

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

In the Matter of: )  
 )  
D P ) OAH No. 13-0789-SNA  
 ) DPA Case No.

---

**DECISION**

**I. Introduction**

The issue in this case is whether the Division of Public Assistance (DPA or Division) correctly calculated the amount of D P's Food Stamp<sup>1</sup> benefits for the months of April - June 2013. Ms. P asserts that her unemployment insurance benefits (UIB) and her child support payments were not credited correctly for the months of April, May, and June 2013, and that she should have received additional Food Stamp benefits during these three months.

This decision concludes that, in retrospect, the income actually received by Ms. P during the months at issue differed somewhat from the income which the Division prospectively estimated in advance. This was due to monthly changes in the amount of Ms. P's UIB, child support, self employment income, and wages, all of which were difficult to accurately forecast. However, analyzing the case retrospectively, with the benefit of actual income figures, Ms. P actually received *more* Food Stamp benefits than she was entitled to during the three month period at issue. Accordingly, the Division's calculation of Ms. P's Food Stamp benefits for the months of April, May, and June 2013 is affirmed.

**II. Facts**

*A. Facts Relevant to Calculation of Benefit Amount*

Ms. P has a three person household consisting of herself and two minor children.<sup>2</sup> Her household has received Food Stamp benefits since September 2012.<sup>3</sup> Ms. P received certification as a nurse's assistant on February 27, 2013.<sup>4</sup> Ms. P was self employed prior to April 2013, but on April 2, 2013 she notified the Division that she was no longer self employed.<sup>5</sup>

---

<sup>1</sup> 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.

<sup>2</sup> Ex. 1.

<sup>3</sup> Ex. 1.

<sup>4</sup> Ex. N.

<sup>5</sup> Exs. 2.2, P1.

During the period from December 18, 2012 through March 15, 2013 Ms. P received \$401.33 in child support, or an average of \$133.77 per month.<sup>6</sup> On March 19, 2013 the Division, using this information, applied a \$50.00 deduction to this average and credited Ms. P with \$83.77 in monthly child support income.<sup>7</sup> On May 17, 2013 the Division, using updated information, credited Ms. P with \$133.46 in monthly child support income.<sup>8</sup> Records of the Alaska Child Support Services Division (CSSD) show that Ms. P actually received \$635.98 during the period March 1, 2013 - May 31, 2013, or an average of \$211.99 per month.<sup>9</sup> Applying a \$50.00 deduction to this (actual) amount would result in crediting Ms. P with \$161.99 in monthly child support income, or about two times as much child support income as the Division actually counted.

On May 17, 2013 the Division calculated Ms. P's income from UIB at \$1,204.00 per month.<sup>10</sup> Records of the Alaska Department of Labor and Workforce Development (DOL) show that Ms. P received \$813.00 in UIB during March 2013; \$405.00 in UIB during April 2013; and \$1,120.00 in UIB during May 2013,<sup>11</sup> for an average of \$779.33 per month in UIB. Ms. P did not receive UIB for the weeks of April 7 - 13 and April 14 - 20, 2013 because DOL denied payment for those weeks.<sup>12</sup> When the Division calculated Ms. P's benefit amount for May 2013, the Division failed to add her UIB to her countable income.<sup>13</sup> This artificially lowered Ms. P's countable income for May 2013, and artificially raised the amount of Food Stamp benefits her household received that month.<sup>14</sup>

On April 24, 2013 Ms. P was offered a job as a certified nurse's assistant (CNA).<sup>15</sup> Ms. P accepted the job and began work on May 28, 2013.<sup>16</sup> On May 20, 2013 the Division requested information as to Ms. P's weekly work hours and rate of pay.<sup>17</sup> Ms. P was originally scheduled to work 40 hours per week at a pay rate of \$14.48 per hour, resulting in anticipated monthly wages of \$2,490.56.<sup>18</sup> However, on June 6, 2013 Ms. P provided the Division with a statement from her

---

<sup>6</sup> Ex. 9.7.

<sup>7</sup> Ex. 2.3.

<sup>8</sup> Exs. 9.7, 2.11.

<sup>9</sup> Ex. 9.9. Ms. P actually received child support of \$179.29 in April 2013, \$120.00 in May 2013, and \$120.00 in June 2013 (Ex. 9.9).

<sup>10</sup> Exs. 2.3, 2.12.

<sup>11</sup> Ex. 9.8.

<sup>12</sup> Exs. 9.8, G, H, K, L.

<sup>13</sup> Ex. 12.

<sup>14</sup> Ex. 12.

<sup>15</sup> Ex. M1.

<sup>16</sup> Exs. 2.0, R3.

<sup>17</sup> Ex. 18.

