

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

In the Matter of:)
)
 A C) OAH No. 12-0518-SNA
) DPA Case No.

DECISION

I. Introduction

A C is a recipient of Food Stamps.¹ In June, 2012, his landlord increased his rent from \$790 per month to \$825 per month. Mr. C notified the Department of Health and Social Services, Division of Public Assistance (Division), which administers the Food Stamp program in Alaska, of the increase in his rent, and the Division recalculated the amount of his benefit. As a result of the \$35 a month increase in his rent, the Division increased Mr. C's Food Stamp benefit by \$10 per month.

Mr. C requested a hearing, and the assigned administrative law judge conducted a telephonic hearing on July 6, 2012. Mr. C participated, and Terri Gagne represented the Division.

Mr. C asserted that the increase in his Food Stamp benefit was insufficient for him to meet his needs, given that his rent increased by more than the benefit. However, the amount of the benefit is subject to a formula that the Division (and the administrative law judge) may not disregard. The Division correctly applied that formula when it determined the amount of Mr. C's benefit, based on the information provided by Mr. C. Accordingly, the Division's determination is affirmed.

II. Facts

A C was found eligible for Food Stamps on March 8, 2012. The amount of his benefit beginning in April, 2012, was determined as \$111 per month,² based on income of \$1,080 per month,³ and expenses including rent of \$790 per month.

¹ 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 Nutritional Assistance program ("SNAP"). This decision follows the common usage of referring to SNAP as the Food Stamp program.

² See Ex. 6.2

³ Division's Fair Hearing Position Statement at 2, noting income from Social Security (SSA = \$550, SSI = \$168) and Adult Public Assistance (\$362). See Exhibit 2.1 (SSA), 2.2 (SSI), 2.3 (Adult Public Assistance).

Effective July 1, 2012, Mr. C's rent was increased to \$825 per month.⁴ The Division recalculated the amount of his Food Stamp benefit, using a worksheet that incorporated the federal rules governing that calculation.⁵ Mr. C's new benefit amount, as determined by the Division, is \$121 per month.⁶

III. Discussion

Mr. C did not assert that the Division had incorrectly calculated his benefit. Rather, he pointed out that because his rent has increased by more than the increase in his Food Stamp benefit, he will have less money available to pay for his living expenses. He asserted that he will not have enough money to pay for his food and medications.

It is true that, as Mr. C points out, an increase in a person's rent does not yield an equivalent increase in that person's Food Stamp allotment. This is because the Food Stamp benefit is based on a specified percentage of available income. Thus, as available income goes down, the Food Stamp benefit does not increase by a commensurate amount. The result, in this case, is that Mr. C's expenses have increased by more than his Food Stamp benefit. But because the Division does not have legal authority to provide a Food Stamp benefit in excess of the amount as determined by law,⁷ and the Division correctly calculated Mr. C's benefit based on the information Mr. C provided to it, the Division's determination is sustained.

Mr. C asserted at the hearing that because he is diabetic, he has special dietary needs that make the cost of his food more expensive. However, special diets are not an allowable medical expense.⁸ Mr. C also asserted at the hearing that he has out-of-pocket medical expenses. However, he did not identify those expenses in connection with the July Food Stamp allotment and he did not raise that issue in his request for a hearing or at the pre-hearing conference with Division staff, and he did not have documentation for them available at the time of the hearing. The Division will consider those expenses in connection with future allotments based on any further information and documentation provided by Mr. C.

⁴ Ex. 4.0.

⁵ Ex. 4.7-4.8

⁶ See Ex. 6.2.

⁷ See, e.g., Burke v. Houston NANA, LLC, 222 P.3d 851, 868-869 (Alaska 2010) ("Administrative agencies are bound by their regulations must as the public is bound by them."); 7 AAC 49.170 ("the role of the [Office of Administrative Hearings] is limited to the ascertainment of whether the laws, regulations, and policies have been properly applied in the case and whether the computation of the benefit amount, if in dispute, is in accordance with them.").

⁸ 7 C.F.R. §273.9(d)(3). See Food Stamp Program Manual, Sec. 602-4(D)(2).

IV. Conclusion

The Division correctly calculated Mr. C's July, 2012, Food Stamp benefit based on the information provided. Accordingly, its determination is **AFFIRMED**.

DATED July 26, 2012.

By: Signed
Andrew M. Hemenway
Administrative Law Judge

Adoption

The undersigned by delegation from the Commissioner of Health and Social Services, adopts this decision as final under the authority of AS 44.64.060(e)(1).

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 9th day of August, 2012.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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