

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

In the Matter of: )  
 )  
D N ) OAH No. 14-1059-SNA  
 ) DPA Case No.

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**DECISION**

**I. Introduction**

The issue in this case is whether the Division of Public Assistance (DPA or Division) correctly calculated the amount of D N's monthly Food Stamp<sup>1</sup> benefits for the recertification period beginning May 1, 2014. The Division calculated Ms. N's benefit amount as \$18.00 per month.<sup>2</sup> Ms. N asserts, however, that her monthly Food Stamp benefit amount should be significantly more than \$18.00 per month.

This decision concludes that the Division's calculation of Ms. N's monthly Food Stamp benefit amount was correct. The undersigned does not doubt Ms. N's assertion that \$18.00 per month in Food Stamp benefits is insufficient for a person in Ms. N's circumstances. However, a Food Stamp program recipient's monthly benefit amount is the product of federal and state regulations, which both the Division and this Office are bound to follow. Those regulations do not give the Division or this Office the discretion to increase the monthly benefit amount in hardship cases. Accordingly, the Division's calculation of Ms. N's monthly Food Stamp benefit amount as \$18.00, beginning in May 2014, is affirmed.

**II. Facts**

Ms. N is 45 years old.<sup>3</sup> She survived pancreatic cancer, but now suffers from diabetes as an after-effect.<sup>4</sup> As a result of these health problems, Ms. N's weight has fluctuated from a low of only 68 pounds in 2000 to a high of 214 pounds at the end of 2013.<sup>5</sup> Ms. N also has chronic pain and neuropathy as a result of her medical conditions.<sup>6</sup>

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<sup>1</sup> Congress amended the Food Stamp Act in 2008. The 2008 amendment changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance Program ("SNAP"). However, the program is still commonly known as the "Food Stamp program" and will be referred to as such in this decision.

<sup>2</sup> Ex. 4.

<sup>3</sup> Ex. 2.0.

<sup>4</sup> Ex. 5.2.

<sup>5</sup> Ex. 5.2.

<sup>6</sup> Ex. 5.2.

Ms. N receives Adult Public Assistance (APA), APA-related Medicaid, and Food Stamps.<sup>7</sup> In April 2012 Ms. N lived with her mother and was engaged (or had recently been engaged) in supported employment at the No Name Facility.<sup>8</sup> At that time, Ms. N was splitting her household expenses with her mother; the monthly apartment rent was \$1,100.00, of which Ms. N paid \$550.00.<sup>9</sup> She also paid a portion of the heating costs.<sup>10</sup>

On May 2, 2014 Ms. N submitted an Eligibility Review Form to continue her Food Stamp benefits.<sup>11</sup> Ms. N stated in her Eligibility Review Form that her only income consisted of \$730.00 per month in Supplemental Security Income (SSI) and \$362.00 per month in Adult Public Assistance (APA).<sup>12</sup> Ms. N stated that her monthly household expenses consisted of \$340.00 per month in rent<sup>13</sup> and \$200.00 per month for telephone service.<sup>14</sup> Finally, Ms. N stated that she had \$2,500.00 in unpaid medical expenses with which she needed assistance.<sup>15</sup>

On May 6, 2014 Ms. N participated in an eligibility interview with a DPA eligibility technician (ET).<sup>16</sup> During this interview the ET confirmed that Ms. N's only income consists of \$721.00 per month in SSI, \$362.00 per month in APA, and the annual Alaska Permanent Fund Dividend (PFD).<sup>17</sup> The Division counted the SSI and APA payments, excluded the annual PFD, and determined that Ms. N has gross income of \$1,083.00 per month.<sup>18</sup> The Division then applied a standard deduction of \$260.00 to Ms. N's gross income, and determined that Ms. N has monthly net income of \$823.00.<sup>19</sup>

On May 7, 2014 the Division issued a notice to Ms. N stating that her Food Stamp recertification / renewal application had been approved.<sup>20</sup> The notice further stated that, beginning in May 2014, Ms. N would receive \$18.00 in Food Stamp benefits based on countable income of

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<sup>7</sup> Ex. 1. Ms. N began receiving APA and APA-related Medicaid benefits in July 2001 (Ex. 1). The record is unclear as to the date Ms. N began receiving Food Stamp benefits, but it was clearly prior to April 2012 (Exs. 2.0, 5.4).