<sup>18</sup> Exs. 2.0, R4.

employer indicating that she was working 36 hours per week instead of 40, lowering her anticipated monthly wages to \$2,241.50.<sup>19</sup>

The amount of Food Stamp benefits the Division issued to Ms. P's household totaled \$412.00 in April 2013, \$627.00 in May 2013, and \$310.00 in June 2013.<sup>20</sup>

*B. Procedural History*

On April 19, 2013 the Division issued a notice stating that Ms. P's benefits would increase to \$627.00 for May 2013 based on anticipated income of zero dollars for that month.<sup>21</sup> On May 20, 2013 the Division issued a notice stating Ms. P's benefits would decrease to \$222.00 for June 2013 based on \$1,348.13 in countable (net) income.<sup>22</sup> On June 10, 2013 the Division mailed a notice to Ms. P stating that she was being paid an additional \$88.00 in Food Stamp benefits that month to compensate for benefits underpaid in April 2013, due to the Division's counting of self employment income which Ms. P did not actually receive.<sup>23</sup> Ms. P requested a hearing regarding her benefit amount on June 3, 2013.<sup>24</sup>

Ms. P's hearing was held on June 28, 2013. Ms. P participated in the hearing by phone, represented herself, and testified on her own behalf. Terri Gagne, a Public Assistance Analyst employed by the Division, participated in the hearing by phone, represented the Division, and testified on its behalf. The record was left open through July 10, 2013 for post-hearing filings.

**III. Discussion**

*A. Ms. P, as the Party Seeking Additional Benefits, Bears the Burden of Proof*

Ms. P's claim is essentially that the Division should have provided her with more Food Stamp benefits than were paid to her for the months of April - June 2013. The party seeking a change in the status quo generally bears the burden of proof.<sup>25</sup> Because Ms. P is attempting to change the existing status quo by obtaining additional benefits, she has the burden of proving, by a preponderance of the evidence, that the Division's calculation of her benefits was not correct.

---

<sup>19</sup> Ex. 2.1.

<sup>20</sup> Ex. 2.16.

<sup>21</sup> Ex. 19.

<sup>22</sup> Ex. 17.

<sup>23</sup> Exs. B, 2.2, 2.19.

<sup>24</sup> Exs. 14, 20.

<sup>25</sup> *State of Alaska Alcoholic Beverage Control Board v. Decker*, 700 P.2d 483, 485 (Alaska 1985).

*B. Estimation of Future Income Under the Food Stamp Program*

The Food Stamp program is a federal program administered by the states.<sup>26</sup> 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.<sup>27</sup> In general, the greater a household's income, the smaller the amount of Food Stamp benefits the household will receive each month.<sup>28</sup>

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. It is important to note initially that a household's eligibility for Food Stamps and (if eligible) its benefit amount are determined based on the Division's best estimate of the household's financial situation for the coming month. The Food Stamp program (and other public assistance programs) must prospectively estimate or "anticipate" income in order to provide households with needed benefits as soon as possible. Were eligibility and benefit amounts not prospectively estimated, it would be necessary for the Division to wait until the end of a month to see how much income a household actually received, and then calculate benefits based on actual income. Such a process would result in a correct determination of eligibility and benefits, but would cause hardship by requiring a household to wait up to 30 days to receive its benefits. The federal government made the policy decision that it is better to try to estimate a household's future financial circumstances, and to pay benefits right away based on that estimate, rather than make a needy household wait up to a month to receive benefits.<sup>29</sup>

The regulation which governs the way in which the Division must estimate income is 7 CFR § 273.10(c)(1)(i-ii). That regulation generally requires that prospective income be estimated based on income received during the past 30 days.

Ms. P's financial situation varied significantly during the months of April, May, and June 2013. These fluctuations caused the Division's prospective estimates of Ms. P's future income to be inaccurate.

Based on 7 CFR § 273.10, the Division's calculation of prospective income (and thus its calculation of the benefit amount) must be upheld if it was correctly estimated, even if, in retrospect, the amount of income actually received differs from the amount estimated. In this case,

---

<sup>26</sup> 7 C.F.R. § 271.4(a).

<sup>27</sup> 7 C.F.R. § 273.10(e)(2)(ii)(A).

<sup>28</sup> See Alaska Food Stamp Manual, Addendum 4.

<sup>29</sup> See generally Ohls and Beebout, The Food Stamp Program: Design Tradeoffs, Policy, and Impacts (Urban Institute 1993) at 30 - 31, accessed online at <http://books.google.com/books> (date accessed July 29, 2013).

however, Ms. P asserts that the Division should "look backwards" and adjust her benefits based on her actual (rather than prospective) income. Although the Division was arguably not required to do so by regulation, it did so in this case. Accordingly, this decision will not consider whether the Division's *prospective* income estimates were correct, but rather whether the benefit amounts paid were correct based on the income Ms. P *actually received*.

