



have to pay it back. The Division asked that she select a repayment option.<sup>7</sup> This notice also told Ms. H that she could appeal this decision by requesting a fair hearing within 90 days.<sup>8</sup>

Ms. H did not respond to the February 13 letter. She did not request a fair hearing or select a repayment option.

On June 13, 2013, the Division wrote to Ms. H again, informing her that it would refer the matter to a federal collections process, and telling her how she could avoid having the matter referred to the federal collections agency.<sup>9</sup> Ms. H requested a review, and the Division referred the matter to the Office of Administrative Hearings for a fair hearing.<sup>10</sup>

A telephonic hearing was held on July 10, 2013. Ms. H represented and herself, and 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.<sup>11</sup> Under federal law, a household is “allowed to request a hearing on any action by the State agency or loss of benefits which occurred in the prior 90 days.”<sup>12</sup> Here, Ms. H did not request a fair hearing within 90 days of the Division’s February 13, 2013, action, which notified her that the February food stamp benefits were issued incorrectly and that Ms. H needed to repay \$723.00. Therefore, under 7 C.F.R. § 273.15(j)(1)(i), Ms. H has no right to a hearing on the action taken by the Division on February 13, 2013.

The June 13, 2013, letter to Ms. H was not a decision or an action by the Division. It merely informed Ms. H again of the earlier decision, and notified her of how she could avoid the federal debt collection process.<sup>13</sup> It told Ms. H that she could request a review—by the Division, not the Office of Administrative Hearings—if she believed that the debt was not owed.<sup>14</sup> The review contemplated by the letter, however, would not reopen the February 13 decision. The review would be limited to issues regarding the debt itself. For example, the review would give Ms. H an opportunity to show that she has already paid the debt or that she is the wrong person

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<sup>7</sup> Division Exhibit 2.11.

<sup>8</sup> *Id.*

<sup>9</sup> Division Exhibit 2.23.

<sup>10</sup> Division Exhibit 2.24.

<sup>11</sup> 7 AAC 46.010.

<sup>12</sup> 7 C.F.R. § 273.15(g).

<sup>13</sup> Division Exhibit 2.22.

<sup>14</sup> Division Exhibit 2.23.

to target for repayment. At the hearing, Ms. H explained that she asked for a review because she did not believe that she should have to repay a benefit when she did not do anything wrong. That issue is not timely, and neither the Division nor this Office can consider it. Therefore, this request for a hearing is dismissed.

#### **IV. Conclusion**

Ms. H's request for a hearing was not timely because it was received more than 90 days after the date of the agency decision that she was contesting. Ms. H's request for a fair hearing is dismissed.

DATED this 12<sup>th</sup> of July, 2013.

By: Signed  
Stephen C. Slotnick  
Administrative Law Judge

#### **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 9<sup>th</sup> day of August, 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.]