

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

In the Matter of)	
)	OAH No. 12-0649-SNA
<u>S J</u>)	Agency No.

DECISION

I. Introduction

S J receives benefits under the Supplemental Nutrition Assistance Program, commonly referred to as Food Stamps. The Division of Public Assistance (division) notified Mr. J that it had inadvertently overpaid his benefits for a three month period, and that it would requiring him to repay that amount. Mr. J appealed that decision.

On June 21, 2012, the division sent Mr. J a letter asking him how he would like to repay the amount due. He responded that he would like the money taken from his Alaska Permanent Fund Dividend.¹ On June 28, 2012, the agency sent him another letter stating its belief that he wished to withdraw his hearing request, and asking him to state whether that belief was correct.² Mr. J did not withdraw his request.

A hearing was held on July 23, 2012. Mr. J appeared by telephone. The division was represented by Ms. Terri Gagne, who also appeared by telephone. As discussed below, the division's determination should be upheld.

II. Facts

In a letter dated June 6, 2012, the division informed Mr. J that for the months of March, April, and May of 2012, his benefits had been overpaid by a total of \$606.³ This letter stated that the overpayment was because the division had failed to include Mr. J's income from the Adult Temporary Assistance Program. The letter acknowledged the "overpayment was due to Inadvertent Agency Error."

Mr. J testified that he had informed the agency of the change to his income. He further stated that he had frequently provided information to the No Name office and that it

¹ Fax from Mr. J with a fax header dated June 23, 2012.

² The division should not assume that a statement as to how the money should be repaid is equivalent to a withdrawal of the request for a hearing. The June 21 letter only asked Mr. J to indicate a repayment *method*, and nothing in that letter suggests a desire not to have a hearing to determine whether repayment will be necessary.

³ Letter from division in the hearing record.

would be lost; he would have to provide it again even though he had a copy stamped as being received.

Mr. J testified that if he had to repay the amount from his Permanent Fund Dividend check, that it would not be a hardship.

III. Discussion

Mr. J argued that the overpayment was not his fault, and that he should not be held responsible for it. The division's letter acknowledged that the overpayment was due to agency error. However, that the overpayment was not his fault does not, by itself, mean that Mr. J is not required to repay the excess benefits he received.

Food Stamp benefits are governed by federal law. When there has been an overpayment, the division is required to collect most overpayments.⁴ The state is allowed to compromise all or any 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."⁵ In this case, the overpayment amount can be collected from Mr. J's Permanent Fund Dividend. Accordingly, it is reasonable to believe the claim will be paid in full within three years and possibly within one year if the next Permanent Fund Dividend amount is large enough to cover the overpayment. Because the claim will likely be repaid in three years, the division may not compromise the amount, and instead must collect this amount from Mr. J.

IV. Conclusion

It is undisputed that Mr. J received an overpayment of Food Stamp benefits because of inadvertent agency error. Although the overpayment was not his fault, he is still required to repay that amount. Accordingly, the division's decision to require repayment is upheld.

Dated this 24th day of July, 2012.

Signed

Jeffrey A. Friedman
Administrative Law Judge

⁴ 7 CFR §273.18(a)(2).

⁵ 7 CFR §273.18(e)(7).

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 2nd day of August, 2012.

By: Signed _____
Name: Jeffrey A. Friedman
Title: Administrative Law Judge

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