

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

In the Matter of)
)
 M N) OAH No. 12-0853-SNA
) Agency Case No.
 _____)

DECISION

I. Introduction

M N applied to renew his Food Stamp¹ benefits. The Department of Health and Social Services, Division of Public Assistance (Division) denied his application because his gross monthly income made him financially ineligible for Food Stamp benefits. Mr. N requested a hearing.

Mr. N's hearing was held on November 29, 2012. Mr. N represented himself and testified on his own behalf. Terri Gagne, a Public Assistance Analyst with the Division, represented the Division.

The Division's decision that Mr. N's Food Stamp application should be denied is **AFFIRMED**.

II. Facts

The following facts were proven by a preponderance of the evidence.

Mr. N was a Food Stamp recipient who applied to renew those benefits for his one person household on October 12, 2012.² At the time of his application, he had been continuously employed with the same employer since March of 2012. He is paid every two weeks. The gross amount of his pay for the two pay periods immediately preceding his application were \$958.07 (pay date October 5, 2012) and \$971.42 (pay date September 21, 2012).³

The Division calculated that Mr. N's gross monthly income from his job was \$2,074.19 and denied his application because his income made him financially ineligible for Food Stamp benefits.⁴ The Division arrived at the figure of \$2,074.19 by adding Mr. N's two most recent gross pay amounts together ($\$958.07 + \$971.42 = \$1,929.49$), dividing the result by two to arrive

¹ Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program ("SNAP"). However, the program is still commonly referred to as the Food Stamp program.

² Exs. 1, 2.0 – 2.5.

³ Exs. 2.7, 2.9.

⁴ Ex. 2.12.

at an average biweekly gross pay amount of \$964.74, and then multiplying that average biweekly gross pay amount by 2.15 to arrive at a gross monthly income of \$2,074.19.⁵

III. Discussion

The Food Stamp program is a federal program which is administered by the State of Alaska.⁶ The Code of Federal Regulations contains the rules for determining if an applicant is eligible for Food Stamp benefits.

Each Food Stamp application involves an independent and new eligibility determination. An application to renew Food Stamp benefits is treated similar to a new application; a person who applies to renew Food Stamp benefits “has no protectable property interest in the continuous entitlement to food stamps beyond the expiration of its certification period.”⁷

Mr. N argued that the Division should base his financial eligibility on his net (or take home) pay, instead of his gross pay. His argument was based, in part, on notices he has received in the past regarding Food Stamp eligibility and benefits, which do not use the term “gross income” but rather just “income.”⁸ Mr. N’s argument is not persuasive. Even though the Division’s notices may not use the term “gross income,” the federal Food Stamp regulations are clear that eligibility is based, in part, upon a household’s gross monthly income. If a one person household makes more than \$1,514 in gross income per month, it does not qualify for Food Stamp benefits.⁹ Items that are deducted from a person’s gross pay to arrive at his net (or take home) pay, such as Federal and state income and unemployment tax payments, Social Security contributions, Medicaid contributions, retirement contributions, and health insurance payments, are not excluded from gross income when determining an applicant’s financial eligibility.¹⁰

Mr. N also argued that the Division did not calculate his gross monthly pay correctly. The Division calculated his gross monthly pay by averaging his then two most recent gross pay amounts to arrive at an average biweekly gross paycheck amount and then multiplying that

⁵ Ex. 2.6.

⁶ 7 C.F.R. § 271.4(a).

⁷ *Banks v. Block*, 700 F.2d 292, 297 (6th Cir. 1983).

⁸ See, e. g., Division notice dated April 5, 2012: “[y]ou must tell us when the monthly income of all persons receiving food stamp benefits in your case totals more than \$1,474.00” Ex. 2.18.

⁹ 7 C.F.R. § 273.9(a)(1)(ii); *Alaska Food Stamp Manual Addendum 4* (For the period effective October 1, 2012 through September 31, 2013).

¹⁰ See 7 C.F.R. § 273.9(c) for a list of items excluded from gross income.

amount by 2.15. Mr. N's objection was not to the Division's averaging of his two most recent paychecks to arrive at an average biweekly gross pay amount. Instead, he objected to the Division's multiplying his average biweekly gross pay amount by 2.15 to arrive at a monthly gross income figure, because he argued that most months only have two pay periods in them. However, the Food Stamp regulations, containing the income calculation process, require that when an applicant is paid every two weeks, his biweekly income must be multiplied by 2.15 to arrive at the monthly income amount.¹¹ Mr. N's argument objecting to this process is therefore not persuasive.

In conclusion, the Division was required to base its eligibility determination upon Mr. N's gross monthly income, not his net (or take home) monthly income. It correctly calculated that his gross monthly income was \$2,074.19. This exceeds the Food Stamp program's gross monthly income limit of \$1,514 for a one person household and makes Mr. N ineligible for Food Stamp benefits.

IV. Decision

The Division's decision that Mr. N's Food Stamp application should be denied is **AFFIRMED**.

DATED this 3rd day of December, 2012.

Signed _____
Lawrence A. Pederson
Administrative Law Judge

¹¹ 7 C.F.R. § 273.10(c)(2)(i); 7 AAC 46.021(a)(28).

Adoption

The undersigned, by delegation from 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 18th day of December, 2012.

By: Signed
Name: Lawrence A. Pederson
Title: Administrative Law Judge

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