

eligibility technician reviewing her May 2012 application determined that she had been receiving Food Stamp benefits since 2010 as though she were living in No Name instead of Anchorage.⁹

Ms. L's gross monthly income from July 2011 through December 2011 was \$1,231.¹⁰ Her gross monthly income from January 2012 through May 2012 was \$1,255.¹¹ Her monthly rent during the period from July 2011 through May 2012 was \$472.¹² In addition, she had a telephone during this entire period.¹³

The Agency issued Ms. L Food Stamp benefits for July 2011 through May 2012 in the total amount of \$803.¹⁴ This amount was calculated for a person in No Name with her monthly income (\$1,231 for July 2011 through December 2011; \$1,255 for January 2012 through May 2012) and rent of \$472. The Agency's calculations did not provide Ms. L a telephone expense.¹⁵

The Agency recalculated Ms. L's monthly Food Stamp benefits for a person in Anchorage, again using her monthly income, rent expense of \$472, and no telephone expense, for July 2011 through May 2012. The Agency's new calculations showed that Ms. L should have only received \$19 per month for each of the months of July 2011 through May 2012, for a total of \$209.¹⁶ As a result, the Agency determined that Ms. L was overpaid a total of \$594.¹⁷

Ms. L experiences a number of medical conditions, including diabetes, for which she takes both prescription medications and over-the-counter medications and supplements.¹⁸ The Agency did not provide her with a medical deduction for these expenses when it calculated its overpayment claim.¹⁹

Ms. L testified that she gave the Agency copies of her medical receipts. Although she did not provide a specific time frame, her testimony was clear that she had given the information to the

⁹ Ex. 5.0.

¹⁰ Social Security income \$694; Adult Public Assistance income \$362; Senior Benefits income \$175. Exs. 5.7 – 5.9.

¹¹ Social Security income \$718; Adult Public Assistance income \$362; Senior Benefits income \$175. Exs. 5.8, 5.23 – 5.25.

¹² Ex. 2.7; L testimony.

¹³ Exs. 2.2, 4.2; L testimony.

¹⁴ Exs. 8.7 – 8.8.

¹⁵ Exs. 5.1 – 5.2, 5.18 – 5.19.

¹⁶ Exs. 5.3 – 5.4, 5.20 – 5.21.

¹⁷ \$803 in issued benefits less \$209 benefits actually entitled to. *See* Exs. 6.0 – 6.20; 8.0 – 8.19.

¹⁸ L testimony.

¹⁹ Exs. 5.1 – 5.4, 5.18 – 5.21.

Agency well before it instituted this collection action. The Agency did not call any witnesses to contradict Ms. L's testimony.

The Agency maintained that it had very limited medical expense information in its file.²⁰ The parties were given a post-hearing opportunity to produce the medical expense information in their possession.

The Agency provided one page, date stamped as having been received by the Agency on May 30, 2012, which consisted of a handwritten list from Ms. L entitled "[t]hese are some of the things that are requested" and one pharmacy receipt, without any identification of what was purchased, in the amount of \$2.20, with an illegible date. The handwritten list contained the following:

B- 12 shot	\$11.99
Needles	\$ 1.25
Diabetic test strips (carton of 50)	\$70.00
Monthly Meds	\$31.25
Glucerna Boost	\$10.99 x 4 monthly
Alpha Lipoic Acid	\$ 9.99
Vitamin D	\$11.99
Counted (sp?) Glucerna drink once	\$32.97 ²¹

Ms. L provided three relevant documents. The first was an undated copy of one page of a Medicare statement indicating that she had no "out-of-pocket costs" for November 2011, and that her year-to-date "out-of-pocket costs" since January 2011 were \$4,550.²² The second was an undated copy of one page of a Medicare statement indicating that her "out-of-pocket costs" for May 2012 were \$208.79, while her year-to-date "out-of-pocket costs" since January 2012 were \$592.32.²³ Neither of the Medicare statements contained an itemization or breakdown of Ms. L's out-of-pocket costs. The third document was an unidentified computer printout showing that she had received B-12 shots in October and November 2011 at a cost to her of \$11.99 for each shot, and prescription Vitamin D

²⁰ Gagne statement.

²¹ Ex. 29.

²² Ex. A.

²³ Ex. B.

tablets in September 2011 at a cost to her of \$11.99, and prescription Vitamin D tablets in October and November 2011 at a cost to her of \$2 for each refill.²⁴

The Agency's May 29, 2012 printout of Food Stamp benefits deductions allowed Ms. L a medical expense deduction of \$280.²⁵

III. Discussion

The primary issue in this case is whether Ms. L is required to reimburse the Agency for Food Stamp benefits that she should not have received. Ms. L does not dispute the Agency's fundamental premise that it provided Ms. L with Food Stamp benefits as though she were living in No Name, when she was actually living in Anchorage.²⁶ Ms. L also does not dispute the Agency's contention that if she was overpaid benefits, that she is required to reimburse them. Ms. L's disagreement lies with the Agency's calculations of what Food Stamp benefit amount she should have received for the time period for July 2011 through May 2012.

