11</sup> A couple's living arrangements determines the APA need and payments standards for their case.<sup>12</sup>

For the purposes of determining eligibility and benefit levels, the income and resources of spouses living together are considered mutual income and resources.<sup>13</sup> Living together means residing as a family unit in a single residence.<sup>14</sup> The Es meet this definition, and are clearly spouses living together. The historical facts under which they came to be living together, and the

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<sup>6</sup> Ex. 3.1. These benefit amounts were calculated using the household's monthly income, as follows: \$618 social security benefits for Mr. E; \$64 SSI benefits for Mr. E; and \$443 Social Security benefits for Mrs. E. Ex. 4, 4.1, 5; Division's hearing presentation. The Es do not contest these income figures. Testimony of K. E; Testimony of T. E.

<sup>7</sup> Ex. 7.1 (17-1290-APA); Ex. 7.1 (17-1289-APA).

<sup>8</sup> The two appeals were initially scheduled for separate hearings on January 4, 2018. Both hearings convened on that date, but were then rescheduled at the Es' request to January 18 (Mr. E) and January 19 (Mrs. E). When Mr. E's hearing reconvened on January 18, 2018, the Administrative Law Judge determined that the two cases should be consolidated, finding that good cause existed to hear the matters together, and that no party would be prejudiced by consolidation.

<sup>9</sup> 7 AAC 40.090.

<sup>10</sup> 7 AAC 40.310; Ex. 10-11.

<sup>11</sup> Ex. 10, 13.

<sup>12</sup> 7 AAC 40.310; Ex. 10 – 13.1. Eligibility for APA is determined prospectively, so requires an assessment of the recipient's likely financial and nonfinancial circumstances for the benefit month in question. Ex. 14.

<sup>13</sup> 7 AAC 40.240(a).

<sup>14</sup> 7 AAC 40.240(c).

particular reasons that they continue live together, are immaterial to the current nature of their living arrangement for purposes of APA eligibility. The Division thus did not err in treating their APA benefits as a single household.

Nor did the Division err in calculating the benefit amount for the household. The Es do not dispute the accuracy of the household income figures relied on by the Division. Rather, their disagreement with the Division's decision is a policy-level disagreement about the needs thresholds and benefit amounts set in Department regulation and by Division policy. Mr. E correctly notes that the cost of food in rural Alaska is extremely high, and the Es spoke passionately about the difficulties in making ends meet. The Es' predicament is a sympathetic one, and they credibly testified about their frustration in dealing with bureaucratic systems and economic uncertainty. But the applicable regulations set standards which bind both recipients and the Division. Accordingly, this is not a matter where there is discretion to adjust benefit amounts, regardless of individual circumstances.

#### **IV. Conclusion**

Because the Division correctly reduced the Es' monthly APA benefits to reflect their joint membership in a spousal household, the Division's November 17, 2017 decision is **AFFIRMED**.

Dated: January 30, 2018

*Signed* \_\_\_\_\_  
Cheryl Mandala  
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 13th day of February, 2018.

By: *Signed* \_\_\_\_\_  
Name: Cheryl Mandala  
Title: Administrative Law Judge/OAH

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