

that Mr. Y had a good reason for initiating this chain of events by walking off his shift in No Name.

The S-Y household had previously been assessed one job quit penalty. This occurred in the fall of 2012, after Mr. Y quit a previous job at No Name.³

III. Discussion

A family is not eligible for ATAP benefits if the family's need for benefits "is **due to a** refusal or voluntary separation from suitable employment" by an adult applicant in the household.⁴ The period of ineligibility varies depending on whether there have been prior refusals or separations.

In this case it is undisputed that one of the adult applicants had a refusal or voluntary separation from suitable employment just before the recertification application was filed. Mr. Y is part of the mandatory filing unit for this household,⁵ and any job quit penalty he may trigger would be applied to all the members of the household.⁶ There is, however, one remaining question that must be answered before a job quit penalty can be imposed. That question is whether the family's need is "due to" the job quit.

Under Department of Health and Social Services regulation 7 AAC 45.970(a), if a job quit occurs within 60 days before submitting an application, there is "a rebuttable presumption" that the household's need for ATAP benefits is due to the job quit. The presumption can be overcome by contrary evidence.

In this case, between the two No Name locations, Mr. Y was working almost full time, at a pay rate of \$8.50 per hour in No Name and \$7.75 per hour in No Name. His total gross pay was \$523 per half-month pay period, or \$1,046 per month.⁷ The household has no other income.⁸

To be eligible for ATAP benefits, a household must meet both a gross income test and a net income (need) test.⁹ \$1,046 per month is below the gross income amount for a household

³ Ex. 8.

⁴ AS 47.27.015(c) (emphasis added).

⁵ See 7 AAC 45.195.

⁶ 7 AAC 45.970(c).

⁷ Ex. 3.1, 3.2 (figure is the sum of earnings from each store for pay period ending 2/15/13).

⁸ Ex. 4.3.

⁹ 7 AAC 45.470.

this size, and is also below the net income threshold, even before calculating exclusions.¹⁰ Accordingly, the presumption set up by 7 AAC 45.970(a) is rebutted, and this household's need for ATAP benefits is not "due to" Mr. Y's job quit.

Mr. Y's job quit may have other consequences for the household's benefit amount, but the record in this case does not address those matters. What the record shows is that the six-month ineligibility period the agency imposed based on this job quit cannot be sustained, because the statutory "due to" criterion has not been met.

IV. Conclusion

Although Mr. Y quit a job without good cause, the prerequisites for a six-month ineligibility penalty under AS 47.27.015(c) do not exist in this case. The denial of recertification noticed on March 13, 2013 is reversed. This decision does not preclude consideration of the job quit in calculating benefits.

Dated this 9th day of April, 2013.

Signed _____
Christopher Kennedy
Administrative Law Judge

Adoption

The undersigned, by delegation from of 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 23rd day of April, 2013.

By: *Signed* _____
Name: Kay L. Howard
Title: Administrative Law Judge

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

¹⁰ See 7 AAC 45.520(a)(1), (b); DHSS Temporary Assistance Need and Maximum Payment Standards (<http://dhss.alaska.gov/dpa/Documents/POLICY/PDF/2013TASStandards.pdf>).