

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

In the Matter of)
)
 M B)
_____)

OAH No. 13-1105-SNA
Agency No.

DECISION

I. Introduction

M B applied in May, 2013, for benefits from the Supplemental Nutrition Assistance Program, commonly known as Food Stamps. The Division of Public Assistance found her ineligible on the basis that her gross income was too high. Ms. B requested a hearing.

Ms. B received a telephone hearing on September 5, 2013. She and agency representative Terri Gagne participated. Exhibits 1 - 11 were admitted without objection.

As discussed below, the division's handling of the income question was appropriate and the application was properly denied. This decision does not affect her later (July) application for Food Stamps, which remains pending and which she may continue to pursue.

II. Facts

M B's first application for Food Stamps reached the Division of Public Assistance on May 7, 2013. Applying as a household of one, she reported approximately 22 hours per week of employment with No Name at \$16 per hour.¹ A series of four consecutive biweekly paychecks in April and May showed average gross biweekly earnings of \$730.32.

Multiplying this amount by 2.15 yields a gross monthly pay rate of \$1,570.18.

In June, the division denied the May 7 application on the basis that Ms. B's gross monthly income exceeded the eligibility maximum of \$1,514.00 for a household of one.² The June denial is the subject of this appeal.

In July, Ms. B submitted a second application for Food Stamps. That application is still pending and is not part of this appeal. On August 18, 2013—while the July application was pending—Ms. B's hours with No Name were cut from 22 to 12. The lower number of hours is likely to continue for the next year, and will probably result in a significantly lower income.³

¹ Ex. 2.2, 2.10.

² The denial occurred on June 17, 2013. Ex. 2.24. The notice of denial was later amended to correct a minor error. Ex. 2.25.

³ Testimony of Ms. B.

III. Discussion

Food Stamps is a federal program administered by the state.⁴ Alaska follows the rules in the Code of Federal Regulations (C.F.R.) when determining Food Stamp eligibility.⁵ One of the requirements to be eligible for Food Stamps is that a household's gross income must be less than the program's gross income threshold, which is 130 percent of the Federal income poverty level.⁶ For a household of one and for the period at issue in this case, that level is \$1,514.00 monthly.⁷

The agency must make this determination by considering "the household's circumstances for the . . . month of application."⁸ This means that the circumstances relevant to this case are circumstances that existed in May of 2013, not circumstances that occurred several months later. The agency must anticipate income during the period for which benefits are being approved, including future income that is "reasonably certain,"⁹ but this anticipation is based on what is foreseeable from the circumstances in the month of application.

There is no basis in this case to conclude that the August 18 reduction in Ms. B's hours was foreseeable at the time of her May application. The agency was therefore correct to evaluate her eligibility solely on the basis of the income she was earning then, with about 22 hours per week of employment. A review of the calculations shows that the agency correctly averaged the biweekly paychecks and correctly applied a multiplier of 2.15 to convert this income to a monthly figure.¹⁰ The resulting figure—\$1,570.18—is above the cutoff for eligibility.

It is entirely possible that Ms. B is now eligible for Food Stamps. Her new situation can be considered in connection with a later application.

IV. Conclusion

Ms. B's May 7, 2013 application for Food Stamps was properly denied.

Dated this 6th day of September, 2013.

Signed

Christopher Kennedy
Administrative Law Judge

⁴ 7 C.F.R. § 271.4(a).

⁵ 7 AAC 46.010.

⁶ 7 C.F.R. § 273.9(a).

⁷ See Ex. 2.22.

⁸ 7 C.F.R. § 273.10(a).

⁹ 7 C.F.R. § 273.10(c)(1).

¹⁰ See 7 C.F.R. § 273.10 (c)(2).

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 20th day of September, 2013.

By: Signed _____
Name: Christopher M. Kennedy
Title: Administrative Law Judge

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