

\$114 more in benefits than she should have in January.⁷ At hearing, the Division characterized the overpayment as “agency error.”⁸ The Division seeks recoupment.⁹

Ms. Q did not dispute that she was overpaid Food Stamp benefits. She disagreed with the requirement that she repay the Food Stamp benefits. She asserted that she should not be required to repay the \$114, because the overpayment was caused by the Division’s error and repayment would cause substantial hardship.

III. Discussion

The issue in this case is whether Ms. Q is required to pay back \$114 in Food Stamp benefits that were issued to her in error. No facts are in dispute. The overpayment was due to Division error.

The Food Stamp program is a federal program administered by the State.¹⁰ The Code of Federal Regulations (C.F.R.) establishes the rules for determining a household’s monthly Food Stamp benefit. Benefit amounts are calculated based on the number of people living in the household and monthly income.¹¹ The Division is required to give 10 day notice before reducing benefits.¹²

The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.¹³ This is true even when the overpayment is caused by the Division’s error.¹⁴ As a matter of law, Ms. Q was overpaid \$114 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. Q also argued that repayment would cause financial hardship. Federal law permits compromising or writing off a claim, but only if the claim cannot be paid off in three years.¹⁵ Ms. Q is currently a Food Stamp recipient, so 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.¹⁶ Because the claim is for \$114, a reduction of \$10 or 10 percent per

⁷ Ex. 15.11

⁸ Ex. 15.11; Gagne hearing presentation; position statement.

⁹ Ex. 15.1; Gagne hearing presentation; position statement.

¹⁰ 7 C.F.R. § 271.4(a).

¹¹ 7 C.F.R. § 273.10(e)(2)(ii)(A).

¹² 7 CFR §273.13(a)(1).

¹³ 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

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

¹⁵ 7 C.F.R. § 273.18(e)(7).

¹⁶ 7 C.F.R. § 273.18(g)(1)(i).

month, which is the 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 recover \$114 in Food Stamp benefits overpaid to Ms. Q in January 2014 is affirmed.

DATED this 31st day of January, 2014.

Signed _____
Bride Seifert
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 14th day of February, 2014.

By: *Signed* _____
Name: Bride Seifert
Title/Division: ALJ/OAH

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