

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

In the Matter of	)	
	)	OAH No. 12-0487-SNA
Q G	)	Agency No.
_____	)	

**DECISION**

**I. Introduction**

Q G' household receives Food Stamps. The Division of Public Assistance (division) sought to recover overpayments made due to an agency error. Ms. G requested a formal hearing on whether she should be required to repay the overpayment amount.

A hearing was held on October 19, 2012. Ms. G represented herself, and the division was represented by Public Assistance Analyst Terri Gagne. Based on the evidence in this case, the division is entitled to recover this overpayment.

**II. Facts**

The relevant facts are not in dispute. Ms. G testified that her fiancé and his two children moved in with her and her two children. She thought that having one household instead of two would save them money overall. In May of 2012, Ms. G properly reported the additional people she wished to have added to her household.<sup>1</sup>

Ms. G submitted her Eligibility Review Form on July 27, 2012, to recertify her household's Food Stamp eligibility.<sup>2</sup> At that time, the division determined that it had not made any prior adjustments based on the additional household members. On September 25, 2012, the division notified Ms. G of this error.<sup>3</sup> She was informed that she had been overpaid a total of \$305 for the months of July and August.<sup>4</sup> The division acknowledged that the overpayment was due to inadvertent agency error.<sup>5</sup> On October 8, 2012, the

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<sup>1</sup> Exhibit 2.0 – 2.6.

<sup>2</sup> Exhibit 2.7.

<sup>3</sup> Exhibit 2.31.

<sup>4</sup> *Id.* The new calculation included the income of the added household members. Her fiancé and his children all received Supplemental Security Income payments, and her fiancé also received some child support payments. *See* Exhibit 2.9.

<sup>5</sup> *Id.*

division sent a revised notice. Ms. G was told that the overpayment amount was \$465.<sup>6</sup> Ms. G disputed her obligation to repay this amount, but did not dispute the amount calculated by the division.

### **III. Discussion**

Ms. G testified that when she combined households, their expenses also went up. She was not expecting to have a reduction in benefits, and she argued that her household should not be held responsible for the division's error. However, the fact that this was the division's error does not mean that Ms. G is not responsible for repaying the excess benefits.

Food Stamp benefits are governed by federal law. When there has been an overpayment, the division is required to collect most overpayments.<sup>7</sup> The division is only allowed to compromise all or a portion of the claim if "it can be reasonably determined that a household's economic circumstances dictate that the claim will not be repaid in three years."<sup>8</sup> In this case, Ms. G did not request a repayment waiver, and although it will be difficult, it appears from the record that the household could repay the total amount in three years by paying approximately \$13 per week.

Ms. G also raised a concern about her fiancé's child support payments. Because he is receiving public assistance, the obligor's payments to the Child Support Services Division (CSSD) are partially paid to the state, with only a portion being paid directly to the custodial parent, Ms. G' fiancé. Ms. G believes that too much of this money is being withheld. She may be correct, but that is not an issue that can be addressed in this hearing. Her fiancé would need to address that question to CSSD. Her fiancé did testify that he was receiving a portion of the child support payments, and only the amount he actually received was included in the division's calculation. For purposes of this hearing, it appears that the division correctly calculated the household income.

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<sup>6</sup> Exhibit 2.57. The agency explained that the revised notice was based on actual income rather than estimated income.

<sup>7</sup> 7 CFR §273.18(a)(2).

<sup>8</sup> 7 CFR §273.18(e)(7).

#### **IV. Conclusion**

Ms. G received an overpayment of Food Stamp benefits because of inadvertent agency error. Although the overpayment was not her fault, she is still required to repay that amount. Accordingly, the division's decision to require repayment is upheld.

Dated this 23<sup>rd</sup> day of October, 2012.

*Signed*

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Jeffrey A. Friedman  
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 14<sup>th</sup> day of November, 2012.

By: *Signed*

\_\_\_\_\_  
Name: Jeffrey A. Friedman  
Title: Administrative Law Judge

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