

applicant is a student, unless the person fits within a limited number of exemptions.³ Ms. G is not arguing that she is an “exempt student” but rather that she is not a student as defined by regulation.

A student is a person who is enrolled more than part time in regular curriculum at a university that offers degree programs.⁴ “Enrolled” as used in this regulation is a term of art with a precise definition:

The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer school).^[5]

Under this definition a person who has graduated from one program at School A and is admitted to a program at School B is not enrolled and therefore not a student until the first day of School B’s term. Ms. G’s enrollment will begin on the first day of her first term at UAA in the fall: August 26, 2013. Therefore, under the food stamp regulations, Ms. G is not a “student” because she is not “enrolled in a regular curriculum at a college or university. . . .”⁶

This situation is addressed in the Division of Public Assistance’s *Alaska Food Stamp Program Manual* (2007). Section 605-1B of that manual provides an example of a factual scenario substantially similar to Ms. G’s. The manual provided an example of a household applying for food stamps with an 18-year-old son who had graduated from high school prior to the date of application and was enrolled to attend UAA beginning in the fall semester. The example provides that the fall semester started September 13. Applying the regulatory definition of enrollment, the example concludes that this “18-year-old is not a student until September 13th and would be included as an eligible household member.”⁷ Ms. G argues that under this example she is not a student until August 26.

When the division was asked why it did not believe the example was applicable to Ms. G, it gave two reasons. The division argued that, because the example references a son and the family applying for food stamps, it should be read into the example that the household is receiving Temporary Assistance for Needy Families (TANF). A student receiving TANF is

³ 7 CFR. § 273.5(a), (b).

⁴ 7 CFR. § 273.5(a).

⁵ 7 CFR. § 273.5(c).

⁶ 7 CFR. § 273.5(a).

⁷ Division Exhibit 4; *Alaska Food Stamp Program Manual* (2007), § 605-1 B, accessed June 18, 2013, <http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm>.

eligible for food stamps,⁸ and therefore fits within a regulatory recognized student exemption. The division contended that the example was intended to provide an example of how to handle household members who were no longer in high school and awaiting college so the child could continue to be counted as a member of the household.

The division's position is without merit. First, the example does not state that the family is receiving TANF. A family can receive food stamps and not TANF, so there is no support for inferring receipt of TANF benefits from the example. Second, the TANF exception is applied to a student. To receive a student exemption, it is axiomatic that the person must be a student. In the written example it is concluded that under the facts the son "is not a student until" the start of the term. Because he is not a student he cannot receive a student exemption. Finally, the food stamp regulations do not state that the federal enrollment status of a student is limited to high school graduates who are transitioning to college. If the program intended to limit the enrollment status to high school students transitioning to college, it is rational and reasonable to conclude that the regulation would be written so that this limitation was apparent on its face. Simply stated, the division's arguments are rejected. Ms. G is not a student as defined by regulation and may receive food stamps if she is otherwise eligible.

IV. Conclusion

D G has established that it is more likely true than not true that she is not a student for purposes of the Food Stamp program. The decision to deny her application on this basis is REVERSED. She may receive food stamps if she is otherwise eligible.

DATED this 20th day of June, 2013.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

⁸ 7 CFR § 273.5(b)(3).

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 5th day of July, 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.]