

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

In the Matter of)
)
 C T)
_____)

OAH No. 13-1166-SNA
Agency No.

DECISION

I. Introduction

C T applied for food stamp benefits. The Division of Public Assistance (division) denied her application because the household income exceeded the maximum allowable income for a household of two. Ms. T appealed because she believed the count should have been three because she was no longer a convicted felon.

A telephonic hearing was held September 11, 2013. The facts are undisputed. Ms. T agreed that even if the division included her in the household count, the household's gross income would still exceed the maximum allowable income for a family of three. The division's denial is affirmed.

II. Introduction

C T applied for Food Stamp¹ benefits. She lives with her two children. On her application she accurately reported that she had been convicted of a drug related felony in 2005.² Her application was annotated with an explanation. Ms. T wrote that she had received a suspended imposition of sentence (SIS) on March 2, 2007 and was not a felon.³ When reviewing the application, the division excluded Ms. T from the household count because of her conviction.

The household's monthly gross income is \$2,961.75. The gross income limit for a household of three is \$2,586.⁴ The gross income limit for a household of two is \$2,050.⁵ The application was denied because the monthly countable income was more than the limit for a household of two.

¹ Congress amended the Food Stamp Act in 2008. *See* Food, Conservation, and Energy Act of 2008, Public Law No. 110-246 Section 4001, 122 Statutes at Large 1651, 1853. The 2008 amendment changed the official name of the food stamp program to the Supplemental Nutrition Assistance program ("SNAP"). However, the common usage refers to the program as the food stamp program, which usage this decision also follows.

² Exhibit 2.1.

³ *Id.*

⁴ Exhibit 6.

⁵ *Id.*

Ms. T appealed because she believed the division was incorrect to treat her as a convicted felon because the Judgment of Conviction had been set aside. The division contends that, under *State of Alaska, Division of Corporations, Business and Professional Licensing, Alaska Board of Nursing v. Platt*,⁶ the SIS does not change the fact that Ms. T was convicted of a drug related offence and cannot be counted as part of the household.⁷

III. Discussion

The division denied Ms. T's application for food stamps because her income exceeds the maximum gross income for a household of two. The denial letter does not indicate why the household count was only two, nor does it reference Ms. T's conviction or subsequent SIS.

Ms. T agrees that her income not only exceeds the maximum gross income for a household of two, but also exceeds the maximum gross income for a household of three. The determinative issue in controversy is whether the division was correct to deny Ms. T's application for the reason set forth in the notice – the household income exceeds the maximum allowable for the household.

Assuming that Ms. T were correct and the division should have counted her as a member of the household, she would remain ineligible for food stamps for the same reason she was initially denied – household income over the maximum program amount. Therefore, it is unnecessary to reach the issue raised in Ms. T's appeal, whether she should have been counted in the household because of her SIS, because it would not change the outcome.

IV. Conclusion

The division's decision to deny Ms. T's application for food stamps because the household's gross income exceeds the maximum allowable gross income is AFFIRMED.

DATED this 12th day of September, 2013.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

⁶ 169 P.3d 595 (Alaska 2007).

⁷ 7 CFR 273.11(m).

Adoption

The undersigned adopts this decision as final 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 AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 27th day of September, 2013.

By: Signed
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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