

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

In the Matter of: )  
 )  
 B C ) OAH No. 13-0255-SNA  
 ) DPA Case No.  
\_\_\_\_\_)

**DECISION**

**I. Introduction**

There is only one issue in this case: whether the State of Alaska Division of Public Assistance (DPA or Division) has the right to attempt to collect certain Supplemental Nutrition Assistance Program (SNAP or Food Stamp)<sup>1</sup> benefits which were overpaid to B C due to a mistake made by the Division.

The parties agree that, through no fault of her own, Ms. C was paid \$627.00 more in SNAP benefits than she should have been paid for the month of September 2012. This decision concludes that, pursuant to the applicable federal regulations, the Division is required to seek reimbursement from Ms. C for the overpaid SNAP benefits. Accordingly, the Division’s decision establishing a claim against Ms. C for the \$627.00 in overpaid SNAP benefits is affirmed.

**II. Facts**

A. *The Overpayment at Issue*

The facts of this case are not in dispute. During the period in which she was receiving SNAP benefits, Ms. C had a three-person household consisting of two adults and one minor child.<sup>2</sup> Ms. C's household began receiving SNAP benefits in May 2012.<sup>3</sup> On August 21, 2012 Ms. C submitted a change reporting form to the Division which stated (among other things) that she had become employed and was receiving income of \$3,076.92 per month.<sup>4</sup> This income put Ms. C's household over the applicable SNAP gross income limit, with the result that Ms. C's household was no longer eligible for SNAP benefits.<sup>5</sup> However, because of its need to verify Ms. C's employment and income information, the Division was unable to terminate Ms. C's SNAP benefits prior to the

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<sup>1</sup> Congress amended the Food Stamp Act in 2008. The 2008 amendment changed the official name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (“SNAP”). This decision uses the new (“SNAP”) terminology.

<sup>2</sup> Ex. 1.

<sup>3</sup> Ex. 1.

<sup>4</sup> Ex. 2.

<sup>5</sup> Ex. 3.

issuance of benefits for September 2012.<sup>6</sup> As a result of this, the Division issued \$627.00 in SNAP benefits to Ms. C's household, for the month of September 2012, to which the household was not entitled.<sup>7</sup>

At the hearing, Ms. C did not dispute the Division's calculation of the amount of overpaid SNAP benefits.<sup>8</sup> Rather, she emphasized that requiring her household to repay the over-issued SNAP benefits would impose a significant hardship on her family.<sup>9</sup>

*B. Procedural History*

On January 11, 2013 the Division mailed a notice to Ms. C stating that, during the months of August and September 2012, she had been paid \$1,254.00 more in SNAP benefits than she should have received, and that the Division was requiring repayment of that amount.<sup>10</sup> The notice acknowledged that the overpayments were due to errors by the Division and were not the fault of Ms. C.<sup>11</sup> However, the notice asserted that federal SNAP regulations require that the Division seek to recover overpaid benefits regardless of which party is at fault.<sup>12</sup>

On January 24, 2013 Ms. C requested that the amount owed be reduced / compromised on the basis of hardship.<sup>13</sup> On January 29, 2013 the Division mailed a notice to Ms. C stating that the Division had considered her request to reduce the amount owed based on hardship, and that the Division had agreed to reduce its claim by \$534.00 to \$720.00.<sup>14</sup> On February 26, 2013 Ms. C requested a hearing on the overpayment collection issue.<sup>15</sup> On March 13, 2013 the Division issued a supplemental notice stating that it was no longer seeking repayment of the August 2012 overpayment, and was only seeking repayment of the September 2012 overpayment in the amount of \$627.00.<sup>16</sup>

Ms. C's hearing was held on March 20, 2013. Ms. C participated in the hearing by phone, represented herself, and testified on her own behalf. Jeff Miller, a Public Assistance Analyst employed by the Division, participated in the hearing by phone, represented the Division, and testified on its behalf. The record closed at the end of the hearing.

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<sup>6</sup> Exs. 3, 10.

<sup>7</sup> Ex. 10.

<sup>8</sup> B C hearing testimony.

<sup>9</sup> B C hearing testimony; Ex. 7.2. This testimony was not disputed by the Division.

<sup>10</sup> Exs. 6.0 – 6.10.

<sup>11</sup> Exs. 6.0 – 6.10.

<sup>12</sup> Exs. 6.0 – 6.10.

<sup>13</sup> Exs. 7.0 - 7.2.

<sup>14</sup> Exs. 8.0, 8.1.

<sup>15</sup> Ex. 9.

<sup>16</sup> Exs. 10.0 - 10.9.

### III. Discussion

The Food Stamp or Supplemental Nutrition Assistance Program (SNAP) is a federal program administered by the states.<sup>17</sup> SNAP benefit amounts are based primarily on the number of people living in the household, and on the monthly income (after applicable deductions) received by those household members.<sup>18</sup> In general, the greater a household's income, the smaller the amount of SNAP benefits the household will receive each month.<sup>19</sup>

The federal statute pertaining to the recoupment of overpaid SNAP benefits is 7 U.S.C.A. § 2022. Subsection (b)(1) of that statute provides in relevant part that the “state agency *shall* collect any overissuance of benefits issued to a household . . . .” [Emphasis added]. This statute requires, on its face, that the Division attempt to recover overpaid SNAP benefits.

The federal implementing regulation pertaining to the recoupment of SNAP benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides in relevant part that “the State agency *must* establish and collect any claim . . . .” Subsection (e)(1) of that regulation also provides in relevant part that “state agencies *must* begin collection action *on all claims* unless [inapplicable].” Finally, pursuant to subsection (b)(3), collection action is required even where (as here) the “overpayment [is] caused by an action or failure to take action by the State agency.” Thus, it is clear that federal regulation 7 C.F.R. § 273.18 requires that the Division attempt to recover overpaid SNAP benefits, *even when the overpayment is the result of the Division’s own error*. This was recently confirmed by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*, 203 P.3d 1155 (Alaska 2009). The federal regulations, and the *Allen* decision, are binding on the Department of Health and Social Services.<sup>20</sup>

### IV. Conclusion

The overpayment at issue was not Ms. C's fault. However, the applicable federal regulations make clear that the state agencies administering SNAP “must establish and collect any claim” for overpaid SNAP benefits. This is the case even where (as here) the overpayment is not the fault of the benefit recipient. Accordingly, the Division's decision to seek recovery of the \$627.00 in Food

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<sup>17</sup> 7 C.F.R. § 271.4(a).

<sup>18</sup> 7 C.F.R. § 273.10(e)(2)(ii)(A).

<sup>19</sup> See Alaska Food Stamp Manual, Addendum 4.

<sup>20</sup> Ms. C does, however, have the right to request that the Division compromise (write-off or forgive) all or part of the overpaid benefits. See SNAP regulation 7 C.F.R. § 273.18(e)(7).

Stamp (SNAP) benefits, which the Division mistakenly overpaid to Ms. C's household during September 2012, is affirmed.

Dated this 21st day of March, 2013.

*Signed* \_\_\_\_\_  
Jay Durych  
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 4<sup>th</sup> day of April, 2013.

By: *Signed* \_\_\_\_\_  
Name: Jay D. Durych  
Title: Administrative Law Judge

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