

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

In the Matter of)
)
 F D)
_____)

OAH No. 13-0743-SNA
Agency No.

DECISION

I. Introduction

F D's application for food stamps was denied because his household's income was over the maximum allowable income for food stamp eligibility. Because the Division of Public Assistance correctly determined the household income, the Division's decision is affirmed.

II. Facts

F D and his wife, S, live in No Name. She works in a local hotel. Although he is looking for work, Mr. D is disabled, and has not been able to find a job. He does, however, receive Supplemental Social Security and Adult Public Assistance benefits.¹

On April 24, 2013, Mr. D applied for food stamp benefits.² His application identified his expenses for housing, telephone, electricity, water/sewer, garbage, and natural gas.³ He stated that he had no heat in the house, and at the hearing he explained that they used electric blankets to stay warm.⁴ He attached two of Ms. D's weekly paystubs, which indicated a monthly income of \$2,273.92.⁵ His APA and SSI income was \$273.75.⁶

Based on this information, the Division calculated the Ds' total monthly net income for food stamp purposes to be \$1,798.89.⁷ This amount was more than \$1,577, which is the maximum net income allowed for food stamp eligibility for a two person household.⁸ Therefore, on May 6, 2013, the Division denied the Ds' application.

¹ Division Exhibit 2.9.
² Division Exhibit 2.0.
³ *Id.* at 2.2.
⁴ *Id.* ; D testimony.
⁵ *Id.* at 2.6-2.7.
⁶ Division's Position Statement.
⁷ Division Exhibit 2.16.
⁸ *Id.* at 2.17.

On May 24, 2013, Mr. D requested a fair hearing, and a telephonic hearing was held on June 13, 2013. Mr. D represented himself, and presented his case through a Spanish Interpreter supplied at his request. Terri Gagne represented the Division.

III. Discussion

The Food Stamp program is a federal program and the Division is required to follow federal law when determining whether an applicant is eligible for food stamp benefits.⁹ The Division correctly followed federal law in relying on evidence of the Ds' most recent monthly income to compute the Ds' eligibility for food stamps.¹⁰ Mr. D did not allege that the Division failed to correctly follow federal and state regulations when determining his household's eligibility for food stamp benefits, and an independent review of the evidence and calculations has not revealed any error.

At hearing, Mr. D argued that the Division erred by using his households' gross income instead of its net income. Yet, the evidence shows that the Division properly used the Ds' monthly net income—which, for food stamps purposes, was \$1,798.89— not their monthly gross income of \$2509.¹¹ Mr. D also argued that the Division did not take into account their high expenses. Yet, evidence the shows that the Division did consider the Ds' shelter expenses to the extent that it is permitted to do so under federal law.¹² Although Mr. D explained that he had to cut his cable, cut his long distance, stop driving one of his two vehicles, and stop heating his house, and that he was ill and hungry, this testimony does not establish that the Division incorrectly calculated his eligibility. Therefore, Mr. D has not met his burden of proof, and the Division's decision is affirmed.

IV. Conclusion

The Division correctly calculated the Ds' monthly net household income and determined that the Ds are not eligible for food stamp benefits. Therefore, the Division's decision denying the Ds food stamp benefits is affirmed.

DATED: June 18, 2013.

By: Signed
Stephen C. Slotnick
Administrative Law Judge

⁹ 7 AAC 46.010.

¹⁰ 7 C.F.R. § 273.10(c)(1)(ii).

¹¹ Division Exhibit 2.16.

¹² *Id.*

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 12th day of July, 2013.

By: Signed _____
Name: Stephen C. Slotnick
Title: Administrative Law Judge/DOA

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