

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

In the Matter of)
)
 M X)
_____)

OAH No. 13-0417-SNA
Agency No.

DECISION

I. Introduction

M X applied for food stamp benefits and the Division of Public Assistance approved his case on an expedited basis, even though the Division had not yet verified Mr. X's eligibility. Later, when the Division was unable to obtain from Mr. X the information it needed to verify his eligibility, it denied his eligibility and closed his case. Because Mr. X never refused to cooperate, the Division should not have denied his eligibility. The Division's action is reversed.

II. Facts

M X is a 21-year-old man who moved from Oklahoma to Alaska in February 2013. He was staying with his uncle on the No Name. He applied for Food Stamps on March 5, 2013, with assistance from the local tribal organization, which serves as a Fee Agent for the Division, and explained in his application that he had been working in Oklahoma, but his employment ended when he broke his ankle.¹ His application stated that he had no vehicle and no bank account, that he had outstanding medical bills, and that his highest grade completed in school was the ninth grade.² He was looking for work but did not yet have a job, and was obtaining food from the local food pantry when it was open. On March 11, 2013, the Division determined that Mr. X qualified for expedited Food Stamp benefits, which meant he could get benefits right away, before his eligibility was verified.³

On March 12, 2013, the Division sent Mr. X a notice that he was approved for expedited food stamp benefits.⁴ This notice also advised that "[s]ince you needed food stamps right away, we delayed getting some items from you. To continue receiving food stamps, you must provide

¹ See Division Exhibits 2.1; 2.11.

² *Id.*

³ Division Exhibit 3.

⁴ Division Exhibit 4.

by MARCH 22, 2013, the items listed at the bottom of this notice.”⁵ At the bottom of the page was the statement “Items needed:”, which was followed by a long paragraph, all of which was in all capital letters in a small font, with no paragraph breaks.⁶

The first item on the list was written as follows:

1. EMPLOYER PROOF OF YOUR ENDING EMPLOYMENT AND INCOME IN OKLAHOMA WHICH IDENTIFIES THE NAME AND LOCATION OF THE EMPLOYER AND VERIFIES LAST DAY WORKED, GROSS AMOUNT OF YOUR FINAL PAYCHECK AND THE DATE WAS RECEIVED, AND THE REASON FOR THE JOB SEPARATION. WE HAVE SENT AN EMPLOYMENT STATEMENT BY SEPARATE MAIL THAT YOU CAN HAVE YOUR EMPLOYER COMPLETE AND RETURN IF THAT IS MORE CONVENIENT. YOU CAN ALSO HAVE YOU EMPLOYER CALL US AT 907-283-2900 OR FAX THE INFORMATION TO 907-283-6619.⁷

The second item on the list asked, “HOW DID YOU GET TO ALASKA, WHO PAID YOUR WAY, AND WHAT DAY DID YOU ARRIVE?”⁸ The third item in the list asked questions about Mr. X’s uncle.⁹ If Mr. X and his uncle were purchasing, preparing, and storing food together, Mr. X needed to provide full information regarding his uncle’s assets, income, and social security number.¹⁰ If they were purchasing, preparing, and storing food together, Mr. X and his uncle needed to fill out and sign a form that was being sent in a separate mailing.

In a separate mailing, the Division sent Mr. X three forms: one called “Separate Food Stamp Household Statement Agreement to Purchase and Prepare Separately,” one called “Your Rights and Responsibilities,” and one called “Employment Statement.”¹¹ On March 21, 3013, Mr. X signed the three forms and returned them to the Division, which received the forms on March 26.¹² Both he and his uncle signed the Separate Food Stamp Household Statement form.¹³ On the “Your Rights and Responsibilities” form, Mr. X signed the form requesting a Fair Hearing, even though at that point, he had not been denied any benefits.¹⁴ In the space asking for “Reason for Fair Hearing Request,” Mr. X wrote “unemployed – no income – no

⁵ *Id.* (emphasis in original).

⁶ *Id.* The font size for the entire notice appears to be 12 pitch, which is smaller than 12 point.

⁷ *Id.* (capitalization and punctuation in original).

