



not comfortable doing so as it was a gift from family.<sup>7</sup> The L's intend to gift the permit to another family member in several years.<sup>8</sup> Ms. L does not believe the fishing permit should be counted as a resource for Food Stamp eligibility determination.<sup>9</sup>

### III. Discussion

The issue in this case is whether the Division was correct to include Ms. L's husband's fishing permit when determining household resources.

The Food Stamp program is a federal program administered by the State.<sup>10</sup> The Code of Federal Regulations (CFR) contains the rules for determining a household's financial eligibility, which is determined, in part, based on the resources (assets) owned by the household members. The program has a resource limit of \$2,000 for a household whose members are under 60 years of age.<sup>11</sup> Some resources are not counted as household assets. These include:

(5) [p]roperty, such as farm land or work related equipment, such as the tools of a tradesman or the machinery of a farmer, which is essential to the employment or self-employment of a household member. Property essential to the self-employment of a household member engaged in farming shall continue to be excluded for one year from the date the household member terminates his/her self-employment from farming.<sup>[12]</sup>

Although not specifically listed, the Division applies the federal regulation to commercial fishing permits.<sup>13</sup> A fishing permit used by the family is exempt and not included in the resource calculation.<sup>14</sup> An unused permit is only exempt for up to one year from its last use.<sup>15</sup>

It is undisputed that Mr. L owns the commercial fishing permit, the permit is valued well over \$2,000, and it has not been used for many years. The Division is required by law to count the fishing permit as a family resource. The Division cannot exclude the permit on the basis that the family intends to gift it to another in the future. As a result, Ms. L is over the Food Stamp program resource limits.

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<sup>7</sup> L testimony.

<sup>8</sup> L testimony.

<sup>9</sup> L testimony.

<sup>10</sup> 7 C.F.R. § 271.4(a).

<sup>11</sup> Ex. 8, FS Manual § 602-2; 7 C.F.R. § 273.8(b); the Ls are all under 60 years old.

<sup>12</sup> 7 C.F.R. § 273.8(e)(5).

<sup>13</sup> Ex. 9.2, FS Manual § 602-2B(7).

<sup>14</sup> Ex. 9.2, FS Manual § 602-2B(7).

<sup>15</sup> Ex. 9.2, FS Manual § 602-2B(7).

**IV. Conclusion**

The Division's decision to deny Ms. L Food Stamp benefits is affirmed.

DATED this 18<sup>th</sup> day of February, 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 11<sup>th</sup> day of March, 2014.

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

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