

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

IN THE MATTER OF: )

B E. N )

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) OAH No. 12-0505-SNA

) Agency No.

**DECISION**

**I. Introduction**

B E. N submitted an application for recertification of his Food Stamp<sup>1</sup> benefits on March 7, 2012. The Department of Health and Social Services, Division of Public Assistance (Division) notified him that his Food Stamp benefit for the month of April 2012 would be \$19. The Division also made adjustments to his benefits for May and June 2012. He requested a Fair Hearing on May 31, 2012.<sup>2</sup>

Mr. N's hearing was held on July 5, 2012. He appeared in person. Jeff Miller, Public Assistance Analyst, represented the Division by telephone. The hearing was recorded.

Based on the record as a whole and after due deliberation, the Division's decisions setting the amount of Mr. N's Food Stamp benefits for April 2012 through June 2012 are AFFIRMED.

**II. Facts**

Mr. N submitted an application for recertification of his Food Stamp benefits on March 7, 2012.<sup>3</sup> During his recertification interview, Mr. N reported he received Supplemental Security Income (SSI) of \$698 per month and Adult Public Assistance (APA) of \$362 per month, for total monthly income of \$1,060.<sup>4</sup> His application indicated he paid rent of \$795 per month,<sup>5</sup> but he later told the interviewer that he was not currently paying rent or utilities because he had been evicted from his apartment a few days earlier.<sup>6</sup> The Division determined that he was eligible for food stamp benefits in the amount of \$19 per month,<sup>7</sup> and notified him of its decision on March 8, 2012.<sup>8</sup>

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<sup>1</sup> Congress amended the Food Stamp Act in 2008. See Food, Conservation, and Energy Act of 2008, Public Law No. 110-246 Section 4001, 122 Statutes at Large 1651, 1853. The 2008 amendment changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program ("SNAP"). This decision follows the common usage of referring to SNAP as the Food Stamp program.

<sup>2</sup> Ex. 11.

<sup>3</sup> Ex. 2.

<sup>4</sup> Ex. 3.

<sup>5</sup> Ex. 2.5.

<sup>6</sup> Ex. 3.

<sup>7</sup> Exs. 3-3.4.

On April 4, 2012, Mr. N reported that he had begun paying \$250 per month in rent at the home where he was staying. The Division processed this information and determined Mr. N's Food Stamp benefits would not change.<sup>9</sup>

On May 16, 2012, Mr. N reported to the Division that he had moved and was receiving Alaska Housing Assistance for his \$995 per month rent, although he did not know what his portion of the payment would be.<sup>10</sup> On May 21, 2012, Mr. N submitted documents indicating his rental assistance totaled \$583 per month, and that he would be responsible for \$412 of the rent. He also indicated he would be paying electricity and telephone at his new residence.<sup>11</sup> On May 26, 2012, the Division processed Mr. N's case with the new rent amount and determined that his benefits for June 2012 would not change from \$19 per month.<sup>12</sup>

On May 31, 2012, Mr. N contacted the Division to discuss his case. An agency representative added his electrical bill to the list of deductions and informed him his June benefits would increase to \$28 per month.<sup>13</sup> Mr. N then requested a hearing.<sup>14</sup> The agency's notice of the increase was sent to Mr. N on June 1, 2012.<sup>15</sup>

### III. Discussion

The issue in this case is whether the Division correctly calculated Mr. N's Food Stamp benefits for the period from April 2012 through June 2012. Mr. N<sup>16</sup> has the burden of proving by a preponderance of the evidence<sup>17</sup> that his benefits were calculated incorrectly.

Food Stamps is a federal program administered by the State.<sup>18</sup> The Code of Federal Regulations (CFR) contains the rules for calculating the amount of a recipient's monthly Food Stamp benefit.

The Food Stamp program uses a complicated mathematical formula that takes the recipient's household income and expenses into account. The household's gross income is totaled and then

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<sup>8</sup> Ex. 4.  
<sup>9</sup> Exs. 5-5.2.  
<sup>10</sup> Ex. 6.  
<sup>11</sup> Exs. 7-7.1.  
<sup>12</sup> Ex. 8.  
<sup>13</sup> Exs. 10-10.2.  
<sup>14</sup> Ex. 11.  
<sup>15</sup> Ex. 12.  
<sup>16</sup> 2 AAC 64.290(e).

<sup>17</sup> Preponderance of the evidence is defined as: "Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. *Black's Law Dictionary* 1064 (5<sup>th</sup> Ed. 1979).

<sup>18</sup> 7 CFR 271.4(a).

allowable deductions are taken from it to arrive at the net income.<sup>19</sup> Social Security Income and Adult Public Assistance are considered unearned income.<sup>20</sup> A household whose only income is unearned receives a standard deduction of \$252.<sup>21</sup> The other allowable deductions are for “certain dependent care, shelter, child support and medical costs as described in [7 CFR] § 273.9.”<sup>22</sup> Shelter costs are not a dollar for dollar deduction: if the shelter costs are more than half of the adjusted income, the deduction is the amount the shelter costs exceed one half of the adjusted income.<sup>23</sup>

The facts in this case are undisputed. Mr. N has not challenged the Division’s calculations, but simply has argued that his Food Stamp benefits do not cover his food costs, so they should be higher.

The Division followed the federal regulations in calculating Mr. N’s net income and deductions for the purpose of calculating his Food Stamp benefit amounts for April 2012 through June 2012. For April 2012, the Division correctly determined his gross income was \$1,060, and that the only deduction his household was entitled to was the standard deduction of \$252.<sup>24</sup> The result was a Food Stamp amount of \$19 per month.<sup>25</sup> For May 2012, he had a shelter deduction of \$250 because he paid rent to the person with whom he was staying, but it did not increase his Food Stamp benefit amount.<sup>26</sup>

For June 2012, Mr. N had deductions for shelter costs, specifically, rent of \$412 and telephone and electricity deductions totaling \$97. The Division correctly determined, from these figures, that his Food Stamp benefit was \$28.<sup>27</sup>

#### **IV. Conclusion**

Mr. N documented his income and household deductions. The Division used that information to correctly determine the amount of his Food Stamp benefits for the period from April 2012 through June 2012. Mr. N did not prove that his benefits were calculated incorrectly. The Division’s decisions setting his Food Stamp benefit amounts should be affirmed.

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<sup>19</sup> 7 CFR 273.10(e)(1)(i).

<sup>20</sup> 7 CFR 273.9(b)(2)(ii).

<sup>21</sup> 7 CFR 273.9(d)(1).

<sup>22</sup> 7 CFR 273.10(d).

<sup>23</sup> 7 CFR 273.9(d)(6)(ii).

<sup>24</sup> Ex. 3.3.

<sup>25</sup> Ex. 3.4.

<sup>26</sup> Ex. 5.1-5.2.

<sup>27</sup> Ex. 10.1-10.2.

**V. Decision**

The division's decisions setting Mr. N's Food Stamp benefits for the period from April 2012 through June 2012 are AFFIRMED.

DATED this 12th day of July, 2012.

*Signed* \_\_\_\_\_

Kay L. Howard

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 23<sup>rd</sup> day of July, 2012.

By: *Signed* \_\_\_\_\_

Name: Kay L. Howard

Title: Administrative Law Judge

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