⁸ *Id.* (capitalization in original).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Division Exhibits 5-5.2.

¹² *Id.*

¹³ Division Exhibit 5.

¹⁴ Division Exhibit 5.1.

job.”¹⁵ On the “Employment Statement” form, Mr. X wrote “unemployed” in the space for “Employer’s Name” and did not write anything in the spaces that followed the heading “IF NO LONGER EMPLOYED,” which asked for information such as termination date, the amount and date of last paycheck, and reason for termination.¹⁶

On March 27, 2013, the Division called the phone number listed in Mr. X’s file, and spoke to Mr. X’s uncle.¹⁷ The uncle said that Mr. X was at work.¹⁸ A message was left with the uncle, asking Mr. X to call the Division in order to obtain the needed information.¹⁹ Mr. X never returned the call.²⁰ On April 9, 2013, the Division closed Mr. X’s Food Stamp case, and notified him that he would not receive food stamps after March 31, 2013, because he had not provided the items or proof that was requested by the Division.²¹

Because Mr. X had requested a fair hearing, a hearing was held on April 16, 2013. Mr. X appeared telephonically, and represented himself. Jeff Miller appeared telephonically for the Division. At the hearing, Mr. X testified that he never received the March 27 message to call the Division that had been left with his uncle.²² He also testified that he had not understood that the Division was asking for information relating to his previous employment, and that he was expected to contact his previous employer.²³ He said that in filling out the three forms that he returned to the Division, “I didn’t really know what I was doing,” and that he sought assistance from the tribal organization that served as the local Fee Agent because he did not understand the forms.²⁴

Mr. X agreed with the Division, however, that he had received the notices sent by the Division, and that these notices did request that he provide information to the Division.²⁵ At the conclusion of the hearing, Mr. X took full responsibility for his failure to provide the information, saying, “I didn’t follow up with giving you the full information of what was needed

¹⁵ Division Exhibit 5.2.

¹⁶ *Id.*

¹⁷ Division Exhibit 6.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Division Exhibit 7.

²¹ Division Exhibit 8.

²² X testimony.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

so that was my fault.”²⁶ He also stated that he would reapply for food stamps so that “I can give you the actual full information.”²⁷

III. Discussion

Federal law requires the Division to verify information about an applicant before the Division determines whether the applicant is eligible for food stamp benefits.²⁸ The Division has authority to deny food stamp benefits to an applicant who refuses to cooperate.²⁹ The question in this appeal is whether Mr. X refused to cooperate with the Division.

At his hearing, Mr. X showed considerable maturity in taking responsibility for his failure to provide the Division with the information it requested. After reviewing the exhibits at the hearing, and listening to the Division, Mr. X was able to understand what was being asked of him, and agreed that his failure to respond was his fault.³⁰ As a purely factual matter, Mr. X and the Division are justified in assigning responsibility to Mr. X—an applicant for benefits is responsible for filling out forms correctly and providing information when asked.

Yet, the law sets a different standard. Although Mr. X is responsible for providing the correct information, that does not make him ineligible for food stamp benefits. For the Division to deny Mr. X benefits based on his refusal to cooperate, federal law requires that Mr. X “clearly demonstrate that [he] will not actions that [he] can take and that are required to complete the application process.”³¹ The law instructs the Division that “[i]f there is *any* question as to whether the household has merely failed to cooperate, as opposed to refuse to cooperate, the household shall not be denied, and the agency shall provide assistance.”³² And, in providing the

²⁶ *Id.*

²⁷ *Id.*

²⁸ 7 C.F.R. § 273.2(d)(1). (“To determine eligibility . . . certain information must be verified”).

“Verification” means “the use of documentation or a contact with a third party to confirm the accuracy of statements or information.” 7 C.F.R. § 273.2(f).

²⁹ 7 C.F.R. § 273.2(d)(1).

