

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

In the Matter of:)
)
 N K) OAH No. 13-0501-CMB
) DPA Case No.
_____)

DECISION

I. Introduction

The issue in this case is whether the Division of Public Assistance (Division) correctly calculated the amount of N K's Food Stamp¹ benefits for the recertification period beginning April 2013. Mr. K asserts that his monthly Food Stamp benefit amount should be significantly more than \$20.00 per month. This decision concludes that the Division was correct to lower the amount of Mr. K's Food Stamp benefits from \$110.00 to \$19.00 in April 2013 because his shelter deduction decreased significantly, which in turn increased his countable income with a corresponding reduction in benefits. Further, although the amount of Mr. K's shelter deduction increased substantially in May 2013, it did not raise his monthly benefit amount significantly because of the way Food Stamp benefit amounts are calculated. Accordingly, the Division's calculation of Mr. K's monthly Food Stamp benefit amount as \$19.00 for April 2013, and \$20.00 beginning in May 2013, is affirmed.

II. Facts

Mr. K has received Food Stamp benefits since June 2001.² From approximately April 2012 through December 2012 Mr. K lived in an apartment for which he was paying \$800.00 per month in rent.³ Mr. K was homeless and living at Bean's Café from approximately January 2013 through March 2013. In April 2013 Mr. K moved into an apartment and began paying \$500.00 per month in rent.

¹ 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"). However, the program is still commonly known as the "Food Stamp program" and will be referred to as such in this decision.

² Ex. 1. Mr. K has also received Adult Public Assistance (APA), and APA-related Medicaid, since that time (Ex. 1). When this case was originally filed, it was thought that Mr. K was requesting a hearing regarding both his APA and his Food Stamp benefits. At hearing, Mr. K clarified that the only matter in dispute is the amount of his Food Stamp benefits.

³ N K hearing testimony (source for entire paragraph).

During the period from January through April 2013 Mr. K received \$193.00 per month in Adult Public Assistance (APA) benefits; this dropped to \$192.00 per month in May 2013.⁴

On March 27, 2013 Mr. K submitted an Eligibility Review Form for Food Stamp benefits and other forms of public assistance.⁵ The Eligibility Review Form stated that Mr. K's only income was \$900.00 per month in Supplemental Security Income (SSI), and that his only expense was his Lifeline phone.⁶ What Mr. K characterized as SSI is actually Social Security Disability Insurance (SSDI).⁷

On the same day he submitted his Eligibility Review Form Mr. K participated in an eligibility interview with a Division employee.⁸ During this interview Mr. K disclosed that, in addition to his SSDI, he would also receive an Alaska Native Corporation dividend of \$379.16.⁹ He also told the Division representative that he was staying at Bean's Café and had no expenses except for his Lifeline phone.¹⁰ Based on this information the Division applied a homeless rent deduction of \$143.00, and a standard deduction of \$27.00, to Mr. K's Food Stamp case.¹¹

On April 2, 2013 the Division issued a notice to Mr. K stating that his APA and Food Stamp renewal application had been approved.¹² The notice further stated that, beginning in April 2013, Mr. K would receive \$193.00 per month in APA benefits based on countable income of \$880.00, and \$19.00 in Food Stamp benefits based on countable income of \$836.00.¹³

On April 8, 2013 Mr. K reported to the Division that he had a new apartment where he was paying \$500.00 per month in rent.¹⁴ On April 15, 2013 the Division advised Mr. K that, as a result of his new rental payment, his monthly Food Stamp benefit amount would increase from \$19.00 to \$20.00 per month.¹⁵ Mr. K requested a hearing on the amount of his benefits.¹⁶

Mr. K's hearing was held on May 6, 2013. Mr. K attended the hearing in person, represented himself, and testified on his own behalf. Jeff Miller, a Public Assistance Analyst

⁴ Ex. 3.2.

⁵ Exs. 2.0 - 2.4.

⁶ Ex. 2.2.

