

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

In the Matter of: )  
 )  
 K J ) OAH No. 12-0372-SNA  
 ) Agency No.  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

K J applied to renew Food Stamp<sup>1</sup> benefits for his two person household. The Division of Public Assistance (division) denied his recertification application because his household's income was greater than allowed by the Food Stamp program, which caused his Food Stamp benefits to expire at the end of August 2012.<sup>2</sup> Mr. J requested a hearing on September 5, 2012.<sup>3</sup>

Mr. J's hearing was held on September 26, 2012. Mr. J represented himself. Both Mr. J and his wife testified. Terri Gagne, Public Assistance Analyst, represented the division. The hearing was recorded.

Because the Js' household income is less than the Food Stamp program's income limit, the division's decision denying their Food Stamp recertification application is REVERSED.

**II. Facts**

Mr. J lives with his wife in northwestern Alaska. He applied to renew Food Stamp benefits for their two person household on July 23, 2012.<sup>4</sup> While Mr. J is eligible for Social Security Supplemental Security Income (SSI) benefits, he has not received a monthly SSI payment since August 2012.<sup>5</sup> He receives \$280 per month in Adult Public Assistance payments.<sup>6</sup>

Ms. J works part-time and is paid every two weeks. Her part-time income totals \$705.30 per month.<sup>7</sup> She also receives tips averaging \$70 per month.<sup>8</sup> Ms. J received \$370 per week in

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<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program ("SNAP"). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> Exhs. 1, 2.36, 2.39.

<sup>3</sup> Exh. 2.38.

<sup>4</sup> Exhs. 2.0-2.5.

<sup>5</sup> Exh. 2.40.

<sup>6</sup> Exh. 2.7.

<sup>7</sup> This amount is arrived at by taking her gross pay for the pay periods ending June 24 through August 5, 2012, during which she received four paychecks. Her average biweekly pay, based on those four checks, was

unemployment benefits through August 2012, for a monthly total of \$1,591.<sup>9</sup> The last unemployment check she received was for the week ending August 25, 2012. She has not received any unemployment payments since then.<sup>10</sup>

The Js pay monthly rent in the amount of \$1,386. They are also responsible for paying electricity and they have a telephone.<sup>11</sup>

The division calculated the household's total gross monthly income as follows:

\$1,591.00	Ms. J's unemployment income
\$ 705.33	Ms. J's part-time employment income
\$ 70.00	Ms. J's tip income
<u>\$ 176.00</u>	Mr. J's Adult Public Assistance payment
\$2,542.33 <sup>12</sup>	

Based on these figures, the division denied the J's Food Stamp recertification application on August 24, 2012 for the reason that their gross household income of \$2,542.33 was greater than the Food Stamp program's income limit of \$1,992.<sup>13</sup>

Mr. J requested a hearing on September 5, 2012 because he disagreed with the division's income calculations.<sup>14</sup> On September 10, 2012, the division recalculated the J's eligibility based on their monthly expenses of \$1,386 for rent, \$149 for electricity, \$29 for a telephone, and the following household income:

\$1,591.00	Ms. J's unemployment income
\$ 705.33	Ms. J's part-time employment income
\$ 70.00	Ms. J's tip income <sup>15</sup>
<u>\$ 280.00</u>	Mr. J's Adult Public Assistance payment
\$2,646.33 <sup>16</sup>	

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\$328.06. When \$328.06 is multiplied by the biweekly pay conversion factor of 2.15, according to 7 C.F.R. § 273.10(c)(2)(i), the result is \$705.33. See Exhs. 2.6, 2.10 – 2.12.

<sup>8</sup> Exh. 2.6.

<sup>9</sup> Exh. 2.8.

<sup>10</sup> Ms. J testimony. The documents in the record corroborate Ms. J's testimony. The division's Exh. 2.8 is a Department of Labor printout that shows, as of September 10, 2012, that the last payment made to Ms. J was on August 26, 2012, that she had been paid \$7,770 to date and that she had a remaining balance of \$1,850. The Js' Exh. A is a Department of Labor email showing, that as of September 25, 2012, Ms. J had been paid \$7,770 to date and that she had a remaining balance of \$1,850. These documents establish that there was no increase in the total amount paid or a decrease in the remaining balance between September 10, 2012 and September 25, 2012. This supports Ms. J's testimony that she had stopped receiving unemployment benefits as of the end of August 2012.

<sup>11</sup> Exh. 2.6.

<sup>12</sup> Exhs. 2.6, 2.36.

<sup>13</sup> Exh. 2.36.

<sup>14</sup> Exh. 2.38.

<sup>15</sup> The division's September 10, 2012 notice states that it is only counting \$40 in tip income; however the calculation sheet shows that it is counting \$70 in tip income. Exhs. 2.33, 2.39.

<sup>16</sup> Exhs. 2.33, 2.39.

The division then determined that the Js' net monthly income was \$1,794.81, which exceeded the Food Stamp program's net income limit of \$1,532 for a two person household. On that basis, the division denied their Food Stamp recertification application.<sup>17</sup>

### **III. Discussion**

The issue in this case is whether the J's net income exceeded the Food Stamp program's net income limit of \$1,532. Mr. J has the burden of proving by a preponderance of the evidence that the division's denial was incorrect.<sup>18</sup>

There is only one disputed fact in this appeal, which is whether Ms. J received unemployment benefits after the end of August 2012. As shown in the facts above, her last unemployment payment was received on August 26, 2012. As a result, the division's calculations, which counted her as having unemployment income in the amount of \$1,591 in September 2012, substantially overstated the household's income.

The division correctly counted Ms. J's unemployment income when it made its initial determination of ineligibility on August 24, 2012, because at that point Ms. J was still receiving unemployment benefits. However, after Mr. J requested a hearing, the division recalculated his household's financial eligibility.<sup>19</sup> The September 10, 2012 Department of Labor printout shows the last unemployment payment was made on August 26, 2012.<sup>20</sup> This should have placed the division on notice that Ms. J's unemployment payments had stopped.

Mr. J has met his burden in this appeal by a preponderance of the evidence. He has established that the division should not have counted Ms. J's unemployment income during the month of September 2012. When her unemployment income of \$1,591 is removed from the division's September 10, 2012 income calculation, the household's gross income is \$1,055.33 (before any earned income deductions, standard deductions, or adjustments for housing expenses).<sup>21</sup> This is less than the \$1,532 net income limit for a two person household. When the applicable deductions are factored in, the result is even less.

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<sup>17</sup> Exhs. 2.33 – 2.34, 2.39.

<sup>18</sup> 2 AAC 64.290(e).

<sup>19</sup> Exh. 2.39.

<sup>20</sup> Exh. 2.8.

<sup>21</sup> \$2,646.33 (total income before any deductions, Exh. 2.33) minus \$1,591 equals \$1,055.33.

**IV. Conclusion**

Ms. J's unemployment benefits ended as of August 25, 2012. As a result, the household's gross income as of September 2012 was \$1,055.33, which is less than the Food Stamp program's income limit of \$1,532 for a two person household. The division thus incorrectly overstated their income and found the household ineligible for Food Stamp benefits.

**V. Decision**

The division's decision to deny Mr. J's Food Stamp recertification application is REVERSED.

DATED this 16<sup>th</sup> day of October, 2012.

*Signed* \_\_\_\_\_  
Kay L. Howard  
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 29<sup>th</sup> day of October, 2012.

By: *Signed* \_\_\_\_\_  
Name: Ree Sailors  
Title: Deputy Commissioner, DHSS

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