

year. Ms. H also noted, that effective January 2013, she would no longer receive \$430 in Adult Public Assistance benefits.

The division denied the application because the household income exceeded the maximum allowable net income for a seven person household.⁵ This was true even when the income was adjusted to reflect that, effective January 2013, Ms. H no longer received \$430 in Adult Public Assistance.⁶

III. Discussion

Food Stamps is a federal program administered by the State.⁷ 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.⁸ 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 eligible people living in the household.⁹

Ms. H sought the benefit for her three nephews who were living with Ms. H's family. Her application was denied because her household income exceeded the maximum household net income for a household of her size. This appeal followed. Ms. H sought to have her husband's income excluded from the household income calculation because the nephews were not his responsibility. She also believed that his income should not be included because his alien status rendered him ineligible for benefits, and in the alternative, to the extent his income should be included it was overstated.

A household includes individuals who live together and customarily purchase food and prepare meals together.¹⁰ It also includes spouses and children under the age of 18 who live with, and are under the parental control of a nonparent household member, regardless of whether they purchase and prepare meals together.¹¹ The Division was required to count all of the children, both Ms. H's children and the three nephews, as part of the household. The H household would therefore normally consist of eight persons, however, Mr. H is not eligible for

⁵ Exh. 2.29.

⁶ If the H household's total adjusted income (TAI) is reduced by \$430, the new monthly income is \$3,864.37. This amount exceeds the maximum allowable income by \$224.37. However, if Mr. H was eligible for food stamps then the TAI would not exceed the maximum for a family of eight, \$4,052.

⁷ 7 C.F.R. § 271.4(a).

⁸ 7 AAC 46.010.

⁹ 7 C.F.R. § 273.9(b) and (d); 7 C.F.R. 273.10(e).

¹⁰ 7 C.F.R. § 273.1(a)(3).

¹¹ 7 C.F.R. § 273.1(b).

Food Stamp benefits because of his “ineligible alien” status.¹² Therefore, the division correctly counted that there were seven household members: Ms. H, her three children, and the three nephews, when determining the “household” size for purposes of food stamp eligibility and benefit amount.

Household income means all income from whatever source less allowable deductions.¹³ When, as here, the household income includes income from an ineligible alien, that income is still counted as part of the household’s total income.¹⁴ A seven person household may not make more than \$3,640 a month in income, after deductions are applied, and financially qualify for benefits.¹⁵ In this circumstance Mr. H’s income is counted as income to the household less Mr. H’s pro rata share as determined under 7 C.F.R. 273.11(c).¹⁶ That total amount is \$4,992.37.¹⁷

It is undisputed that the division’s calculation used income and expense information for Ms. H’s household at the time of her application and this amount exceeds the maximum for a household of seven persons. If Ms. H’s household situation has changed, for example, if her unearned income is reduced or if Mr. H becomes eligible, nothing in this decision precludes Ms. H from reapplying

IV. Conclusion

The division’s conclusion that Ms. H’s application for food stamps should be denied is affirmed.

DATED this 13th of March, 2013.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

¹² Some persons who are not citizens of the United States are not eligible for Food Stamp benefits. *See* 7 C.F.R. §§ 273.1(b)(7)(i), 273.4.

¹³ 7 C.F.R. § 273.9(b).

¹⁴ 7 C.F.R. § 273.11(c)(3).

¹⁵ *Alaska Food Stamp Manual Addendum 4.*

¹⁶ 7 C.F.R. § 273.9(b)(3).

¹⁷ *See* Exhibits 2.24 and 2.25 for the division’s calculations.

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 27th day of March, 2013.

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

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