

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

In the Matter of:)
)
 Q M) OAH No. 13-0727-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)¹ benefits which were overpaid to Q M due to a mistake made by the Division.

The parties agree that, through no fault of her own, Ms. M was paid \$876 more in SNAP benefits than she should have been for the months of October and November 2012. This decision concludes that, pursuant to the applicable federal regulations, the Division is required to seek reimbursement from Ms. M for the overpaid SNAP benefits. Accordingly, the Division’s decision establishing a claim against Ms. M for the compromised amount of \$720 in overpaid SNAP benefits is affirmed.

II. Facts

A. The Overpayment at Issue

The facts are not in dispute. Ms. M applied for and began receiving SNAP benefits in June 2012. At the time of her application, Ms. M informed the Division that she worked for the Anchorage School District and would be on summer break until August 16, 2012. The Division stated that upon receiving Ms. M’s work schedule, it should have set up an alert in its system sometime in July 2012 to contact her and follow up on her job status. However, the Division did not set up the alert and Ms. M was not contacted to follow up on her work status and income. As a result, the agency did not inquire about her income until November 26, 2012, after receiving a recertification application from Ms. M. She supplied paystubs for October and November 2012, after which the Division determined her income placed her over the maximum program limits and she had received benefits totaling \$876 (two months at \$438) more than she was entitled to.

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”). This decision uses the term “SNAP”.

B. Procedural History

On February 13, 2013, the Division mailed a notice to Ms. M stating that during the months of October and November 2012, she had been paid \$876 more in SNAP benefits than she should have received, and that the Division was requiring repayment of that amount.² The notice acknowledged that the overpayments were due to “inadvertent agency error.”³ However, the notice asserted that federal SNAP regulations require that the Division seek to recover overpaid benefits regardless of which party is at fault.⁴

On March 2, 2013, Ms. M requested that the amount owed be reduced or compromised on the basis of hardship.⁵ On March 29, 2013 the Division mailed a notice to Ms. M 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 \$156 to \$720.00.⁶

Ms. M requested a hearing on May 23, 2013, which was held on June 12, 2013. Ms. M participated in the hearing by telephone, as did Terri Gagne, Public Assistance Analyst with the Division. Ms. M testified she sent the Division a “Change Report Form” on August 23, 2012, and that she had kept a copy of it for her records. She filed it after the hearing without objection from the Division.

III. Discussion

The Food Stamp or Supplemental Nutrition Assistance Program (SNAP) is a federal program administered by the states.⁷ 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.⁸ In general, the greater a household's income, the smaller the amount of SNAP benefits the household will receive each month.⁹

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”¹⁰ This statute requires, on its face, that the Division attempt to recover overpaid SNAP benefits.

² Ex. 2.21.

³ *Id.*

⁴ *Id.*

⁵ Ex. 2.33.

⁶ Ex. 2.34.

⁷ 7 C.F.R. § 271.4(a).

⁸ 7 C.F.R. § 273.10(e)(2)(ii)(A).

⁹ See Alaska Food Stamp Manual, Addendum 4.

¹⁰ Emphasis added.

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*” 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.

IV. Conclusion

The overpayment at issue was not Ms. M’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 compromised amount of \$720 in Food Stamp (SNAP) benefits, which the Division mistakenly overpaid to Ms. M’s household during October and November 2012, is affirmed.

Dated this 24th day of June, 2013.

Signed

Kay L. Howard
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 9th day of July, 2013.

By: *Signed*

Name: Kay L. Howard
Title: Administrative Law Judge

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