⁷ Mr. K has received SSDI since 1993 (N K hearing testimony).

⁸ Ex. 3.0.

⁹ The notes of the Division's eligibility technician do not state how often Mr. K was paid these dividends, but it is clear that the dividends were not counted as income.

¹⁰ Ex. 3.0. Mr. K testified at hearing that he paid \$14.00 per month for his cell phone service, but the Division has given Mr. K a larger \$27.00 deduction for his telephone since April 2013 (Exs. 7.0 - 8.1).

¹¹ Jeff Miller hearing testimony.

¹² Exs. 4, 17.

¹³ Exs. 4, 17.

¹⁴ Ex. 5.

¹⁵ Ex. 6.

¹⁶ Ex. 17.1.

employed by the Division, participated in the hearing by phone, represented the Division, and testified on its behalf. During the hearing Mr. K confirmed that he was not disputing the amount of his APA benefits, and that only his Food Stamp benefit amount was at issue. Mr. K also testified that he had been paying \$500.00 in rent for a period prior to reporting it to the Division on March 27, 2013.¹⁷ The record closed at the end of the hearing.

III. Discussion

During the period from January through March 2013 Mr. K received \$110.00 per month in Food Stamp benefits; this amount dropped to \$19.00 for April 2013, and increased to \$20.00 beginning in May 2013.¹⁸ The issue in this case is whether this \$90.00 - \$91.00 decrease in benefits from March 2013 to April - May 2013 was correct.

A. Mr. K, as the Party Seeking Additional Benefits, Bears the Burden of Proof

Mr. K's claim is that the Division should provide him with more Food Stamp benefits than have been paid to him, beginning with the month of April 2013. Mr. K has the burden of proving, by a preponderance of the evidence, that the Division's calculation of his current benefit amount is not correct and should be increased.¹⁹

B. Calculation of Income and Benefit Amounts under the Food Stamp Program

The Food Stamp program is a federal program administered by the states.²⁰ Food Stamp 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.²¹ In general, the greater a household's income, the smaller the amount of Food Stamp benefits the household will receive each month.²² Further, because the amount of a household's deductions affects its countable income, the lesser the amount of a household's deductions, the greater its countable income will be, and the lower its benefit amount will be.²³

In order to calculate an applicant or recipient's benefit amount, it is first necessary to calculate the income on which the benefit amount is based. Mr. K's income has varied only slightly since April 2013. First, Mr. K has received \$900.00 per month in Social Security Disability Income

¹⁷ Mr. K explained that he had not reported this payment because he was not sure that it was rent, since he paid it to the friend he moved in with rather than directly to his friend's landlord. Mr. K's testimony was unclear as to the month that this sub-lease began.

¹⁸ Ex. 3.3.

¹⁹ 2 AAC 64.290(e); 7 AAC 49.135.

²⁰ 7 CFR § 271.4(a).

²¹ 7 CFR § 273.10(e)(2)(ii)(A).

²² See Alaska Food Stamp Manual, Addendum 4.

²³ *Id.*

(SSDI) since January 2013; this amount has not changed during the period in question.²⁴ Second, from January through April 2013 Mr. K received \$193.00 per month in APA benefits; this amount dropped by \$1.00 to \$192.00 per month in May 2013.²⁵ Thus, Mr. K's gross income for purposes of the Food Stamp program was \$1,093.00 from January through April 2013, dropping by \$1.00 to \$1,092.00 per month beginning in May 2013.²⁶

Once a recipient's gross income has been established, the next step is to apply any available deductions.²⁷ The first deduction available in this case is the so-called "standard deduction."²⁸ The standard deduction for a one-person household in Alaska, during the period from October 1, 2012 through September 30, 2013, is \$256.00.²⁹

The next step is to subtract the standard deduction from the recipient's gross income to determine the "total adjusted income."³⁰ This results in the following calculations in this case:

