

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

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|------------------|---|---------------------|
| In the Matter of |) | |
| |) | OAH No. 13-1458-SNA |
| X N |) | Division No. |
| _____ |) | |

DECISION

I. Introduction

X N receives Food Stamp (also referred to as Supplemental Nutrition Assistance Program) benefits. He notified the Division of Public Assistance (Division) that he would be moving and that his housing costs would decrease. The Division of Public Assistance (Division) lowered his monthly benefit amount to \$18. Mr. N requested a hearing.

Mr. N's hearing was held on November 5, 2013. Mr. N represented himself and testified on his own behalf. Jeff Miller, Public Assistance Analyst with the Division, represented the Division and testified on its behalf.

Mr. N had a reduction in his housing costs while his income stayed the same. This caused a reduction in the amount of Food Stamp benefits he was entitled to receive. There is no dispute regarding Mr. N's household income, and his allowable deductions are limited. Accordingly, the Division correctly calculated his benefit amount and the reduction in his Food Stamp benefit amount is upheld.

II. Facts

Mr. N is over 60 years old. He receives Adult Public Assistance and Food Stamp benefits for his one person household.¹ He is a former North Slope worker who became disabled. His disability and loss of income resulted in him losing a house to foreclosure. He has a large financial liability for the house.² He receives \$1,313.90 monthly in Social Security Disability benefits. Of that amount, he pays \$104.90 for his Medicare premium.³ He was approved for subsidized housing on October 1, 2013. He needed to accept the housing immediately in order to receive it. His new rent was \$420 per month, and he is not responsible for paying utilities.⁴ His monthly combined phone/Internet bill is \$72 per month.⁵ On October

¹ Exs. 1, 3.1.
² N testimony.
³ Ex. 3.
⁴ N testimony.

3, 2013, Mr. N notified the Division that he had moved to his new apartment on October 1, 2013.⁶ He actually did not move out of his condominium to the new apartment until the end of October 2013. He has car payments. He also has outstanding utility bills from the condominium for the month of October and the condominium is in foreclosure, which may result in additional financial liability for Mr. N.⁷

Mr. N also has some prescriptions that are not paid for by either Medicaid or Medicare.⁸ His Medicare Part D statement dated October 16, 2013 shows that he had \$700.20 in out of pocket prescription costs for January through August 2013, and that in September 2013 he had \$212.88 in prescription costs which were not covered through Medicare Part D, but which were covered through another Medicare program. The statement does not indicate whether the \$700.20 incurred before September 2013 was covered by another benefit program.⁹ Mr. N obtained prescriptions for Metformin in October and November 2013, which he paid in the amount of \$2.65 for each prescription.¹⁰ He additionally tried to refill his prescription for Cialis on November 4, 2013, which was rejected by both Medicare and Medicaid.¹¹

The Division recalculated Mr. N's Food Stamp benefit amount after he notified it of his move and his rent reduction. The Division determined that he was eligible for \$18.00 per month in benefits and notified him that he would receive that amount beginning November 1, 2013.¹² The Division's calculations were based upon there being one person in the household, with household income of \$1,315¹³, rent of \$420, and a \$23 telephone deduction.¹⁴ The Division did not provide Mr. N with a medical expense deduction.

III. Discussion

Food Stamps is a federal program administered by the State.¹⁵ In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both Food Stamp eligibility and benefit amounts.¹⁶

⁵ N testimony.

⁶ Exs. 2.1 – 2.2.

⁷ N testimony.

⁸ N testimony.

⁹ Ex. A, p. 6.

¹⁰ Ex. B, p. 2.

¹¹ Ex. B, p. 2.

¹² Ex. 5.

¹³ Mr. N receives \$1,314.90 in SSDI benefits and \$1 in Adult Public Assistance benefits. Exs. 3 – 3.1.

¹⁴ Ex. 5.

¹⁵ 7 C.F.R. § 271.4(a).

Food Stamp benefit calculations begin with a household's gross monthly income. The next step is to subtract the standard deduction, which is \$260 for a household of 5 persons or less.¹⁷ A household with earned income is entitled to an additional deduction which is based upon the amount of income earned by the household.¹⁸ A household with unearned income only, which SSI and Adult Public Assistance are, does not receive the earned income deduction.¹⁹ Because he is over 60 years old, Mr. N is entitled to a medical expense deduction for the amount of his medical expenses that exceed \$35 per month.²⁰

After subtracting the standard deduction and medical expense deduction from the household's gross monthly income, the household's "shelter expenses" (rent and utilities) are taken into account. A person who has a telephone is entitled to a standard deduction of \$23.²¹ A Food Stamp recipient may deduct only those shelter costs that exceed 50 percent of income less the standard deduction and medical deduction.²² 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 result is the household's Food Stamp benefit.²³

There are no disputes regarding household size or income. This case presents only one issue: whether the Division provided Mr. N with all of the deductions to which he is entitled. The bulk of Mr. N's testimony centered on his financial exposure due to the foreclosures of his house and condominium, and his previous utility bills for the condominium. However, the Food Stamp regulations do not provide a recipient with a deduction for past due bills. There are similarly no deductions allowed for items such as car payments, clothing, vitamins, cleaning supplies, etc.²⁴

The Division provided Mr. N with the standard deduction of \$260 and calculated that his shelter expenses were his rent (\$420) and the standard telephone deduction (\$23). It did not

¹⁶ 7 AAC 46.010.

¹⁷ *Alaska Food Stamp Manual Addendum 4.*

¹⁸ 7 C.F.R. § 273.9(d).

¹⁹ *See* 7 C.F.R. § 273.9(b) for the definitions of earned and unearned income.

²⁰ 7 C.F.R. § 273.9(d)(3).

²¹ *Alaska Food Stamp Manual Addendum 4.* There is no deduction available for Internet usage. *Id.*

²² 7 C.F.R. § 273.9(d)(6)(2)(ii).

²³ 7 C.F.R. § 273.10(e)(1) and (2).

²⁴ *See* 7 C.F.R. § 273.9(d) for a list of allowable deductions.

provide Mr. N with a medical expense deduction. However, it agreed at hearing that Mr. N should have been provided with a medical expense deduction because he pays a Medicare premium of \$104.90. The Division then determined that Mr. N's excess medical expense deduction was \$72.55, which it arrived at by adding his one monthly prescription out-of-pocket (Metformin) in the amount of \$2.65 to the Medicare premium for a total of \$107.55, and subtracting \$35 from that amount. It calculated Mr. N's new Food Stamp benefit amount, allowing him a medical deduction of \$72.55. Its calculations again show that he is only entitled to \$18 in Food Stamp benefits.²⁵ Those calculations follow 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.

IV. Conclusion

The Division's reduction in Mr. N's Food Stamp benefit amount is upheld.

DATED this 12th day of November, 2013.

Signed

Lawrence A. Pederson
Administrative Law Judge

²⁵ Exs. 16 – 16.1. The undersigned also ran calculations for Mr. N based upon his “out-of-pocket” medical expenses for January through August of \$700.20 (Ex. A, p. 6). Those average out to \$87.52 per month. If that amount is added to the \$104.90 Medicare premium and the \$35 excess deduction amount subtracted, Mr. N would be entitled to an excess medical deduction amount of \$157.42. The benefit amount would still be the minimum - \$18. Based upon Mr. N's current income and housing costs, his monthly out-of-pocket medical costs would need to be at least \$310 in order for him to receive a greater Food Stamp benefit amount.

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 26th day of November, 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.]