

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

In the Matter of:)
)
 B D) OAH No. 13-1489-SNA
) DPA Case No.
 _____)

DECISION

I. Introduction

B D is appealing a decision issued on September 17, 2013 by the State of Alaska Division of Public Assistance (DPA or Division) to recoup \$482 in benefits she received under the Supplemental Nutrition Assistance Program (SNAP or food stamps)¹ from February 2013 through June 2013. Based on the record, and after careful consideration, the Division’s decision recouping \$482 in overpaid benefits to Ms. D is affirmed.

II. Facts

On December 13, 2012, Ms. D submitted a food stamps recertification application to the Division.² She reported that she had previously supported her household on wages as a personal care attendant and child support, but that her job had ended and her child support had stopped.³ Also, Ms. D indicated her rent was \$1,300, and that her brother had loaned her some money to pay the November and December rent.⁴ Her application subsequently was approved.

On June 14, 2013, Ms. D again submitted a recertification application for food stamps to the Division.⁵ She reported that her source of income was unemployment benefits of \$234 per week and that her rent was still \$1,300. The application was approved.⁶

On August 30, 2013, Division records indicate Ms. D called to report that she had started working on July 27, 2013.⁷ The records also stated that Ms. D informed the Division that she only pays rent of \$650 per month, not \$1,300 per month, and that when asked how long she had

¹ Congress amended the Food Stamp Act in 2008. The 2008 amendment changed the official name of the Food Stamp Program to the Supplemental Nutrition Assistance Program (“SNAP”). This decision uses the term SNAP.

² Ex. 4.2.

³ *Id.*

⁴ *Id.*

⁵ Ex. 2.0.

⁶ Ex. 3.

⁷ Ex. 4.0.

been paying \$650, Ms. D replied that it had been since December 2012.⁸ On August 30, 2013, E U, Ms. D's brother, submitted an un-notarized letter stating he is her roommate and that they split the rent in half and they each pay \$650.⁹

As the result of Ms. D's report that she pays rent of only \$650 instead of \$1,300, the Division determined that her food stamps grant had been overpaid in the amount of \$482 for the period from February 2013 through June 2013. On September 17, 2013, the Division notified her that she would have to repay that amount as recoupment for the benefits she had been overpaid.¹⁰ Ms. D appealed.

At the hearing, Ms. D testified that the eligibility technician she spoke with on August 30th must have misunderstood what she said about the rent. Ms. D claims she did not say that she had been paying \$650 per month since December 2012. She asserted that her brother had been living with her only since the first week in August 2013 and that they were currently splitting the rent in half. Ms. D claimed, in essence, that she had been paying the full rent amount up to August 2013.

After the hearing, the record was left open to give Ms. D the opportunity to submit a notarized letter from her brother regarding how long he had lived with her and when they began splitting the \$1,300 rent payment at her house. On November 15, 2013, Ms. D filed another un-notarized letter from E U that states he moved in with his sister on July 30, 2013, after he lost his job working in Soldotna. He said that he had helped her with rent payments in the past but had stopped because the Division had counted the money against her as unearned income, so he stopped helping her with the rent. Ms. D also submitted a letter from a counselor she worked with while in treatment in 2012. The letter, written by B T, MS, on January 24, 2013, stated that Mr. U had been helping his sister, but could not continue at his previous level because his work hours had declined.

On November 18, 2013, the Division objected to Ms. D's post-hearing evidence, claiming that the handwriting on both of Mr. U's letters looks like the handwriting on Ms. D's recertification application. This led the Division to conclude she had written both letters that were allegedly from her brother. The Division's representative also asserted that she had looked

⁸ *Id.*
⁹ Ex. 4.1.
¹⁰ Ex. 5.1.

into Ms. D's case history and could see no occasion in which her brother's assistance with the rent had been counted as unearned income against Ms. D.¹¹

III. Discussion

The Food Stamp or Supplemental Nutrition Assistance Program (SNAP) is a federal program administered by the states.¹² SNAP benefit amounts are based primarily on the number of people living in the household, and on the monthly income (after applicable deductions) received by those household members.¹³ In general, the greater a household's income, the smaller the amount of SNAP benefits the household will receive each month.¹⁴

The federal statute pertaining to the recoupment of overpaid SNAP benefits is 7 U.S.C.A. § 2022. Subsection (b)(1) of that statute provides in relevant part that the "state agency *shall* collect any overissuance of benefits issued to a household . . ."¹⁵ This statute requires that the Division attempt to recover overpaid SNAP benefits.

The federal implementing regulation pertaining to the recoupment of SNAP benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides in relevant part that "the State agency *must* establish and collect any claim . . ." Subsection (e)(1) of that regulation also provides that "state agencies *must* begin collection action *on all claims* . . ." Thus, the regulations also require the Division to recoup overpaid food stamp benefits.

In this case, the primary issue is whether Ms. D began paying rent of \$650 per month on or about August 2013, or in December 2012. If she was, indeed, paying the lower amount all that time, Ms. D's food stamps benefits were too high, and the Division is correct to recoup the overpayment.

In her June 14, 2013 recertification application, Ms. D reported that her rent was \$1,300 until August 2013. The record contains Ms. D's testimony and two letters from her brother stating he stopped giving her money in December 2012 because he could not afford to help her as much as he had before. Also, Ms. D's counselor wrote in January 2013 that Mr. U had to stop helping his sister because his work hours had been reduced. These statements are all consistent. Yet the record also contains an eligibility technician's report that Ms. D reported in a telephone

¹¹ Division's letter received on November 18, 2013.

¹² 7 C.F.R. § 271.4(a).

¹³ 7 C.F.R. § 273.10(e)(2)(ii)(A).

¹⁴ See Alaska Food Stamp Manual, Addendum 4.

¹⁵ Emphasis added.

conversation on August 30, 2013 that her rent was \$650 beginning in December 2012. Ms. D has no explanation for the telephone conversation other than to assert that the eligibility technician must have misunderstood what Ms. D said that day. Thus, the record contains contradictory statements from Ms. D about her rent expense from December 2012 through August 2013, and it is not possible to determine which of them is correct. As a result, Ms. D has not met her burden of proving she paid \$1,300 per month during that time. Therefore, the Division's determination should be affirmed.

IV. Conclusion

Ms. D has not met her burden of proving she paid rent of \$1,300 per month from December 2012 through August 2013. Therefore, the Division's determination that she was overpaid \$482 in food stamps benefits and that it must recoup that amount from her should be affirmed.

Dated this 9th day of December, 2013.

Signed

Kay L. Howard

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 18th day of December, 2013.

By:

Signed

Signature

Kay L. Howard

Name

Administrative Law Judge

Title

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