

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

In the Matter of)
)
 M G)
_____)

OAH No. 13-1760-SNA
Agency No.

DECISION

I. Introduction

M G applied for food stamps on behalf of her nine-person household on September 25, 2013. The Division requested that she provide income verification for herself and several of the adult members of the household within 30 days to obtain food stamps for the month of October, and within 60 days to obtain food stamps under the existing application. Ms. G did not provide the requested information until 10 days after the 60-day time-limit had expired. The Division denied her application and required that she submit a new application. Because the information was received after the deadline had run, the Division’s denial is affirmed.

II. Facts

On September 25, 2013, M G applied for food stamps for her household of nine people.¹ She participated in an interview regarding her eligibility for food stamps on October 8, 2015.² Her household in No Name included herself, her husband, her four children, and her son’s girlfriend and their two children.

Determining the household’s income was a difficult task. Ms. G had worked for No Name Seafoods over the summer. She also had part-time work with No Name Native Association and No Name School District. Later, she stopped working for No Name and worked full-time with the school district. Two members of the household received annuities. One member was expecting a settlement from his commercial fishing. One member worked at No Name Commercial Company (although she later left that job). One member was scheduled go to work shortly for the No Name Native Association’s weatherization program (although that job fell through). Several members received native corporation dividends and most, but not all, received permanent fund dividends.³ One member appeared to be eligible for Temporary Assistance for Needy Families (TANF) (although she did not receive TANF).

¹ Division Exhibit 2. The Food Stamp Act was amended in 2008, and the Food Stamp program was renamed the “Supplemental Nutrition Assistance Program.” See *Allen v. State, Dep’t of Health and Soc. Serv.*, 203 P.3d 1155, 1158 n.1 (Alaska 2009) (citing Pub.L. No. 110–234, 122 Stat 923, 1092 (May 22, 2008)). This decision will use the familiar term “food stamps” because that is the term used by the Division, the regulations, and the public.

² Division Exhibit 3.0.

³ *Id.*

To assist Ms. G in the task of verifying the income, the Division placed calls and emails to the school district, No Name Native Association, and No Name Commercial Company. At first, the Division received only one response, and on October 10, 2013, it sent a notice to Ms. G advising her of the seven items the Division needed to complete the verification.⁴ The notice advised her that to receive food stamps for the month of October, the due date for the information was October 24, 2013. It also advised her that if she sent the information in after October 24, 2013, she would not receive benefits for October, but that “if you give us these items within 60 days from the date you first applied, a new application is not needed.”⁵ Although the Division subsequently heard back from one additional employer, it did not receive any other information before the October 24 deadline.

On November 8, 2013, the Division sent a notice to Ms. G advising her that her application was denied for failure to provide necessary verification information.⁶ This notice also advised that the deadline for keeping this application open was 60 days from the date of the original application.⁷

Also on November 8, Ms. G faxed to the Division information regarding the expected fishing payment, a paystub, and two tax returns.⁸ On November 22, 2013, the Division generated a case note that “this is not what was requested” and “not all items were rec’d.”⁹ The file remained closed.¹⁰

On December 5, 2013, Ms. G faxed to the Division all or almost all of the remaining items it had requested.¹¹ She also requested a fair hearing. A telephonic hearing was held on December 30, 2013. Jeff Miller represented the Division of Public Assistance, and Ms. G represented herself. The sole issue at the hearing was whether the Division should process Ms. G’s September 25, 2013, application using the information it received on December 5, 2013, or whether Ms. G needed to reapply.

III. Discussion

Under federal law, the Division must obtain verification of income before it can approve an

⁴ Division Exhibit 5. The seven items included four employer verifications, the amount and date of the expected fishing settlement, and answers to two questions regarding bank accounts and whether the eligible member was receiving TANF. *Id.*

⁵ Division Exhibit 5.

⁶ Division Exhibit 8, 10.2.

⁷ *Id.*

⁸ Division Exhibit 9.1-9.4.

⁹ Division Exhibit 9.0. It is not clear if the Division provided notice of the information in this casenote to Ms. G. Ms. G testified to having at least one telephone conversation with the Division during this time period, although she stated that she initiated the call. Ms. G did fill out a fax cover sheet that included additional information, and this cover sheet has a hand-written date of 11/13/13 on it. Division Exhibit 10.4. This indicates that on November 13, Ms. G knew that the Division needed additional information. This fax cover sheet was not faxed to the Division, however, until December 5, 2013.

¹⁰ *Id.*

¹¹ Division Exhibit 10.4-10.10. Although Ms. G’s written explanation describes inclusion of information from No Name Seafoods, that information is not in the record. Because her last paycheck from No Name was received on August 9, 2013, however, it does not appear that this item is necessary to determine eligibility.

application for food stamps.¹² The law requires that “[t]he household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information.”¹³

The Division is required to assist a cooperative applicant with obtaining the verification. Here, Ms. G was clearly cooperative, and the Division fulfilled its obligation to assist by calling or emailing several of the employers seeking verification.

Federal law provides that the normal processing standard for a food-stamp application is thirty days.¹⁴ The original application may be kept open for 60 days after the initial application is filed.¹⁵ For Ms. G, that date was November 25, 2013. The Division sent her two notices advising of the 60-day deadline.¹⁶ Her additional verification information was received on December 5, 2013, which was seventy days after the date of her initial application. Therefore, her old application has expired and she must fill out a new application.

IV. Conclusion

The Division’s decision denying Ms. G’s September 25 application for food stamps for failure to provide verification information is affirmed.

DATED this 6th of January, 2014.

By: Signed _____
Stephen C. Slotnick
Administrative Law Judge

¹² 7 C.F.R. § 273.2(f).

¹³ 7 C.F.R. § 273.2(f)(5).

¹⁴ 7 C.F.R. § 273.2(g); *In re B.J.*, OAH No. 13-0687 (Comm’r Health and Soc. Servs. 2013).

¹⁵ *Id.*

¹⁶ Division Exhibits 5, 10.2. Ms. G reported that in a telephone conversation with the Division, she had been advised that had until December 5, 2013, to supply the missing information. G testimony; Division Exhibit 10.10. Ms. G may be mistaken—it may be that the December deadline—which she also described as 90 days after her original application—was the deadline for filing an appeal. No case note reflects that the Division ever offered to extend the 60-day deadline. *See also Allen v. State, Dep’t of Health and Soc. Servs., Div. of Pub. Ass’t*, 203 P.2d 1155, 1164-66 (Alaska 2009) (state law of equitable estoppel is preempted by federal law governing food stamp benefits).

Adoption

Under a delegation from the Commissioner of Health and Social Services, I adopt this Decision as the final administrative determination in this matter, 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 Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 28th day of January, 2014.

By: Signed _____
Name: Stephen C. Slotnick
Title: Administrative Law Judge/DOA

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