

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

In the Matter of:)	
)	OAH No. 12-0855-SNA
D C)	Agency No.
_____)	

DECISION

I. Introduction

D C requested a hearing to challenge the Division of Public Assistance’s decision to prorate his Supplemental Nutrition Assistance Program (SNAP) benefits, commonly referred to as Food Stamps.¹ Mr. C’s hearing was held November 28, 2012 and continued to December 5, 2012. He participated by phone in the first hearing and failed to appear or otherwise participate in the second hearing. Terri Gagne represented the division. The record closed without further participation from Mr. C. Because Mr. C failed to meet his burden of establishing that he was entitled to receive benefits effective November 1, 2012, the division’s decision to prorate his benefits from November 5, 2012 is affirmed.

II. Facts

Mr. C had been certified to receive SNAP benefits up through October 31, 2012. In September, the division mailed a notice and recertification application. If Mr. C wanted to avoid a delay in benefits, the division would need to receive the application no later than the 15th of October.²

Shortly after the first of November Mr. C went grocery shopping and discovered that his SNAP benefits had not been recertified.³

On November 5, 2012, Mr. C called the division to find out what had happened. It was then that he was informed that no recertification application was received and his benefits automatically ended November 1, 2012. He faxed in a recertification application that same day and an intake interview was conducted. Mr. C was found eligible and informed that he would

¹ Congress renamed the Food Stamp program in 2008. Food, Conservation, and Energy Act of 2008, Public Law No. 110-246, §4001. The term “Food Stamp” is still used in regulations, manuals, and forms.

² Exh. 2.

³ C Testimony.

receive a prorated benefit for November in the amount of \$199. Effective December, Mr. C would receive an unprorated benefit in the amount of \$239.

When Mr. C learned that his November benefit would be prorated because the division did not receive his application until November 5, 2012, he requested a hearing. Mr. C believes his November SNAP benefit should not be prorated because he timely faxed the recertification in October and he should not be penalized for what occurred on the receiving end of the facsimile.⁴

III. Discussion

Mr. C's hearing was held as scheduled but was continued to provide Mr. C with an opportunity to review the division's position statement. Mr. C had notice of the continued hearing because on December 3, 2012 he emailed the Office of Administrative Hearings to confirm the date and time of his continued hearing. At the scheduled day and time, he was called at the telephone number he provided. The phone went unanswered. After a short delay, another call was placed to the same number and again there was no answer. Mr. C had notice and an opportunity for hearing.

The only evidence from Mr. C is his testimony. He testified that he timely faxed the recertification application to the division. The division has no record of receipt. Mr. C failed to present evidence tending to corroborate his testimony. For example, no report showing where the document was faxed, when it was received, or the number of pages received. Without corroboration, Mr. C's testimony is insufficient to support a finding that the recertification application was received by the division prior to the end of the certification period, October 31, 2012.

However, the evidence does support a finding that Mr. C filed an application on November 5, 2012. Because this application was filed within 30 days after the end of the certification period, applicable regulations require the benefit be prorated from the date of application, to the end of the month.⁵

⁴ C Testimony.

⁵ 7 C.F.R. § 273.14(e)(3); 273.10(a)(ii).

IV. Conclusion

The Division's decision to prorate Mr. C's 2012 November SNAP benefit is affirmed.

Dated this 6th day of December, 2012.

Signed

Rebecca L. Pauli
Administrative Law Judge

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 17th day of December, 2012.

By: *Signed*

Name: Rebecca L. Pauli
Title: Administrative Law Judge

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