

February 2014.⁸ The Division realized its error when it was reviewing Ms. L's eligibility on January 30, 2014.⁹ The Division admits the overpayment was caused by agency error and seeks recoupment.¹⁰

Ms. L disputes the Division's Food Stamp eligibility formula and believes that the state should allow actual cost instead of standard deductions.¹¹ Ms. L also disagrees with the requirement that she repay the Food Stamp benefits. She asserts that she should not be required to repay the \$224, because the overpayment was caused by the Division's error and repayment would cause substantial hardship.¹² Ms. L also expressed dissatisfaction with the "snowball" effect this Food Stamp case has had on other benefit programs.¹³ Ms. L's daughter stated that because her mother was found to be over-income for Food Stamps, she was also disqualified from the waiver program, which in turn caused her to be ineligible for Medicaid.¹⁴ At hearing, Ms. L stated that she will submit a request a compromise to the Division.¹⁵

III. Discussion

The issue in this case is whether Ms. L is required to pay back \$224 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.¹⁶ 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.¹⁷ If a household is categorically eligible¹⁸ for Food Stamps, the household does not have to satisfy the Food Stamp program's financial eligibility rules.¹⁹ In other words, the ordinary income and resource limits do not apply. A household in which all

⁸ Ex. 3.7. It is not clear whether Ms. L received benefits prior to March 2013. However, per federal Food Stamp guidelines, the Division must seek overpayment for 12 months of benefits issued due to agency error (*See* Ex. 9; Food Stamp Manual § 607-3E3).

⁹ Ex. 2; Ex. 3.12.

¹⁰ Ex. 15.1; Gagne hearing presentation; position statement.

¹¹ Hearing testimony.

¹² Hearing testimony.

¹³ Hearing testimony.

¹⁴ Hearing testimony. This decision only addresses Food Stamp benefits. However, it is likely that Ms. L lost her waiver eligibility due to a new assessment, not that she was found ineligible for Food Stamps. Once she did not qualify for waiver, she was determined to be over-income for Medicaid. (*See* OAH No. 13-1687-MDE).

¹⁵ Hearing testimony; Ex. 3.11.

¹⁶ 7 C.F.R. § 271.4(a).

¹⁷ 7 C.F.R. § 273.10(e)(2)(ii)(A).

¹⁸ 7 C.F.R. § 273.2(j).

¹⁹ 7 C.F.R. § 273.8(a); 7 C.F.R. § 273.9(a).

members receive SSI is categorically eligible.²⁰ Ms. L does not receive SSI benefits, nor does she qualify by other “categorically eligible” means.²¹ Because the Division mistakenly believed Ms. L was receiving SSI benefits, it approved her for Food Stamp benefits she was actually over income and ineligible to receive.

There was substantial debate over net income calculation at hearing.²² However, after review of the record, it is clear Ms. L’s gross income exceeds the Food Stamp program limit and there was no need to calculate net income. Ms. L was over income for the \$224 in Food Stamp benefits issued under either income test.

The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.²³ This is true even when the overpayment is caused by the Division’s error.²⁴ As a matter of law, Ms. L was overpaid \$224 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. L also argued that repayment would cause financial hardship. Federal law permits compromising or writing off a claim, but at the Division’s discretion.²⁵ The Division did not make a determination on possible compromise because Ms. L did not request a compromise prior to hearing. Accordingly, this decision does not address the potential compromise issue.

IV. Conclusion

The Division's decision to recover \$224 in Food Stamp benefits overpaid to Ms. L is affirmed.

DATED this 21st day of April, 2014.

Signed
Bride Seifert
Administrative Law Judge

²⁰ 7 C.F.R. § 273.2(j)(2)(i)(D).

²¹ Ex. 11, Food Stamp Manual § 600-2; § 605-6. Ms. L does not receive federally funded Temporary Assistance to Need Families or Native Family Assistance.

²² Ms. L disputes the Division’s methods for calculating net income. Ms. L’s daughters testified credibly that Ms. L’s living expenses exceed her income. They also testified that her utility costs were greater than the \$453 standard utility deduction used by the Division. Ms. L’s daughters assert that it is unlawful that the Division does not allow actual cost deductions. It is not unlawful for Division to use a standard utility deduction. The Division is authorized under both Alaska and federal regulations to use a standard deduction. 7 AAC 46.012(a)(22); 7 C.F.R. § 273.99(d)(6)(iii).

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

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

²⁵ 7 C.F.R. § 273.18(e)(7). The Division may compromise a claim, but it not required to under the federal rules.

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 6th day of May, 2014.

By: *Signed*

Name: Bride Seifert

Title: Administrative Law Judge

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