Although not raised by Ms. L, a review of the facts shows that the Agency did not provide her with a deduction for telephone expense (\$27)²⁷ in its calculations. The Agency also did not give Ms. L a medical expense deduction. Because she is over 60 years old, Ms. L is entitled to a medical expense deduction for medical expenses over \$35 per month.²⁸ Allowable deductions include both prescription and over-the-counter medications approved by a licensed medical practitioner, and medical supplies; costs for special diets are not allowed as a deduction.²⁹

The Agency argued Ms. L should not receive a medical expense deduction because she had not provided it with those costs until the very end of May 2012 and provided Ms. L's handwritten cost list, date stamped May 30, 2012, as proof.³⁰ The Division's argument is not persuasive for two reasons. First, the Agency calculates benefit repayments based on what benefits a household should have received as compared to what benefits the household actually received. It is therefore appropriate to

²⁴ Ex. C.

²⁵ Ex. 6.19.

²⁶ A one-person household living in No Name may receive up to \$371 per month in Food Stamp benefits, whereas a one-person household living in Anchorage may only receive up to \$239 per month in Food Stamp benefits. *See Alaska Food Stamp Manual* Addendums 1 and 4. As a result, a financially eligible person with the exact same income would receive a larger Food Stamp benefit in No Name than in Anchorage.

²⁷ *See Alaska Food Stamp Manual* Addendum 4.

²⁸ 7 C.F.R. § 273.9(d)(3).

²⁹ 7 C.F.R. § 273.9(d)(3).

³⁰ Ex. 29.

allow Ms. L all the deductions she should have received, including a deduction for her out-of-pocket medical expenses that exceed \$35 per month when calculating her repayment obligation, if any. Second, Ms. L's testimony that she had provided the Agency with her medical expenses at an earlier date was not contradicted by another witness. In addition, the Agency's May 29, 2012 Food Stamp printout contains a \$280 medical deduction for Ms. L.³¹ As a result, it is more likely than not that Ms. L provided the Agency with proof of her medical expenses sometime before May 30, 2012.

The Food Stamp program does not allow a medical expense deduction for special diets.³² Ms. L's handwritten May 30, 2012 medical expense list contains two items for Glucerna, which is a nutritional drink.³³ When those two items are removed, the expenses on that list total \$124.48. This amount is consistent with the Medicare out-of-pocket costs statement for January through May 2012 of \$592.32, which results in a monthly average out-of-pocket cost of \$118.46.³⁴ Because some of Ms. L's medical expenses are most likely not reflected on her Medicare statement, she is allowed the higher amount of \$124.48 for her monthly medical expense deduction for the months of January through May 2012.

Ms. L's Medicare out-of-pocket cost statement for the period from January through November 2011 was substantially higher. It showed out-of-pocket medical costs totaling \$4,550 for that 11-month period, an average monthly expense of \$413.64.³⁵ However, that same statement showed \$0 out-of-pocket costs for the month of November 2011,³⁶ *i.e.*, that \$4,550 in out-of-pocket costs were incurred sometime during the ten month period of January through October 2011. There is no indication in the record as to what those out-of-pocket costs consisted of, or when exactly they were incurred during January through October 2011. Those costs, in comparison to Ms. L's May 30, 2012 medical expense list and her January through May 2012 Medicare out-of-pocket cost list, appear to be an anomaly. For July through December, 2011, Ms. L will therefore be limited to her more "typical" medical expenses of \$124.48 as determined for January through May 2012.

³¹ Ex. 6.19.

³² 7 C.F.R. § 273.9(d)(3).

³³ Ex. 29.

³⁴ Ex. B.

³⁵ Ex. A.

³⁶ Ex. A.

The recalculation of Ms. L's Food Stamp benefits for July through December 2011, based on her Anchorage residence, monthly rent of \$472, income of \$1,231, and allowing her a telephone expense of \$27 and a medical expense deduction of \$89.48,³⁷ results in her being entitled to receive \$19 per month in Food Stamp benefits for that period.³⁸ Similarly, the recalculation of her Food Stamp benefits for January through May 2012, based on her Anchorage residence, monthly rent of \$472, income of \$1,255, and allowing her a telephone expense of \$27 and a medical expense deduction of \$124.48, results in her being entitled to receive \$19 per month in Food Stamp benefits for that 11 month period.³⁹ Those total benefits amount to \$209.

Ms. L received a total of \$803 in Food Stamp benefits during the 11 month time period from July 2011 through May 2012. Because the Agency has met its burden of proof and shown that she should have received \$209, she was overpaid by \$594 in Food Stamp benefits.

IV. Conclusion

The Agency's decision to require Ms. L to repay \$594 in Food Stamp benefits is **AFFIRMED**.
DATED this 15th day of August, 2012.

Signed

Lawrence A. Pederson
Administrative Law Judge

³⁷ Because Ms. L is only allowed a medical deduction for her expenses that are greater than \$35 dollars, her actual deduction would be \$89.48 (\$124.48 - \$35 = \$89.48).

³⁸ A copy of the calculations for July through December 2011 is attached as Attachment A.

³⁹ A copy of the calculations for January through May 2012 is attached as Attachment B.

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 28th day of August, 2012.

By: Signed _____
Name: Ree Sailors
Title: Deputy Commissioner
Department/Office: DHSS

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