³⁰ X testimony. Early in the hearing, Mr. X testified that he had help from the Fee Agent in filling out the forms that were sent to him. Later, however, he took full responsibility for the failure to provide the requested information, and did not try in any way to place fault on the Fee Agent. Mr. X was a credible witness, and the evidence showed that the Fee Agent helped him fill out his initial application. He may have been confused, however, about which forms were filled out with help from the Fee Agent, and his earlier testimony about relying on the Fee Agent may not have included the employment verification form. The forms themselves do not contain any indication that the Fee Agent was involved in filling them out, and it is unlikely that the Fee Agent would have advised him to request a Fair Hearing or to not completely fill out the Employment Statement. The most likely explanation of the testimony is that either Mr. X was confused about which forms he received help on, or that he misunderstood the advice provided by the Fee Agent. Because this case can be decided without regard to whether Mr. X relied on the Fee Agent, that issue will not be considered in reaching a decision.

³¹ 7 C.F.R. § 273.2(d)(1).

³² *Id.* (emphasis added).

applicant notice of what information is needed to verify the application, the Division must “inform the household of the State agency’s responsibility to assist the household in obtaining the required verification.”³³ Because Mr. X did not *refuse* to cooperate, and because the Division did not clearly communicate its responsibility to assist in the filling out of the verification forms, the Division did not meet the requirements of federal law.

The record clearly shows that Mr. X did not refuse to cooperate. He filled out and signed all the forms that he was sent.³⁴ He did not fill them out correctly, but that would not be a refusal to cooperate unless it was done willfully. Here, the evidence shows that Mr. X did not understand the forms.³⁵ He agrees he should have tried harder to understand the forms, but never did he refuse to cooperate. His mistakes were not willful and did not constitute a refusal to cooperate.

The Division argued at hearing that it had fulfilled its responsibility to assist by calling Mr. X’s contact number and leaving a message with Mr. X’s uncle.³⁶ Then, when Mr. X did not return the call, the Division determined that he had failed to cooperate and terminated his benefits.³⁷ But the Division should not have been confident that Mr. X actually received the message, and Mr. X’s credible testimony showed that he did not.

The three forms received by the Division on March 26 clearly show that Mr. X was confused. On the Rights and Responsibilities form, he signed his name in the space provided, which had the effect of requesting a fair hearing, even though at that time he had never been denied any benefit.³⁸ That demonstrates he did not understand the form. On the Employment Statement form, he wrote “unemployed” on the line for “Employer Name,” signed his name, and sent the form in.³⁹ The most likely explanation for this action is that he did not understand that the same form had a separate space, located at the bottom of the page, for someone, like himself, who was no longer employed.

Although the Division did try to call Mr. X, it did not know whether he received the message. In this circumstance, the Division should have sent Mr. X an additional notice. The notice should have informed Mr. X that he had not filled out the Employment Statement form

³³ 7 C.F.R. § 273.2(c)(5).

³⁴ Division Exhibits 5-5.2.

³⁵ X testimony (“I didn’t really know what I was doing”).

³⁶ Division Position Statement ¶ 6; Miller statement.

³⁷ Division Exhibits 6, 7.

³⁸ Division Exhibit 5.1.

³⁹ Division Exhibit 5.2.

correctly, and that the Division needed information from his former employer in Oklahoma. In addition, the Division should have complied with 7 C.F.R. § 273(c)(5), and informed Mr. X that the Division or its Fee Agent would assist him in filling out the forms and obtaining the necessary information.

In sum, Mr. X's actions did not "clearly demonstrate" that he had "refused to cooperate." In the absence of a clear demonstration of a refusal to cooperate, federal law requires that the Division take additional steps before determining that Mr. X is ineligible.⁴⁰ Because the Division did not take those steps, Mr. X remained eligible for food stamp benefits.

IV. Conclusion

Mr. X did not refuse to cooperate with the Division. Therefore, the Division should not have closed his case and terminated his benefits. The Division's denial of benefits to Mr. X is reversed.

DATED this 25th day of April, 2013.

By: Signed
Stephen C. Slotnick
Administrative Law Judge

Adoption

Under a delegation from the Commissioner of Health and Social Services, I adopt this Decision as the final administrative determination in this matter, 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 Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 4th day of June, 2013.

By: Signed
Name: Ree Sailors
Title: Deputy Commissioner, DHSS

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

⁴⁰ 7 C.F.R. § 273.2(d)(1).