

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

In the Matter of )  
 )  
 B L ) OAH No. 13-1313-SNA  
 ) Division No.  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

B L is a Food Stamp<sup>1</sup> recipient. The Division of Public Assistance (Division) sent her notice that she had received \$223 more in Food Stamp benefits than she was entitled to receive, and that she was required to repay that amount.<sup>2</sup> She requested a hearing.

Ms. L's hearing was held on October 23, 2013. She represented herself and testified on her own behalf. Jeff Miller, Public Assistance Analyst with the Division, represented the Division.

Because Ms. L received \$223 more in Food Stamp benefits than she should have, the Division's decision establishing a repayment claim in that amount is affirmed.

**II. Facts**

The following facts were established by a preponderance of the evidence.

Ms. L has a three person household, which consists of herself and her two children.<sup>3</sup> Ms. L applied to renew her Food Stamp benefits in February 2013.<sup>4</sup> The Division approved her application and issued her \$317 in monthly benefits for March through August 2013 based upon monthly rent of \$975, monthly employment income of \$1,470.74, and monthly child support of \$417.25.<sup>5</sup> When the Division received Ms. L's August 2, 2013 Food Stamp renewal application, it discovered that it had made an error when it issued her Food Stamp benefits in the previous months because her rent was actually \$582 per month, not \$975.<sup>6</sup>

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<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program ("SNAP"). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> The Division initially requested \$552 in repayment. Exs. 7 – 7.14. At hearing, the Division lowered the repayment request to \$223. The Division's calculations supporting the new repayment request figure were filed on October 23, 2013 after hearing. Exs. 20 – 25.1. Ms. L was asked if she wished to review those calculations and file a written response. She declined.

<sup>3</sup> Ex. 2.

<sup>4</sup> Exs. 2 – 2.3.

<sup>5</sup> Ex. 3.

<sup>6</sup> Exs. 5 – 6.

The Division calculated that its error caused Ms. L to be overpaid a total of \$223 during the months of March through August 2013. It arrived at this overpayment figure by refiguring her benefits, based upon her actual income for each month, her undisputed monthly child support payment of \$417.25, and her monthly rent of \$582, and subtracting the recalculated benefit amount from the \$317 which had been paid:

Month	Work Income <sup>7</sup>	Child Support	Rent	Correct Benefit	Amount Overpaid
March	\$1,370.26	\$417.25	\$582	\$249	\$68
April	\$1,360.10	\$417.25	\$582	\$252	\$65
May	\$1,426.85	\$417.25	\$582	\$236	\$81
June	\$1,021.51	\$417.25	\$582	\$361	(\$44)
July	\$1,140.02	\$417.25	\$582	\$318	(\$1)
August	\$1,313.69	\$417.25	\$582	\$263	\$54
<b>TOTAL OVERPAID</b>					<b>\$223<sup>8</sup></b>

Ms. L did not dispute that she was overpaid Food Stamp benefits. She disagreed with the requirement that she repay the Food Stamp benefits, because the overpayment was caused by the Division’s error and because it would cause her and her family substantial hardship.

### III. Discussion

The issue in this case is whether Ms. L is required to pay back \$223 in Food Stamp benefits that were issued to her in error. There are no factual disputes. The overpayment was due to Division error.

The Food Stamp program is a federal program administered by the State.<sup>9</sup> The Code of Federal Regulations (C.F.R.) contains the rules for determining a household’s monthly Food Stamp payment. Food Stamp benefit amounts are calculated based upon the monthly income, after applicable deductions, received by all household members, and upon the number of people living in the household.<sup>10</sup>

Ms. L argued that she should not have to repay the Division because its own error had caused the overpayment. The federal regulations are clear that the Division “must establish and

<sup>7</sup> Copies of Ms. L’s paystubs are contained in Exs. 9 – 9.6.

<sup>8</sup> The Division’s month by month calculations are contained in Exs. 20 – 25.1.

<sup>9</sup> 7 C.F.R. § 271.4(a).

<sup>10</sup> 7 C.F.R. § 273.10(e)(2)(ii)(A).

collect any claim” for overpaid Food Stamp benefits issued.<sup>11</sup> This is true even when the overpayment is caused by the Division’s error.<sup>12</sup> Adult members of the Food Stamp recipient’s household are the persons responsible for repaying overpaid Food Stamp benefits.<sup>13</sup> As a matter of law, Ms. L was overpaid \$223 in Food Stamp benefits and is required to repay those benefits to the Division, regardless of the fact she was not at fault and the overpayment was caused by the Division’s error.

Ms. L also argued that she should not have to pay because the repayment would be a hardship for her family. However, compromising or writing off this claim is only a discretionary option for the Division if the claim cannot be paid off in three years.<sup>14</sup> Because Ms. L is currently a Food Stamp recipient, the Division is required to reduce her monthly Food Stamp allotment by a minimum of \$10 or ten percent of her monthly allotment, whichever is greater, to pay the claim.<sup>15</sup> Because the claim is for \$223, a reduction of \$10 per month, which is the absolute minimum allowed by regulation, will result in the claim being paid off in less than three years. Accordingly, compromising or writing off the claim, regardless of any hardship that the repayment imposes, is not an available option.

#### **IV. Conclusion**

The Division's decision to seek recovery of the \$223 in Food Stamp (SNAP) benefits which were overpaid to Ms. L from March through August 2013 is affirmed.

DATED this 31<sup>st</sup> day of October, 2013.

*Signed*  
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Lawrence A. Pederson  
Administrative Law Judge

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<sup>11</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>12</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

<sup>13</sup> 7 C.F.R. § 273.18(a)(4)(i).

<sup>14</sup> 7 C.F.R. § 273.18(e)(7).

<sup>15</sup> 7 C.F.R. § 273.18(g)(1)(i).

## 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 14<sup>th</sup> day of November, 2013.

By: *Signed* \_\_\_\_\_

Name: Lawrence A. Pederson

Title/Agency: Admin. Law Judge, DOA/OAH

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