

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

In the Matter of	)	
	)	OAH No. 13-0071-SNA
T T	)	Division No.
_____	)	

**DECISION**

**I. Introduction**

T T receives Food Stamp (also referred to as Supplemental Nutrition Assistance Program) benefits.<sup>1</sup> The Division of Public Assistance (Division) modified her Food Stamp benefit amount to \$221 for January 2013 and to \$373 per month for the months of February 2013 onward.<sup>2</sup> Ms. T requested a hearing.

Ms. T' hearing was held on February 8, 2013. Ms. T represented herself and testified on her own behalf. Terri Gagne, Public Assistance Analyst with the Division, represented the Division and testified on its behalf.

Because the record shows that the Division correctly estimated both Ms. T' anticipated unemployment benefits and her anticipated employment income, the Division's decision modifying her Food Stamp benefit amount for January 2013 and for February 2013 onward is **AFFIRMED**.

**II. Facts**

Ms. T received \$578 in Food Stamp benefits in December 2012.<sup>3</sup> She applied to renew her Food Stamp benefits on December 4, 2012.<sup>4</sup> At the time of her interview, which occurred on January 3, 2013, the Division contacted the Department of Labor, which verified that Ms. T was scheduled to begin receiving unemployment checks in the amount of \$166 per week and would receive three unemployment checks in January 2013.<sup>5</sup> Ms. T was also working part time and her hours varied. The Division calculated, based upon its average of her past five paychecks, that she would be receiving \$384.01 in gross wages and \$498 in unemployment during the month of January.<sup>6</sup> The Division then notified Ms. T that she would receive \$221 in Food Stamp benefits

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<sup>1</sup> Ex. 2.0.  
<sup>2</sup> Exs. 2.15a, 2.28.  
<sup>3</sup> Ex. 2.31.  
<sup>4</sup> Ex. 2.0.  
<sup>5</sup> Ex. 2.10.  
<sup>6</sup> Ex. 2.10.

for January 2013.<sup>7</sup> The Division also notified Ms. T that she would receive \$422 in Food Stamp benefits for the month of February 2013 forward, based upon her receipt of \$166 per month in unemployment benefits and her monthly gross wages of \$384.01.<sup>8</sup>

On January 9 and 10, 2013, the Division spoke to Ms. T' employer, who stated in each conversation that Ms. T' hourly wage was \$9.50 and that she was expected to work ten hours per week.<sup>9</sup> The Division then calculated that her monthly gross wages were \$389.15.<sup>10</sup> The Division then recalculated Ms. T' Food Stamp benefits for the month of February 2013 onward, based upon her receiving no unemployment income, her anticipated wages of \$389.15 per month, and her receipt of \$819 per month in Temporary Assistance benefits, and arrived at a Food Stamp benefit amount of \$373 beginning in February 2013.<sup>11</sup>

Ms. T only received \$166 in unemployment benefits during January 2013.<sup>12</sup> Ms. T explained that because she was ill and unable to work during part of January 2013, she did not receive full unemployment benefits that month.<sup>13</sup> Ms. T testified that the Division erred when it counted her as working ten hours per week. She said that she did not have a guaranteed number of hours and that she worked only five hours per week.<sup>14</sup> Ms. T supplied two paystubs post-hearing, which showed that she worked five hours during the two week period from December 23, 2012 through January 5, 2013 and ten hours during the two week period from January 6, 2013 through January 19, 2013.<sup>15</sup>

### III. Discussion

Food Stamps is a federal program administered by the State.<sup>16</sup> In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both

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<sup>7</sup> Ex. 2.15a.

<sup>8</sup> Ex. 2.15.

<sup>9</sup> Exs. 2.16, 2.26.

<sup>10</sup> 10 hours per week x \$9.50 = \$90.50 per week. \$90.50 per week x 4.3 weeks per month = \$389.15. *See* Ex. 2.16.

<sup>11</sup> Exs. 2.19, 2.20, 2.23 – 2.25, 2.28.

<sup>12</sup> T testimony; Ex. 23 (February 8, 2013 Department of Labor Printout).

<sup>13</sup> T testimony.

<sup>14</sup> T testimony.

<sup>15</sup> Ex. A, pp. 1 – 2.

<sup>16</sup> 7 C.F.R. § 271.4(a).

Food Stamp eligibility and benefit amounts.<sup>17</sup> Food Stamp benefit amounts are calculated based upon a household's monthly income, after allowable deductions are taken from the household's gross monthly income, and the number of people living in the household.<sup>18</sup>

The starting point for Food Stamp benefit calculations begins with a household's gross monthly income. The household's gross monthly income is reduced by a standard deduction of \$256, and if the household includes a disabled person, he or she is allowed a medical expense deduction for the amount of his or her medical expenses that exceed \$35 per month.<sup>19</sup> Persons who are employed are entitled to an additional deduction, which is based upon the amount of their employment income.<sup>20</sup>

Once the standard deduction and any medical deduction are subtracted from the household's gross monthly income, the household's "shelter expenses" (rent and utilities) are taken into account. A Food Stamp recipient is not allowed to deduct his or her entire shelter costs from his or her income, but only that portion that exceeds 50% of his or her income, after the gross income has been reduced by the standard deduction of \$256 and the excess medical costs deduction.<sup>21</sup> After applying the "shelter expenses" deduction, the result is the household's net income.

