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

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In the Matter of S N

OAH No. 14-0485-SNA Agency No.

DECISION

I. Introduction

For several months, S N has been receiving benefits from the Supplemental Nutrition Assistance Program, commonly known as Food Stamps. On March 14, 2014, the Division of Public Assistance (DPA) notified him that his benefits would be terminated because he was in an assisted living home and receiving meals from that institution. Mr. N requested a fair hearing, and subsequently participated by telephone in a hearing held April 24, 2014.

At the hearing, Mr. N was frank about his situation, and after a discussion about the law, he accepted that the law requires his benefits to end now, although he did not formally concede the case. He hopes to set up a payment plan once he returns to work so that he can repay any benefits that were paid after the termination notice.

II. Facts¹

Mr. N, who is 56, suffered a serious ankle injury in 2013, receiving reconstructive surgery in December of that year. During his recovery period, he moved into the No Name Care Center (dba No Name), where he receives room and board.² Board consists of three meals a day plus one snack.³ The quantity of food is not large for an individual of Mr. N's age, and at times it has been made less ample by Mr. N's allergy to milk and cheese. Nonetheless, Mr. N confirms that he has been receiving more than half his food needs through the institution. He also says the food quantity has been improving in response to complaints from patients.

Mr. N expects to be discharged and to return to No Name, his home, on May 26. He plans to resume work in the fishing industry in June.

¹ The factual findings are based on the testimony of Mr. N at hearing, unless otherwise noted.

² See Ex. 2.

³ A menu, confirmed by Mr. N as generally accurate, is found at Ex. 8.2.

III. Discussion

Food Stamps is a federal program administered by the state.⁴ Alaska follows the rules in the Code of Federal Regulations (C.F.R.) when determining Food Stamp eligibility.⁵

In general, the federal regulation at 7 C.F.R. § 273.1(b)(7)(vi) makes individuals ineligible for Food Stamps if they receive "over 50 percent of three meals daily" from an institution. Mr. N agrees that he is in this category. The only exceptions relate to certain individuals in federally subsidized elderly housing, in group living arrangements for disabled or blind people, in homeless or battered women's shelters, or in treatment facilities for addiction. Mr. N is not in any of these subcategories, and therefore he is not eligible for the Food Stamp program while he is residing at No Name.

IV. Conclusion

The Division was correct to terminate Mr. N's Food Stamp benefits. The March 14, 2014 decision to close his Food Stamps case is affirmed.

DATED this 24th day of April, 2014.

<u>Signed</u> Christopher Kennedy Administrative Law Judge

Adoption

The undersigned, by delegation from of 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 8th day of May, 2014.

By:

Signed

Name: Christopher M. Kennedy Title: Administrative Law Judge

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

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⁴ 7 C.F.R. § 271.4(a).

⁵ 7 AAC 46.010.