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

In the Matter of	)	
	)	
МТ	)	OAH No. 13-1037-SNA
	)	Agency No.

#### **DECISION**

## I. Introduction

M T has been receiving food stamp benefits for several years. After completing a routine eligibility review, the Division of Public Assistance (division) determined that Mr. T should receive a lower amount of benefits than he had been receiving in the past. The division notified him of its determination, and Mr. T contested that action and requested a hearing.

A hearing was held on August 14, 2013. Mr. T appeared in person. The division was represented by Public Assistance Analyst Terri Gagne, who appeared by telephone. Because the reduced amount was correctly calculated, the division's calculation is upheld.

#### II. Facts

Mr. T has heart disease, and became disabled several years ago.<sup>2</sup> He is single, living on his own, and his total income is only \$1072 per month in disability payments plus any food stamp benefits he receives. He was receiving \$192 per month in food stamp benefits at the time of his most recent review. The \$192 per month amount was based on a calculation that assumed Mr. T was paying for heat in addition to his monthly rent.<sup>3</sup> When the heating deduction was removed, the division determined that he was only eligible for \$129 per month in benefits.<sup>4</sup>

Mr. T pays \$750 per month in rent, and also pays for telephone and electricity. Other utilities are included in his rent. Mr. T is just barely able to support himself with his income and \$192 per month in food stamp benefits. With the \$63 reduction in food stamps, he will not be able to buy an adequate amount of food each month. He is also not able to

This was actually the second reduction in benefits he received since he first became eligible.

Unless otherwise noted, the factual findings are based on Mr. T's testimony.

See Exhibit 2.6.

<sup>&</sup>lt;sup>4</sup> Exhibit 2.16.

receive significant assistance from food banks because they also have limited resources, and give priority to families and children.

#### III. Discussion

It is undisputed that the division had previously determined that Mr. T was eligible to receive \$192 per month in food stamp benefits. The division asserts that this amount was calculated in error. There is no claim that the error was in any way Mr. T's fault and he testified credibly that he has only provided completely accurate information to the division during all of his eligibility reviews.<sup>5</sup>

Mr. T does not dispute that under the formula used to determine benefits he is only entitled to receive \$129 per month. Instead, he asserts that he should not have to suffer for the division's mistake. He has been relying on receipt of \$192 per month in benefits based on the division's prior determinations, and he should not now have that amount reduced.

Mr. T also argues that \$129 is not nearly enough to purchase an adequate supply of food. He spends his benefit wisely, buying inexpensive food, and can just barely get by with \$192 in food stamp benefits. He argues that formulas do not always work in every situation, and that it is cruel and unfair not to provide sufficient support for someone who is unable to work through no fault of his own.

The food stamp program was established to alleviate hunger and malnutrition among low income households. Although this is a federal program, administration has been delegated to the individual states. The federal government has developed the cost of a thrifty meal plan for a household of four. This cost is then adjusted to account for the actual household size and further adjusted for the higher cost of food in Alaska. Each

Where overpayments have been made, the division is required to seek repayment even when the overpayments are due to division error. However, the division may compromise some or all of the repayment claim if, because of the household's economic situation, the claim will not be repaid within three years. *See In re K.Q.*, OAH No. 12-0909-SNA (Commissioner of Revenue 2013), available online at http://aws.state.ak.us/officeofadminhearings/Documents/SNA/SNA120909.pdf. Given Mr. T's situation, he may qualify for not being able to repay the overpayments.

<sup>&</sup>lt;sup>6</sup> 7 CFR §271.1.

<sup>&</sup>lt;sup>7</sup> 7 CFR §271.4.

<sup>8 7</sup> CFR §271.2.

<sup>7</sup> CFR §271.2.

<sup>7</sup> CFR §271.10(e)(4)(i).

individual household's benefits are then determined based on the household's size, income, expenses, and standard deductions.<sup>11</sup>

There is no reason to doubt Mr. T's assertion that \$129 in benefits is insufficient. Unfortunately, neither the division nor the Commissioner has the authority to deviate from the formula set up by the food stamp regulations. If the benefit amount allowed under the current regulations is too little, then the remedy is to change the regulations and the amount of funding for the program to provide an adequate level of benefits.

After reviewing the relevant regulations and Mr. T's income and expense, it appears that his benefits were correctly calculated. No variation from the calculated amount is permitted under the food stamp statute and regulations.

### IV. Conclusion

The division correctly calculated Mr. T's food stamp benefit amount, and its determination is upheld.

Dated this 19<sup>th</sup> day of August, 2013.

Signed
Jeffrey A. Friedman
Administrative Law Judge

# Adoption

The undersigned, by delegation from of 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  $4^{\text{th}}$  day of September, 2013.

By: <u>Signed</u> Name: Jeffrey A. Friedman

Title: Administrative Law Judge

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

<sup>&</sup>lt;sup>11</sup> 7 CFR §271.10(c) – (e).