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

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In the Matter of

F N

OAH No. 14-0942-ATP Agency No.

#### **DECISION**

#### I. Introduction

F N requested a hearing to challenge the determination of the Division of Public Assistance ("division") that her family was not eligible for benefits under the Alaska Temporary Assistance Program ("ATAP") because the household's income exceeded the regulatory maximum for a family of five. A hearing was held on June 26, 2014 in which Ms. N and division representative Jeff Miller participated and testified by telephone. The record closed at the hearing's conclusion.

As discussed below, the evidence presented by the division establishes that Ms. N's monthly household income is in excess of the maximum need standard allowed for a household of five. Therefore, the division's denial of Ms. N's application is affirmed.

#### II. Facts

There are no genuine issues of material fact in dispute. Ms. N challenges the application and interpretation of the law to the following undisputed facts:

Ms. N applied for ATAP benefits for her five-person household. The only source of income is her income earned as an employee of an Anchorage hotel. Ms. N's boyfriend, the father of her three children, has no income, as he attends school full-time and watches the children when Ms. N is working. The monthly net earned income for the family, after the applicable \$90 "work expense" deduction, is \$1,780.<sup>1</sup> Under ATAP, the need standard for a household of five is \$1,742.

<sup>&</sup>lt;sup>1</sup> Ms. N did not dispute that the division's estimation of her current income level is accurate, although she testified that she currently works some overtime due to increased business during the tourist season, and that for the bulk of the year she typically does not work overtime. Mr. Miller explained to Ms. N that if her income level drops after tourist season she can reapply for ATAP benefits.

#### III. Discussion

The Alaska Temporary Assistance Program (ATAP) is provided under the federal Temporary Assistance for Needy Families (TANF) block grant. ATAP provides temporary cash assistance and work services to low-income families with children to help them while they get back on their feet.<sup>2</sup>

Eligibility is based on financial need.<sup>3</sup> By regulation, financial need exists if the household resources do not exceed the resource limitation of 7 AAC 45.280, and if one's monthly net income does not exceed either the need standard or the 185% eligibility standard established in 7 AAC 45.520.<sup>4</sup>

Ms. N's application was denied because the household income exceeded the need standard. The household size is five: Ms. N, her boyfriend, and their three children. The need standard for a family of this size is \$1,738.<sup>5</sup> Ms. N's income from her job is \$1,870. Because it is earned income, she is eligible for a "work expense" deduction of \$90, which lowers the household income for eligibility purposes to \$1780.<sup>6</sup> Thus the household income exceeds the need standard by \$42.

Ms. N stated in her request for hearing that the reason for her request was that "I don't beleive *[sic]* that I make enough money to support my family of 5." During the hearing it also became apparent that she requested the hearing at least in part due to a misunderstanding regarding cost of living information she provided on her ATAP application form. Mr. Miller explained to her that the application form is used for both ATAP benefits and food stamps, and such expenses as fuel, car insurance, heating bills, renter's insurance, etc., do not provide deductions from countable income for ATAP purposes.

Ms. N's household is only \$42 over the needs eligibility limit and is well below the 185% standard.<sup>7</sup> In a perfect world there might be some method of providing assistance for families who are on the border between eligibility and non-eligibility. Clearly, the Ns' financial situation

<sup>&</sup>lt;sup>2</sup> AS 47.27.005(1).

<sup>&</sup>lt;sup>3</sup> 7 AAC 45.275.

<sup>&</sup>lt;sup>4</sup> 7 AAC 45.275(b).

<sup>&</sup>lt;sup>5</sup> Alaska Temporary Assistance Manual Addendum 2.

<sup>&</sup>lt;sup>6</sup> The only pertinent deductions from earned income that are allowed by the Temporary Assistance regulations are a work expense deduction and a child care deduction. *Alaska Temporary Assistance Manual* 760-2. The Temporary Assistance regulations do not provide an income deduction for shelter costs (rent/mortgage and utilities), nor for other costs of living such as for fuel, vehicle insurance, etc. (other than the "work expense" deduction).

The 185% standard is \$3,117. Alaska Temporary Assistance Manual Addendum 2.

is nearly indistinguishable from that of a person with \$42 less in monthly income. However, the applicable statutes and regulations provide no room for discretion. The Commissioner of Health and Social Services, the division, and the undersigned must apply the regulations as written and must adhere to the bright line between eligibility and non-eligibility. To provide ATAP assistance to Ms. N would require changes that cannot be made through the hearing process.

### IV. Conclusion

Ms. N's household income exceeds the needs eligibility test for a household of four. Therefore, the N household is not eligible for Alaska Temporary Assistance Program funds and their application is denied.

Dated this 1<sup>st</sup> day of July, 2014.

Signed

Andrew M. Lebo 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 16<sup>th</sup> day of July, 2014.

By: <u>Signed</u>

Andrew M. Lebo Administrative Law Judge

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