

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

In the Matter of)
)
 X Y)
_____)

OAH No. 13-1218-SNA
Division No.

DECISION

I. Introduction

X Y receives Food Stamp (also referred to as Supplemental Nutrition Assistance Program) benefits. She applied to renew those benefits. Upon recertification, the Division of Public Assistance (Division) lowered her monthly benefit amount to \$170 from \$359. Ms. Y requested a hearing.

Ms. Y's hearing was held on October 8, 2013. Ms. Y represented herself and testified on her own behalf. Terri Gagne, Public Assistance Analyst with the Division, represented the Division.

Ms. Y had a reduction in the number of people in her home while her household income remained the same. This caused a reduction in the amount of Food Stamp benefits she was entitled to receive. There is no dispute regarding Ms. Y's household income and expenses, and the Division correctly calculated her benefit amount. Ms. Y was also not entitled to continuing benefits at the higher level while this case was ongoing. Additionally, the Division's notice complied with applicable notice requirements. The Division's reduction in Ms. Y's Food Stamp benefit amount is therefore upheld in all respects.

II. Facts

Ms. Y received \$359 in Food Stamp benefits in July 2013. That benefit amount was based on there being three persons in the household: Ms. Y, her husband, and her son. The Division used household income of \$1,594¹, rent of \$650, and a standard utility deduction of \$446 in calculating their monthly Food Stamp benefit amount.²

¹ Ms. Y and Mr. Y each receive \$533 in Supplemental Social Security Income (SSI) benefits and \$264 in Adult Public Assistance benefits per month. Ex. 2.4.

² Ex. 6.14.

Ms. Y's Food Stamp benefits expired at the end of July 2013. She reapplied for those benefits on August 1, 2013. When she applied, Ms. Y only had two people in her household, herself and her husband. Her son was no longer living with them.³

The Division processed Ms. Y's application and determined that she was entitled to receive \$170 per month in Food Stamp benefits. The Division then issued her monthly Food Stamp benefits in the amount of \$170 beginning August 1, 2013. The Division's calculations were based upon there being two people in the household, with household income of \$1,594⁴, rent of \$650, and a standard utility deduction of \$446 in calculating their monthly Food Stamp benefit amount.⁵ Ms. Y does not disagree with household size or the income and expense figures used by the Division. Ms. Y testified that the Food Stamp benefit amount was insufficient to meet her household's food needs, and explained what food she was able to purchase with her benefits.

The Division sent Ms. Y two notices advising her of the change to her Food Stamp benefit amount. The first, dated August 2, 2013, states her rent was \$630 per month, and refers to *Alaska Food Stamp Manual* section 604-2 as supporting the reduction.⁶ The second, dated August 8, 2013, is a corrected notice that replaced the August 2, 2013 notice. It states that the rent actually used in the benefit amount calculation was \$650 instead of \$630, and refers to *Alaska Food Stamp Manual* section 603-3 as supported the reduction.⁷ When Ms. Y requested a hearing, after her receipt of the two notices, she selected the option contained on the hearing request form to "[c]ontinue my benefits at the level received before this notice until the hearing decision is made, or my Food Stamp certification period ends."⁸ The Division did not provide Ms. Y with continued benefits.⁹

III. Discussion

Food Stamps is a federal program administered by the State.¹⁰ In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both

³ Exs. 2.0 – 2.16.

⁴ Ms. Y and Mr. Y each receive \$533 in Supplemental Social Security Income benefits and \$264 in Adult Public Assistance benefits per month. Ex. 2.4.

⁵ Ex. 5.

⁶ Ex. 6.6.

⁷ Ex. 5.

⁸ Ex. 6.3.

⁹ Ex. 6.2.

¹⁰ 7 C.F.R. § 271.4(a).

Food Stamp eligibility and benefit amounts.¹¹ Food Stamp benefit amounts are calculated based upon a household's monthly income, after allowable deductions are taken from the household's gross monthly income, and the number of people living in the household.¹²

This case does not involve any disagreement regarding the household size, income, or shelter costs. Instead, Ms. Y raised three arguments. The first was that the new Food Stamp benefit amount was insufficient to meet her household's need and that the benefits should not have been reduced by over 50 percent when the household size had only decreased by one-third. Her second argument was that the reduction notice was legally insufficient. Her third argument was that the Division erred when it did not provide her with continued benefits at the higher rate of \$359 while this case was pending. Each of these is addressed below.