*C. April 2013 Benefits*

The record indicates that in April 2013 Ms. P's income consisted solely of child support and UIB.<sup>30</sup> In April 2013 Ms. P received \$179.29 in child support and \$405.00 in UIB<sup>31</sup> for a total of \$584.29 in gross unearned income. The Division must then apply a standard deduction of \$256.00, resulting in adjusted income of \$328.29.<sup>32</sup> The Division must then subtract excess shelter costs, which in this case were \$189.55,<sup>33</sup> resulting in total monthly net income of \$138.74. Based on net income of \$138.74, Ms. P's benefit amount for April 2013 should have been \$585.38.<sup>34</sup> Ms. P was paid \$412.00 in benefits for April 2013. Accordingly, Ms. P received \$173.38 less in benefits for April 2013 than she was entitled to.

*D. May 2013 Benefits*

Although Ms. P began her new job on May 28, 2013, the record indicates that she did not receive pay from her job until June. Accordingly, in May 2013 Ms. P's income again consisted solely of child support and UIB. In May 2013 Ms. P received \$120.00 in child support and \$1,120.00 in UIB during May 2013,<sup>35</sup> for a total of \$1,240.00 in gross unearned income. The Division must then apply a standard deduction of \$256.00, resulting in adjusted income of \$984.00.<sup>36</sup> The Division must then subtract excess shelter costs, which in this case were \$149.00,<sup>37</sup> resulting in total monthly net income of \$835.00. Based on net income of \$835.00, Ms. P's benefit amount for May 2013 should have been \$376.50.<sup>38</sup> Ms. P was paid \$627.00 in benefits for May 2013. Accordingly, Ms. P received \$250.50 more in benefits for May 2013 than she was entitled to.

---

<sup>30</sup> The Division's calculations for April 2013 include \$228.00 in earned income, but this was disputed by Ms. P, and there is no evidence in the record to support this figure.

<sup>31</sup> Exs 9.8, 9.9.

<sup>32</sup> Ex. 9.0.

<sup>33</sup> See formula at Ex. 9.0.

<sup>34</sup> See formula at Ex. 9.1.

<sup>35</sup> Ex. 9.8.

<sup>36</sup> Ex. 10.0.

<sup>37</sup> See formula at Ex. 9.0.

<sup>38</sup> See formula at Ex. 10.1.

*E. June 2013 Benefits*

In June 2013 Ms. P ceased receiving UIB but began receiving wages from her new job. Ms. P did not submit evidence of her actual wages for June 2013, so it is necessary to estimate her June income based on the best information available. On June 6, 2013 Ms. P provided the Division with a statement from her employer indicating that she was working 36 hours per week at a pay rate of \$14.48 per hour, resulting in anticipated monthly wages of \$2,241.50.<sup>39</sup> The Division must then apply a 20% earned income deduction, reducing Ms. P's countable earned income to \$1,793.20. In addition to her wages, Ms. P received \$120.00 in child support during June 2013 for a total of \$1,913.20 in countable income. The Division must then apply a standard deduction of \$256.00, resulting in adjusted income of \$1,657.20.<sup>40</sup> The Division must then subtract excess shelter costs, which for this month were zero,<sup>41</sup> resulting in total monthly net income of \$1,657.20. Based on net income of \$1,657.20, Ms. P's benefit amount for June 2013 should have been \$129.84.<sup>42</sup> Ms. P was paid \$310.00 in benefits for June 2013. Thus, Ms. P received \$180.16 more in benefits for June 2013 than she was entitled to.

*F. Ms. P Received More Than She Was Entitled to Based on her Actual Income*

Ms. P's household received a total of \$1,349.00 in Food Stamp benefits during the months of April 2013, May 2013, and June 2013. However, as demonstrated in Sections III(C) - III(E), above, Ms. P's household was only entitled to \$1,091.72 in Food Stamp benefits during this three month period. Accordingly, in retrospect, Ms. P's household received \$257.28 *more* in Food Stamp benefits than it was entitled to, based on actual income, during this three month period.

**IV. Conclusion**

Because Ms. P's income fluctuated significantly during the period in question, the Division underpaid her benefits in April 2013 and overpaid them in May and June 2013. However, Ms. P does not have standing to complain because, calculating her benefits retrospectively using her actual income, she received more Food Stamp benefits than she was actually entitled to during the period

---

<sup>39</sup> Ex. 2.1.

<sup>40</sup> See formula at Exs. 9.0 and 10.0.

<sup>41</sup> See formula at Ex. 9.0.

<sup>42</sup> See formula at Exs. 9.1 and 10.1.

April - June 2013. Accordingly, the Division's calculation of Ms. P's Food Stamp benefits for the months of April, May, and June 2013 is affirmed.

Dated this 29th day of July, 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 7<sup>th</sup> day of August, 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.]