	<u>April 2013:</u>	<u>May 2013:</u>
Gross Income:	\$1,093.00	\$1,092.00
<u>(minus) Standard Deduction</u>	<u>-\$256.00</u>	<u>-\$256.00</u>
(equals) Total Adjusted Income	\$837.00	\$836.00

The second deduction available in this case is the standard homeless deduction of \$143.00.³¹ The Division properly applied this deduction for the month of April 2013 because Mr. K did not report that he had gotten a new apartment until April 8, 2013,³² by which time his April 2013 benefits had already been issued.³³

For April 2013 Mr. K also received a \$27.00 deduction for his telephone bill.³⁴ When this is added to Mr. K's \$143.00 homeless deduction, it results in total monthly shelter costs of \$170.00 for April 2013.

²⁴ Ex. 3.1.

²⁵ Ex. 3.2.

²⁶ The Division did not count Mr. K's \$379.16 Alaska Native Corporation dividend, apparently excluding it pursuant to either 7 CFR 273.9(c)(8) (money received in the form of a non-recurring lump-sum payment); or 7 CFR 273.9(c)(10)(ii) (payments received under the Alaska Native Claims Settlement Act).

²⁷ 7 CFR 273.9(d).

²⁸ 7 CFR 273.9(d)(1)(i).

²⁹ Ex. 9.0; Alaska Food Stamp Manual, Addendum 4, and transmittal number 2012-04 dated August 31, 2012.

³⁰ Exs. 7.0, 8.0.

³¹ 7 CFR 273.9(d)(6)(i).

³² Ex. 5.

³³ Pursuant to Alaska Food Stamp Manual Section 604-3(D)(1)(b), if a benefit increase results from an increase in a deductible expense, the change is effective no later than the first benefit issued ten days after receipt of the report of change.

³⁴ Ex. 7.0.

Beginning in May 2013, Mr. K's homeless deduction was replaced by a shelter deduction due to the fact that he was once again living in an apartment.³⁵ Based on Mr. K's \$500.00 monthly rent payment, and his \$27.00 monthly phone payment, the Division properly calculated Mr. K's monthly shelter costs as \$527.00 for May 2013.³⁶

The next step is to subtract the homeless deduction or monthly shelter costs (as appropriate), from the recipient's total adjusted income, to determine the recipient's net income.³⁷ At this step, however, the Food Stamp calculation attempts to equalize benefits between persons with lower shelter costs and those with higher shelter costs, and in the process becomes somewhat complicated and confusing. The equation begins with the recipient's total shelter costs. From that, the equation deducts one-half of the recipient's total adjusted income. The resulting number is referred to as "excess shelter costs." Then, the excess shelter costs are subtracted from the total adjusted income. The result of this calculation is referred to as the recipient's monthly net income. The steps described in this paragraph result in the following calculations in this case:

	<u>April 2013:</u>	<u>May 2013:</u>
Total Monthly Shelter Costs	\$170.00	\$527.00
(minus) 1/2 of Adjusted Gross Income	-\$418.00	-\$418.00
(equals) Excess Shelter Costs	zero	\$109.00
Total Adjusted Income	\$837.00	\$836.00
(minus) Excess Shelter Costs	-zero	-\$109.00
(equals) Monthly Net Income	\$837.00	\$727.00

Once a recipient's net income has been calculated, the final step is to determine the recipient's monthly benefit amount. To do this, the recipient's monthly net income is first multiplied by 0.3. The resulting number is then subtracted from the maximum monthly benefit amount for the size of the household in question. In Alaska, the maximum monthly Food Stamp benefit for a household located in an urban area, consisting of one disabled person, during the period from October 1, 2012 through September 30, 2013, is \$239.00.³⁸

³⁵ 7 CFR 273.9(d)(6)(ii).