The final step in the Food Stamp benefit calculation process is to calculate 30 percent of the household's net income, and then subtract that amount from the maximum Food Stamp benefit amount for the household size. The result is the household's Food Stamp benefit amount.<sup>22</sup> The maximum Food Stamp allotment amount for a three person household located in an urban area is \$627.<sup>23</sup>

This case does not involve any disagreement regarding household size or shelter costs. The items in dispute have to do with the amount of unemployment income the Division

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<sup>17</sup> 7 AAC 46.010.

<sup>18</sup> 7 C.F.R. § 273.9(b) and (d); 7 C.F.R. 273.10(e).

<sup>19</sup> 7 C.F.R. § 273.9(d)(1) and (3). *Alaska Food Stamp Manual* Addendum 4. Persons who are employed are entitled to an additional deduction, which is based upon the amount of their employment income. 7 C.F.R. § 273.9(d)(2).

<sup>20</sup> 7 C.F.R. § 273.9(d)(2).

<sup>21</sup> 7 C.F.R. § 273.9(d)(6)(2)(ii).

<sup>22</sup> 7 C.F.R. § 273.10(e)(1) and (2).

<sup>23</sup> The area where Ms. T lives is classified as an urban area. *Alaska Food Stamp Manual* Addendum 1.

attributed to Ms. T during the month of January 2013, and the amount of employment income the Division attributed to Ms. T for January 2013 onward.

*A. Unemployment Income*

This is a purely legal issue. The Division estimated that Ms. T would receive three unemployment checks during January 2013. She only received one. However, there was no way for either the Division or Ms. T to anticipate that she would be ill in January, unable to work, and as a result not receive unemployment benefits for a portion of January. The Division therefore made its decision based upon the information available to it; Ms. T has not shown that the information was inaccurate or incomplete at the time of the Division's decision. The Division is required to engage in prospective budgeting, i.e. make an estimate of an applicant's income.<sup>24</sup> If the Division were to change its benefit determination based upon after-the-fact changes in income for a month after benefits have already been issued, it would be engaging in retrospective budgeting. The Division's calculation of Ms. T' Food Stamp benefit amount for January 2013 was therefore appropriately based upon the expectation that Ms. T would receive three unemployment checks in January 2013. As a result, the Division's calculations of Ms. T' Food Stamp benefit amount for January 2013 are not changed due to the unanticipated change in her unemployment income.

*B. Employment Income*

This is a factual issue that affects Ms. T' Food Stamp benefits for January 2013 and for February 2013 forward. The Division determined, based upon its averaging of Ms. T' paychecks, that she would receive \$384 in employment income for January 2013. It also determined, based upon its telephone calls to Ms. T' employer, that she would work an average of 10 hours per week, and earn \$389.15 per month for February 2013 forward.

Ms. T disagreed and argued that she only worked five hours per week. She submitted two paystubs. One was for the end of December 2012 to the beginning of January 2013, which only showed a total of five hours, and the other was for two weeks beginning in early January, which only showed a total of ten hours worked, *i.e.*, both paystubs showed Ms. T worked for less than ten hours per week. However, Ms. T testified she was ill in January 2013, which could very

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<sup>24</sup> 7 AAC 46.020(a)(48); 7 C.F.R. § 273.21(a)(2).

well account for her small number of work hours. Again, as with her unemployment income, the Division is required to make prospective income determinations, not retrospective. The historical averaging of Ms. T's paychecks showed \$384 a month in income and the Division placed two phone calls to her employer where the Division was told each time that Ms. T was expected to work ten hours per week. It is therefore more likely true than not true than Ms. T was reasonably expected to work ten hours per week at the time the Division made its decision setting her January 2013 Food Stamp benefit level at \$221 and at \$373 beginning with the month of February 2013. As a result, the Division's estimate of Ms. T' income for January 2013 and for February 2013 forward remains unchanged.

In summary, the Division followed its prospective budgeting process when it anticipated that Ms. T would receive three unemployment payments in January 2013. Based upon the evidence presented, it also correctly anticipated Ms. T' employment income for the month of January 2013 and for the months of February 2013 onward. As a result, the Division's calculations of Ms. T' Food Stamp benefit amounts for January 2013 and for February 2013 forward are unchanged.

#### **IV. Conclusion**

The Division's decision to change Ms. T' Food Stamp benefit amount to \$221 for the month of January 2013 is AFFIRMED, as is its decision to change her Food Stamp benefit amount to \$373 beginning with the month of February 2013.

DATED this 21<sup>st</sup> day of February, 2013.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
Administrative Law Judge

## 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 7<sup>th</sup> day of March, 2013.

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

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