<sup>8</sup> Ex. 5.4.

<sup>9</sup> Ex. 5.4.

<sup>10</sup> Ex. 5.4.

<sup>11</sup> Exs. 2.0 - 2.6.

<sup>12</sup> Ex. 2.2.

<sup>13</sup> Ms. N's rent is subsidized by the U.S. Department of Housing and Urban Development (HUD) (Exs. 2.7 - 2.10). Ms. N's total monthly rent is \$897.00; \$560.00 of this is paid by HUD, and the remaining \$337.00 is paid by Ms. N. *Id.*; see also Ex. 3.0.

<sup>14</sup> Ex. 2.2. Ms. N also indicated in her application that she had some kind of monthly insurance payment, but she did not assert this insurance payment during her eligibility interview or at hearing.

<sup>15</sup> Ex. 2.3.

<sup>16</sup> Ex. 3.0.

<sup>17</sup> Exs. 3.0, 3.1.

<sup>18</sup> Exs. 3.5, 3.6.

<sup>19</sup> Exs. 3.5, 3.6, Terri Gagne hearing testimony.

<sup>20</sup> Ex. 4.

\$823.00.<sup>21</sup> Finally, the notice indicated that Ms. N's Food Stamp benefit amount had decreased because her household shelter costs (rent) had decreased since her prior application.<sup>22</sup>

Ms. N requested a hearing concerning the amount of her Food Stamp benefits on June 6, 2014.<sup>23</sup> In her hearing request, Ms. N stated that her Food Stamp benefits had recently dropped from \$158.00 per month to \$30.00 per month, and that her benefits were now decreasing again from \$30.00 per month to only \$18.00 per month. Ms. N indicated that, as a result of this, her weight had dropped from 111 pounds to only 87 pounds.

Ms. N's hearing was held on July 16, 2014. Ms. N participated in the hearing by phone, represented herself, and testified on her own behalf. Terri Gagne, a Public Assistance Analyst employed by the Division, participated in the hearing by phone, represented the Division, and testified on its behalf. At hearing, Ms. N presented two arguments. First, she asserted that the Division had overstated the amount of her SSI benefits in calculating her income. Second, Ms. N asserted that her current Food Stamp benefit amount is too little to live on. In response, the Division asserted that it had correctly calculated the amount of Ms. N's monthly Food Stamp benefits, and that Ms. N's monthly benefit amount is the result of federal statutes and regulations which the Division is required to follow. The record closed at the end of the hearing.

### **III. Discussion**

#### ***A. Overview of the Food Stamp Program***

The Food Stamp program is a federal program administered by the states.<sup>24</sup> Its primary statutes are codified at 7 USC Sections 2011 – 2029. The United States Department of Agriculture's Food and Nutrition Service has promulgated regulations to implement the Food Stamp program; those regulations are located primarily at 7 CFR Sections 271-274.

The State of Alaska Department of Health and Social Services (DHSS) administers the Food Stamp program in Alaska. DHSS has promulgated its own Food Stamp regulations at 7 AAC 46.010 - 7 AAC 46.990.

Food Stamp benefit amounts are based primarily on the number of people living in the household, and on the monthly income (after applicable deductions) received by those household members.<sup>25</sup> In general, the greater a household's income, the smaller the amount of Food Stamp

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<sup>21</sup> Ex. 4.

<sup>22</sup> Ex. 4.

<sup>23</sup> All factual findings in this paragraph are based on Exs. 5.1 - 5.2 unless otherwise indicated.