³⁶ Ex. 8.0. The primary reason Mr. K's Food Stamp benefit amount was substantially greater when he was paying \$800.00 per month in rent, than it is now that he is only paying \$500.00 per month in rent, is due to the so-called "excess shelter cost deduction." When Mr. K was paying rent of \$800.00 per month, his excess shelter cost deduction would have been \$409.00 per month, resulting in net income of \$427.00 and a monthly benefit amount of \$110.00. Now that Mr. K's rent has decreased to \$500.00, his excess shelter cost deduction has decreased to \$109.00, resulting in monthly net income of \$727.00 and a monthly benefit amount of \$20.00. Thus, Mr. K's monthly Food Stamp benefit amount has decreased by \$90.00. This makes sense, however, because Mr. K's rent has decreased from \$800.00 to \$500.00, making another \$300.00 available to Mr. K to spend on food each month.

³⁷ Alaska Food Stamp Manual Section 603-2; *see also* Exs. 7.0 - 8.1 (sources for entire paragraph).

³⁸ Ex. 7.1; Alaska Food Stamp Manual, Addendum 4, and transmittal number 2012-04 dated August 31, 2012.

For April 2013, Mr. K's monthly net income of \$837.00 is multiplied by 0.3, resulting in a figure of \$251.10.³⁹ This figure is then subtracted from the applicable maximum benefit amount (\$239.00), resulting in a figure of less than zero. When the result of this calculation is zero or less, the recipient is paid what is known as the minimum benefit amount. For the period in question, the minimum benefit amount is \$19.00.⁴⁰ Mr. K was paid \$19.00 in benefits for April 2013. Mr. K was thus paid the correct amount of Food Stamp benefits for April 2013.

For May 2013, Mr. K's monthly net income of \$727.00 is multiplied by 0.3, resulting in a figure of \$218.10.⁴¹ This figure is then subtracted from the applicable maximum benefit amount (here, \$239.00), resulting in a figure of \$20.90. This sum is then rounded down to the next whole number, resulting in a benefit amount is \$20.00.⁴² Mr. K was paid \$20.00 in benefits for May 2013. Accordingly, Mr. K was paid the correct amount of Food Stamp benefits for May 2013.

IV. Conclusion

During the period that Mr. K was paying \$800.00 in rent, Mr. K was receiving \$110.00 per month in Food Stamp benefits. During the period in which Mr. K reported that he was homeless and staying at Beans Cafe, his Food Stamp benefit amount dropped to only \$19.00 per month. It initially seems to make little sense for a recipient's Food Stamp benefits to decrease when the recipient becomes homeless. However, on closer scrutiny it does make sense because, when a recipient becomes homeless, the recipient then has most of the money that was previously being paid in rent (in this case, \$800.00) available for purchasing food. Because the amount of money that Mr. K had available to purchase food increased by close to \$800.00 while he was homeless, it makes sense that his monthly Food Stamp benefit would decrease substantially.

Once Mr. K moved back into an apartment and began paying \$500.00 per month in rent, he might reasonably have thought that his Food Stamp benefit amount would increase to become approximately 5/8 of what he was receiving when his rent was \$800.00 per month. However, because of the counter-intuitive way that the Food Stamp regulations utilize the excess shelter deduction in defining monthly net income (discussed at page five, above), increases in the amount of deductions have far less than a dollar-for-dollar impact on the amount of a recipient's monthly benefit amount.

³⁹ Ex. 7.1 (source for entire paragraph unless otherwise stated).

⁴⁰ Exs. 7.1 and 9.0.

⁴¹ Ex. 8.1 (source for entire paragraph unless otherwise stated).

⁴² Exs. 8.1 and 9.0.

In summary, the Division correctly applied its regulations and policies to the relevant facts in determining Mr. K's Food Stamp benefit amount for the months of April and May 2013. The Division's calculation of Mr. K's Food Stamp benefits for those months is therefore affirmed.

Dated this 24th day of September, 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 8th day of October, 2013.

By: *Signed* _____
Name: Jay D. Durych
Title: Administrative Law Judge, DOA/OAH

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