

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

In the Matter of)
)
F H) OAH No. 17-1328-APA
) Agency No.
_____)

DECISION

I. Introduction

F H and her husband C J receive benefits under the Adult Public Assistance (APA) program. After cost of living increases in their Social Security benefits, the Division of Public Assistance (the Division) notified them effective January 2018 their total benefit level would be reduced to \$35 per month (\$17 per month for Ms. H and \$18 for Mr. J). The couple requested a hearing and the matter was referred to the Office of Administrative Hearings.

The assigned administrative law judge conducted a telephonic hearing on January 17, 2018. Ms. H did not participate. She was, instead, represented by her husband, Mr. J, who testified on her behalf. Jeff Miller, a Public Assistance Analyst, represented the Division of Public Assistance.

Mr. J does not dispute the Division's calculations of Ms. H's monthly household income. He instead, disagrees with the payment standard used by the Division. In particular, he argues that the Division should not consider his income or use the maximum pay standard for a couple when determining Ms. H's APA benefits. Because Ms. H and Mr. J are properly considered a couple under the APA program, the Division correctly followed the applicable regulations. Accordingly, the Division's decision is therefore **AFFIRMED**.

II. Facts

The relevant facts are not in dispute in this case. Ms. H and Mr. J are married and reside together independently.¹ The Division considers them a couple for the APA program.² Both Ms. H and Mr. J are disabled. Ms. H receives benefits under the federal Supplemental Security Income (SSI) program, and Mr. J receives benefits under the federal Social Security Disability

¹ Hearing Record; Ex. 1-1.1; Ex. 4.1; Ex. 10; Ex. 11; Ex. 13; Ex. 14; Ex. 26.

² Ex. 1-1.1; Ex. 4.1; Ex. 10; Ex. 11; Ex. 13; Ex. 14; Ex. 26.

Insurance (SSDI) program. Both also receive Food Stamps and benefits under the state APA program.³

Beginning in January 2018, Ms. H and Mr. J received cost of living increases to their Social Security benefits.⁴ Ms. H's SSI increased to \$750, and Mr. J's SSDI increased to \$888.⁵ Accordingly, the Division calculated the couple's gross household income at \$1,638 and deducted an income disregard of \$20 to arrive at net countable household income of \$1,618.⁶ For 2018, the APA "Maximum Payment Standard" for a couple, where both are eligible for APA and are living independently in their own household is \$1,653.⁷ The Division then subtracted the couple's countable income of \$1,618 from the Maximum Payment Standard of \$1,653, to arrive at \$35 for the couple's total monthly benefit. Because Ms. H and Mr. J are a couple, the Division divided the benefit in half: \$17 for Ms. H and \$18 for Mr. J.

On December 13, 2018, the Division sent Ms. H notice that her monthly APA benefit would be changed to \$17, beginning in January 2018.⁸ Mr. J requested a hearing on Ms. H's behalf.

A hearing was held on January 17, 2018. Ms. H did not participate. Mr. J, instead, appeared and testified on her behalf. Jeff Miller, a Public Assistance Analyst, represented the Division of Public Assistance.

III. Discussion

Mr. J does not dispute the Division's calculations of Ms. H's monthly household income. He instead, disagrees with the payment standard used by the Division. He argues that the Division does not have payment standards for APA and is thus required to deem Ms. H an "individual" rather than consider his income and use the maximum pay standard for a couple. Although it is not entirely clear, the basis of Mr. J's claim appears to be that the Social Security Administration deemed Ms. H an "eligible individual," and thus, the Division is required to follow suit. Mr. J's argument is a similar variation of arguments he has made, and which have

³ Ex. 1.

⁴ Ex. 6.

⁵ Ex. 6.

⁶ 7 AAC 40.320(a)(23).

⁷ Ex. 29.2.

⁸ Ex. 7; Ex. 8.

been decided in past appeals.⁹ So, the sole issue for this appeal is whether the Division correctly treated Ms. H and Mr. J as a couple for purposes of APA benefits.

The income and resources of a spouse who is living with an applicant are considered income and resources of the applicant.¹⁰ The Division correctly calculated the couple's countable household income.¹¹ And a couple's living arrangement determines the APA payment standards against which countable income is compared when calculating APA benefit amounts.¹² There is no dispute that Ms. H is Mr. J's wife. Nor is there any dispute that they live together, independently. The 2018 APA Maximum Payment Standard for a couple, who are both eligible for APA benefits, and who live independently is \$1,653.¹³ The Division correctly followed the applicable regulation, 7 AAC 40.370. Accordingly, the Division was correct to change the couple's monthly APA benefit to \$35 (\$17 for Ms. H and \$18 for Mr. J).

IV. Conclusion

The Division was correct when it sent Ms. H and Mr. J notice that their monthly APA benefit amount would be changed to a total of \$35 (\$17 for Ms. H and \$18 for Mr. J) beginning with the month of January 2018. Accordingly, the Division's decision is AFFIRMED.

Dated: February 26, 2018

Signed

Jessica Leeah

Administrative Law Judge

⁹ See Ex. 2-2.7; Ex. 3-3.3.

¹⁰ 7 AAC 40.240.

¹¹ 7 AAC 40.320; 7 AAC 40.330; 7 AAC 40.350.

¹² Adult Public Assistance Manual, Ex. 10; 7 AAC 40.370(c); 7 AAC 40.240.

¹³ Alaska Adult Public Assistance Manual Addendum 1 (Ex. 29.2); 7 AAC 40.370(d) & (e) (requiring payment standards to be adjusted each year).

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 March, 2018.

By: *Signed* _____
Name: Jessica Leeah
Title: Administrative Law Judge

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