A. *Benefit Amount*

Food Stamp benefit calculations begin with a household's gross monthly income. The next step is to subtract the standard deduction, which was \$256 for a household of 5 persons or less at the time of Ms. Y's application.¹³ A household with earned income is entitled to an additional deduction which is based upon the amount of income earned by the household.¹⁴ A household with unearned income only, which SSI and Adult Public Assistances are, does not receive the earned income deduction.¹⁵

After subtracting the standard deduction from the household's gross monthly income, the household's "shelter expenses" (rent and utilities) are taken into account. When the household heats with fuel oil, a standard deduction, which includes all utility payments, is applied.¹⁶ The standard deduction for a household located on the Kenai Peninsula is \$466.¹⁷ A Food Stamp recipient may deduct only those shelter costs that exceed 50 percent of income less the standard deduction.¹⁸ After applying the "shelter expenses" deduction, the result is the household's net income.

The final step in the Food Stamp benefit calculation process is to subtract 30 percent of the household's net income from the maximum Food Stamp benefit for the household size. The

¹¹ 7 AAC 46.010.

¹² 7 C.F.R. § 273.9(b) and (d); 7 C.F.R. 273.10(e).

¹³ *Alaska Food Stamp Manual Addendum 4* (through October 31, 2013).

¹⁴ 7 C.F.R. § 273.9(d).

¹⁵ See 7 C.F.R. § 273.9(b) for the definitions of earned and unearned income.

¹⁶ 7 C.F.R. § 273.9(d)(6)(iii); 7 AAC 46.021(a)(23).

¹⁷ *Alaska Food Stamp Manual Addendum 4* (through October 31, 2013).

¹⁸ 7 C.F.R. § 273.9(d)(6)(2)(ii).

result is the household's Food Stamp benefit.¹⁹ The maximum Food Stamp allotment for a two person household located in an urban area in Alaska is \$438.²⁰

The Division's calculations are contained at Exhibit 3.10 – 3.11. They show that the Division followed the regulatory calculation process. This is not a matter of discretion for the Division. The benefit calculation process is set by federal law, as discussed above. While the new benefit amount of \$170 is a reduction by more than 50 percent from the previous benefit amount of \$359, and per Ms. Y's testimony is insufficient to meet the household's monthly food needs, that amount was arrived at by following the federally mandated rules.

B. Notice

Ms. Y argued that the notice was insufficient regarding the basis for the reduction of her benefits. The two benefit reduction notices provided her with a discussion of the income and expense figures used in arriving at the new benefit amount and referred to the *Alaska Food Stamp Manual* sections 603-3 and 604-2. Section 603-3 contains the basic statement of what factors are involved in calculating benefits and directs the reader to the actual calculation process. Section 604-2 explains how and when benefits are issued when someone is renewing (recertifying) their benefits. Alaska regulation 7 AAC 49.070 requires that when the Division reduces benefits, it is required to furnish the recipient with a written notice that contains "the reasons for the proposed action, including the statute, regulation, or policy upon which that action is based." The Division's notice complied with this regulatory requirement.

C. Continued Benefits

The Food Stamp program only provides benefits for specified periods. These are referred to as certification periods. A Food Stamp recipient must reapply for Food Stamp benefits after the end of a certification period. There is no expectation of approval, or that the benefit amount will remain the same. Each recertification application involves an independent and new eligibility determination.²¹ Because each Food Stamp recertification application is for a new period, and involves a new eligibility determination, a Food Stamp recipient is not entitled to continued benefits pending the outcome of a fair hearing when the issue involves a Food Stamp

¹⁹ 7 C.F.R. § 273.10(e)(1) and (2).

²⁰ The area where Ms. Y resides is classified as urban for Food Stamp program purposes. See *Alaska Food Stamp Manual* Addendum 1. The maximum Food Stamp allotment for an urban two person household was \$438 in August 2013. *Alaska Food Stamp Manual* Addendum 4.

²¹ *Banks v. Block*, 700 F.2d 292, 296 – 297 (6th Cir. 1983).

recertification.²² The Division’s hearing request notice contains this requirement, that continued benefits are only available “until the hearing decision is made, or my Food Stamp certification period ends.”²³ Consequently, because Ms. Y was applying to renew her Food Stamp benefits due to the expiration of her previous certification period, she was not entitled to continued benefits at the previous certification period’s rate while this case was pending.

IV. Conclusion

The Division’s reduction in Ms. Y’s Food Stamp benefit amount is upheld in all respects.
DATED this 14th day of October.

Signed

Lawrence A. Pederson
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 29th day of October, 2013.

By: Signed

Signature
Lawrence A. Pederson

Name
Administrative Law Judge

Title

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

²² *Holman v. Block*, 823 F.2d 56, 59 (4th Cir. 1987); *Banks v. Block*, 700 F.2d 292, 296 – 297 (6th Cir. 1983).
²³ Ex. 6.3.