<sup>24</sup> 7 CFR § 271.4(a).

<sup>25</sup> 7 CFR § 273.10(e)(2)(ii)(A).

benefits the household will receive each month.<sup>26</sup> Further, because the amount of a household's deductions affects its countable income, the lesser the amount of a household's deductions, the greater its countable income will be, and the lower its benefit amount will be.<sup>27</sup>

***B. Ms. N, as the Party Seeking Additional Benefits, Bears the Burden of Proof***

Ms. N asserts that the Division should provide her with more Food Stamp benefits than are being paid to her, beginning with the month of May 2014. Under applicable law, Ms. N has the burden of proving, by a preponderance of the evidence, that the Division's calculation of her current benefit amount is not correct and should be increased.<sup>28</sup>

***C. Calculation of Income and Benefit Amounts under the Food Stamp Program***

In order to calculate a Food Stamp recipient's benefit amount, it is first necessary to calculate the income on which the benefit amount is based. The Division determined that Ms. N currently receives \$721.00 per month in SSI and \$362.00 in APA. Ms. N did not dispute the amount of her APA benefits, but asserted that DPA over-stated her SSI benefit amount.

The Division based Ms. N's SSI benefit amount on the amount stated by SSA in an online database which it shares with state public assistance agencies.<sup>29</sup> Since the information in this database comes directly from SSA, it is highly likely that the information is accurate. According to this database, Ms. N's SSI benefit increased to \$721.00 per month effective January 1, 2014. Although Ms. N disputed this amount, she did not provide any credible evidence indicating that her monthly SSI benefit is less than \$721.00 per month. The preponderance of the evidence therefore demonstrates that Ms. N's current SSI benefit is \$721.00 per month. Thus, Ms. N's gross income for Food Stamp purposes has been \$1,083.00 since January 2014.<sup>30</sup>

Once a recipient's gross income has been established, the next step is to apply any available deductions.<sup>31</sup> The first deduction available in this case is the so-called "standard deduction."<sup>32</sup> The standard deduction for a one-person household in Alaska, during the period from October 1, 2013 through September 30, 2014, is \$260.00.<sup>33</sup>

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<sup>26</sup> See Alaska Food Stamp Manual, Addendum 4.

<sup>27</sup> *Id.*

<sup>28</sup> 2 AAC 64.290(e); 7 AAC 49.135.

<sup>29</sup> Ex. 3.1.

<sup>30</sup> Ex. 5.6.

<sup>31</sup> 7 CFR 273.9(d).

<sup>32</sup> 7 CFR 273.9(d)(1)(i).

<sup>33</sup> See Alaska Food Stamp Manual, Addendum 4, accessed online at <http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm> (date accessed July 30, 2014).

The next step is to subtract the standard deduction from the recipient's gross income to determine the "total adjusted income."<sup>34</sup> This results in the following calculations in this case:

Gross Income:	\$1,083.00
<u>(minus) Standard Deduction</u>	<u>-\$260.00</u>
(equals) Total Adjusted Income	\$823.00

For May 2014 the Division also considered Ms. N's portion of her subsidized rent (\$337.00), and a standard allowance for her telephone bill (\$23.00).<sup>35</sup> These two items were added together, resulting in total monthly shelter costs of \$360.00 for May 2014.<sup>36</sup>

The next step is to subtract the monthly shelter costs from the recipient's total adjusted income to determine the recipient's monthly net income.<sup>37</sup> At this step, however, the Food Stamp calculation attempts to equalize benefits between persons with lower shelter costs and those with higher shelter costs, and in the process becomes somewhat complicated and confusing. The equation begins with the recipient's total shelter costs. From that, the equation deducts one-half of the recipient's total adjusted income. The resulting number is referred to as "excess shelter costs." Then, the excess shelter costs are subtracted from the total adjusted income. The result of this calculation is referred to as the recipient's monthly net income. The steps described in this paragraph result in the following calculations in this case:

Total Monthly Shelter Costs	\$360.00
<u>(minus) 1/2 of Adjusted Gross Income</u>	<u>-\$411.50</u>
(equals) Excess Shelter Costs	zero
Total Adjusted Income	\$823.00
<u>(minus) Excess Shelter Costs</u>	<u>-zero</u>
(equals) Monthly Net Income	\$823.00

Once a recipient's net income has been calculated, the final step is to determine the recipient's monthly benefit amount. To do this, the recipient's monthly net income is first multiplied by 0.3.<sup>38</sup> The resulting number is then subtracted from the maximum monthly benefit amount for the size of the household in question.<sup>39</sup> In Alaska, the maximum monthly Food Stamp benefit for a

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<sup>34</sup> Exs. 3.6, 3.7.

<sup>35</sup> Ex. 3.6. Although Ms. N testified that her actual monthly telephone bill is \$200.00, the maximum credit available for this expense is \$23.00 (Ex. 3.6; Ex. 12.1; Terri Gagne hearing testimony).

<sup>36</sup> Ex. 3.6.

<sup>37</sup> Alaska Food Stamp Manual Section 603-2; *see also* Exs. 3.6 - 3.7 (source for entire paragraph).

<sup>38</sup> Ex. 3.7.

<sup>39</sup> Ex. 3.7.

household located in an urban area, consisting of one person, during the period from November 1, 2013 through September 30, 2014, is \$226.00.<sup>40</sup>

For May 2014, Ms. N's monthly net income of \$823.00 was multiplied by 0.3, resulting in a figure of \$246.90.<sup>41</sup> This figure is then subtracted from the applicable maximum benefit amount (\$226.00), resulting in a figure (-\$20.90) which is less than zero. When the result of this calculation is zero or less, the recipient is paid what is known as the minimum benefit amount. For the period in question, the minimum benefit amount is \$18.00.<sup>42</sup> Accordingly, the Division correctly calculated the amount of Ms. N's current monthly Food Stamp benefit as \$18.00.

***D. Does the Division Have the Authority to Disregard the Applicable Federal Regulations and Unilaterally Increase Food Stamp Benefit Amounts?***

Ms. N testified that the amount of Food Stamp benefits currently provided to her household is grossly insufficient. This testimony was credible and undisputed. However, increasing the amount of a household's Food Stamp benefits is a matter within the exclusive domain of the United States Congress. Absent new federal legislation, the Division is not at liberty to ignore the current regulations governing the Food Stamp program.<sup>43</sup> Likewise, the Office of Administrative Hearings does not have the authority to create exceptions to federal Food Stamp statutes or regulations.<sup>44</sup> Accordingly, Ms. N's testimony regarding the insufficiency of her household's monthly Food Stamp allotment is noted for the record, but it cannot be addressed on its merits in this decision.

**IV. Conclusion**

The Division correctly applied the Food Stamp statutes, regulations, and policies to the relevant facts in determining Ms. N's Food Stamp benefit amount for the recertification period beginning in May 2014. The Division's calculation of Ms. N's Food Stamp benefits for the current recertification period is therefore affirmed.

Dated this 31st day of July, 2014.

Signed  
Jay Durych  
Administrative Law Judge

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<sup>40</sup> Ex. 12.0; Alaska Food Stamp Manual, Addendum 4.

<sup>41</sup> Ex. 3.7.

<sup>42</sup> Exs. 3.7 and 12.0.

<sup>43</sup> "Administrative agencies are bound by their regulations just as the public is bound by them." *Burke v. Houston NANA, L.L.C.*, 222 P.3d 851, 868 – 869 (Alaska 2010).

<sup>44</sup> See 7 AAC 49.170 (limits of the hearing authority).

## 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 August, 2014.

By: Signed  
Name: Jay D. Durych  
Title: Administrative Law Judge, DOA/OAH

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