



A division eligibility technician (ET) contacted the Child Support Services Division (CSSD) on February 11, 2013, to inquire whether CSSD anticipated a change in Ms. X's child support payments from Mr. X. CSSD's February 13, 2013 response was that "[p]ayments should continue as is as long as [non-custodial parent's] employment stays the same or someone requests a modification."<sup>7</sup>

The Division was unable to verify that Mr. X had lost his job and would be unable to pay ongoing child support. On February 25, 2013, an ET reviewed Ms. X's recent child support payment history and found the following payments were made to her:

November 2012	\$2,486.68
December 2012	\$2,429.28
January 2013	\$1,982.26
February 2013 (as of February 25)	\$1,358.90

The ET then averaged Ms. X's support payments for November 2012 through January 2013 and arrived at an average monthly child support figure of \$2,299.41.<sup>8</sup> The ET did not use the month of February in the averaging because the month was not yet complete. The ET recalculated Ms. X's Food Stamp benefit amount at \$645 per month based upon the averaged child support income.<sup>9</sup> Ms. X's monthly Food Stamp benefit amount was increased to \$645 per month beginning with March 2013.<sup>10</sup>

Ms. X requested a hearing on March 1, 2013. In her hearing request, she informed the Division that Mr. X's last day of employment was January 25; his last payday was February 1; and that the last child support payment received from him was made on February 8, 2013. Her hearing request further stated that payments made after that date were from the other persons who pay her child support.<sup>11</sup>

After the Division received Ms. X's hearing request, an ET reviewed Ms. X's child support payments and recalculated her average monthly child support income using the payments she received for the entire months of December 2012, and January and February 2013 (the total for February was \$1,358.90). This resulted in an average income of \$1,923.48. The Division

---

<sup>7</sup> Ex. 2.5.

<sup>8</sup> November \$2,486.68 + December \$2,429.28 + January \$1,982.26 = \$6,898.22.  $\$6,898.22 \div 3 = 2,299.41$ .

See Ex. 2.6.

<sup>9</sup> Ex. 2.6.

<sup>10</sup> Ex. 2.7.

<sup>11</sup> Ex. 2.8.

initially notified Ms. X that her benefits would be raised to \$727 per month beginning with April; however, that calculation was based upon a mathematical error, and the Division authorized benefits for Ms. X in the amount of \$758 beginning with April.<sup>12</sup>

The household size, income, and expenses used in the Division's calculations were reviewed with Ms. X. Her only area of disagreement was with the amount of child support income counted by the Division in arriving at her benefit amount.<sup>13</sup>

### III. Discussion

Food Stamps is a federal program administered by the State.<sup>14</sup> In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both Food Stamp eligibility and benefit amounts.<sup>15</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>16</sup>

Food Stamp benefit calculations begin with a household's gross monthly income. The next step is to subtract the standard deduction, which is \$268 for a household of more than 5 persons. A household with earned income or a disabled person is entitled to additional deductions, but child support is not considered earned income.<sup>17</sup>

After subtracting the standard deduction from the household's gross monthly income, the household's "shelter expenses" (rent and utilities) are taken into account. A Food Stamp recipient may deduct only those shelter costs that exceed 50 percent of income less the standard deduction.<sup>18</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 subtract 30 percent of the household's net income from the maximum Food Stamp benefit for the household size. The

---

<sup>12</sup> The ET initially calculated that Ms. X's average income for December 2012 – February 2013 was \$2,025.65 and authorized benefits for April forward in the amount of \$727. See Exs. 2.10 – 2.11. The ET subsequently recognized that the calculation was in error, that the actual average was \$1,923.48, which would result in a benefit of \$758. See Exs. 2.12, 2.19 – 2.20. The Division's Food Stamp benefit history printout shows that April benefits were authorized in the amount of \$758. Ex. 2.22.

<sup>13</sup> X testimony.

<sup>14</sup> 7 C.F.R. § 271.4(a).

<sup>15</sup> 7 AAC 46.010.

<sup>16</sup> 7 C.F.R. § 273.9(b) and (d); 7 C.F.R. 273.10(e).

<sup>17</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>18</sup> 7 C.F.R. § 273.9(d)(6)(2)(ii).

result is the household's Food Stamp benefit.<sup>19</sup> The maximum Food Stamp allotment for a seven person household located in an urban area in Alaska is \$1,255.<sup>20</sup>

This case does not involve any disagreement regarding the household size, shelter costs, other deductions, or the Division's calculations. The dispute is over the amount of child support income the Division attributed to Ms. X for March 2013 forward. Ms. X asserted that she was going to lose over \$1,000 per month in child support because Mr. X had lost his job.

Ms. X notified the Division on February 1, 2013, that her child support amount was going to change due to Mr. X's job loss. The Division tried to verify that there was an actual change in the child support obligation, and was unable to. It did, however, act on the reported change in child support received. It averaged the support received for the three complete months before February (November and December 2012, January 2013) and increased the Food Stamp benefit amount beginning with March. Ms. X disagreed with the new benefit amount and requested a hearing on March 1. The Division looked at the child support income again, and averaged the support received for the three complete months preceding March (December 2012, January and February 2013) and again increased Ms. X's Food Stamp benefit amount beginning with April.

At the hearing, the evidence showed that Mr. X had lost his job, but not that Mr. X's child support obligation had changed.<sup>21</sup> The record documented a decrease in child support payments, from a high of \$2,486.68 in November 2012 to a low of \$1,358.90 in February 2013.

The Division is required to engage in prospective budgeting, that is, make an estimate of a recipient's income, when it calculates Food Stamp benefits.<sup>22</sup> Usually, it would rely upon the income received during the past thirty days when estimating future income. However, if income fluctuates, as Ms. X's child support did, the Division is allowed to average income over time to arrive at an estimated income figure.<sup>23</sup> This is exactly what the Division did in Ms. X's case. Because the Division was not able to verify that Mr. X's child support payments had stopped in their entirety, the Division acted properly when, instead of eliminating Mr. X's child support payments as a source of income, it averaged her child support payments for the preceding three month period.

---

<sup>19</sup> 7 C.F.R. § 273.10(e)(1) and (2).

<sup>20</sup> *Alaska Food Stamp Manual* Addendum 1.

<sup>21</sup> While this certainly could affect Mr. X's ability to pay ongoing child support, a number of other factors could influence whether he made his child support payments, such as accrued savings, or how soon he obtains new employment.

<sup>22</sup> 7 AAC 46.020(a)(48); 7 C.F.R. § 273.21(a)(2).

<sup>23</sup> 7 C.F.R. § 273.10(c).

In summary, the Division followed its prospective budgeting process when it averaged the amount of child support income Ms. X received in order to determine her Food Stamp benefit amount. As a result, the Division's calculations of Ms. X's Food Stamp benefit amounts for March 2013 of \$645 and for April 2013 forward of \$758 are affirmed. Ms. X, however, has the right to request a change to her future Food Stamp benefits based upon her income.

**IV. Conclusion**

The Division's decisions to increase Ms. X's monthly Food Stamp benefit amount to \$645 for March 2013 and \$758 for April 2013 forward are affirmed.

DATED this 1st day of April, 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 16<sup>th</sup> day of April, 2013.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge, DOA/OAH

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