

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

In the Matter of:)
)
 N J) OAH No. 12-0782-SNA
) Agency No.
_____)

DECISION

I. Introduction

N J was the recipient of food stamps under the Supplemental Nutrition Assistance Program (SNAP).¹ The Division of Public Assistance (division) determined that Ms. J had received food stamps in error and seeks reimbursement of \$916 in benefits received by Ms. J.

A hearing was held on November 13, 2012. Ms. J appeared by telephone, and the division was represented in person by Public Assistance Analyst Jeff Miller. Because the division is required to seek reimbursement of benefits paid in error, its decision to do so is affirmed.

II. Facts

The underlying facts are not in dispute and are taken from the evidence and testimony presented at hearing. Ms. J received \$916 in food stamp benefits from July 2012 through October 2012. She was issued food stamps because of a division error. It failed to include her tips as countable income. Had the division correctly calculated her income, Ms. J would not have received the benefit because her income exceeded the maximum allowed for a household of two.

When the administrative error was discovered, the division stopped Ms. J's benefit and sought reimbursement of the \$916 paid in error.

III. Discussion

Because there is no dispute that Ms. J received an overpayment of benefits, the only issue is a question of law: May the division seek reimbursement of those benefits? Ms. J argued 1) she should not be responsible for paying back the overpaid food stamp benefit since the Division's mistake caused the overpayment, and 2) that repayment would cause a hardship.

¹ 7 U.S.C. §2013.

SNAP is a federal program administered by the State of Alaska pursuant to 7 CFR §§ 271 – 274 and 7 AAC 46.010 – 990. The federal regulations define a claim to include amounts owed because benefits were overpaid.² Claims are divided into three categories: 1) intentional program violations by the recipient (IPV claim); 2) inadvertent errors by a recipient household (IHE claim); and 3) agency errors (AE claim).³ This case involves the third type of claim, AE.

The division, as the state agency administering SNAP, is required to “establish and collect” all claims pursuant to the federal regulations.⁴ This includes claims due to agency error. There is no applicable exception to this requirement.⁵

Notwithstanding its obligation, the division recognizes (as did Congress) that recoupment of overpayments made to innocent households may cause hardship. The division seeks to minimize the hardship by providing that where appropriate the parties may enter into a repayment agreement that provides for periodic payments,⁶ and may compromise all or a portion of the claim if it is determined that, because of the household’s economic circumstances, the claim will not be paid in three years.⁷

IV. Conclusion

There is no dispute that Ms. J did receive an overpayment of benefits in the amount of \$916. The division’s decision to seek reimbursement of that amount is affirmed. This decision does not preclude the parties from entering into a repayment or compromise agreement.

DATED this 14th day of November, 2012.

By: Signed
Rebecca Pauli
Administrative Law Judge

² 7 CFR §273.18(a)(1)(i).

³ 7 CFR §273.18(b).

⁴ 7 CFR §273.18(a)(2) (“[Claims for overpaid benefits regardless of fault are] a federal debt . . . The State agency must establish and collect any claim . . .”); 7 CFR 273.18(a)(4)(i) (“Each person who was an adult member of the household when the overpayment . . . occurred” is responsible for the claim); 7 CFR 273.18(b)(3) (recognizing that an overpayment caused by agency error is a collectable claim); *Also see Allen v. State, DHSS*, 203 P.3d 1155 (Alaska, 2009).

⁵ The state has exercised its discretion not to establish and collect claims that are not cost effective. 7 AAC 46.021(a)(43); 7 CFR §273.18(e)(2). There is no indication in the record that this claim would fit within the definition of claims that would not be cost effective.

⁶ 7 CFR §273.18(e)(4).

⁷ 7 CFR §273.18(e)(7).

Adoption

The undersigned 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 26th day of November, 2012.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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