

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

In the Matter of	)	
	)	OAH No. 14-1303-SNA
D S	)	Agency Case No.
_____	)	

**DECISION**

**I. Introduction**

D S is a former Food Stamp<sup>1</sup> recipient who applied to renew those benefits. The Department of Health and Social Services, Division of Public Assistance (Division), denied her application because her child’s father’s income caused the household to exceed the Food Stamp program’s income limits. Ms. S requested a hearing.

Ms. S’ hearing was held on August 18, 2014. Ms. S represented herself and testified on her own behalf. Jeff Miller, a Public Assistance Analyst with the Division, represented the Division.

The Division’s decision that Ms. S’ Food Stamp application should be denied is affirmed.

**II. Facts**

The following facts were proven by a preponderance of the evidence.

Ms. S is a non-resident alien who has been living in the United States off and on for a number of years. She is unemployed and does not have a green card. She is currently in the process of applying for her green card. She first came to the United States in May 2000. Her last legal entry to the United States was at the end of May 2014. Ms. S admits that she does not meet the residency requirements to qualify for Food Stamp benefits for herself.<sup>2</sup>

Ms. S has a minor child, who is a United States citizen. She and her minor child live in the same residence as Mr. U, the child’s father. Ms. S testified that she and her child are a separate economic unit from Mr. U. While they live in the same residence, she rents a room from him.<sup>3</sup>

The Division determined that Mr. U should be included in Ms. S’ household because he and Ms. S and their child are living in the same apartment. Mr. U works two jobs. He is paid

---

<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program (“SNAP”). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> Ms. S’ testimony.

<sup>3</sup> Ms. S’ testimony.

every two weeks at both jobs; his average monthly gross wages from the two jobs total \$2,431.13.<sup>4</sup> Ms. S receives child support payments in an average monthly amount of \$495.65.<sup>5</sup>

The Division determined that Ms. S was not eligible to receive Food Stamp benefits due to her non-resident alien status, which resulted in her Food Stamp household being a two-person household consisting of the minor child and Mr. U. The Division then determined that Mr. U's employment income and Ms. S' child support exceeded the Food Stamp program's income limit of \$2,100 for a two-person household, and denied Ms. S' application.<sup>6</sup>

### III. Discussion

The Food Stamp program is a federal program which is administered by the State of Alaska.<sup>7</sup> The Code of Federal Regulations contains the rules for determining if an applicant is eligible for Food Stamp benefits. Under those rules, a non-citizen (alien) who has not been a legally admitted permanent resident for at least five years is not eligible for Food Stamp benefits.<sup>8</sup> If a parent and a child, who is under 22 years of age, reside together, the parent and child must be included in the same Food Stamp household, even if they purchase and prepare meals separately.<sup>9</sup> If a two-person household has gross monthly income of more than \$2,100, it is not eligible for Food Stamp benefits.<sup>10</sup>

Ms. S has the burden of proof in this case, because a renewal application for Food Stamp benefits is considered a new application.<sup>11</sup>

Ms. S disagreed with including Mr. U as part of the household because she and the minor child are separate economic units. However, as noted above, Mr. U is the minor child's father; as a matter of law, he must be counted as part of the Food Stamp household. Because Ms. S is undisputedly not eligible for Food Stamps, this means that the Food Stamp household consists of two people, Mr. U and the minor child.

---

<sup>4</sup> Mr. U's biweekly paycheck from one job averages \$627.02. His biweekly paycheck from the other job averages \$503.74. When his average biweekly paychecks are added together and multiplied by 2.15 to account for the fact that the average month has slightly longer than 4 weeks, that total figure comes to \$2,431.13. See Exs. 5 – 5.3.

<sup>5</sup> Ex. 3.

<sup>6</sup> Ex. 5.

<sup>7</sup> 7 C.F.R. § 271.4(a).

<sup>8</sup> 7 C.F.R. § 273.4(a)(6). While there are exceptions to this rule, they are limited to special circumstances such as being a victim of extreme violence, human trafficking, a veteran, and other specific exceptions. See 7 C.F.R. § 273.4(a).

<sup>9</sup> 7 C.F.R. § 273.1(b)(ii).

<sup>10</sup> See *Alaska Food Stamp Manual Addendum 4*.

<sup>11</sup> *Banks v. Block*, 700 F.2d 292, 296 – 297 (6<sup>th</sup> Cir. 1983).

The next issue that arises is whether Mr. U's income makes the two person household ineligible for Food Stamps. Ms. S argued that the Division incorrectly calculated his income, because Mr. U received three paychecks from one of his two employers during the month of June. However, the Division averaged his income to arrive at a biweekly average paycheck and then multiplied it by 2.15, to arrive at his monthly income.<sup>12</sup> This is the method required to determine monthly income for Food Stamp recipients who are paid every two weeks instead of twice per month.<sup>13</sup> As correctly calculated by the Division, Mr. U's gross monthly income was \$2,431.13. Without even taking Ms. S' child support income into account, this placed the household over the two-person income limit of \$2,100.<sup>14</sup> Consequently, Ms. S failed to meet her burden of proof. As a result, the Division's determination that Ms. S' Food Stamp renewal application should be denied is correct.

#### **IV. Decision**

The Division's decision denying Ms. S' Food Stamp application is affirmed.

DATED this 10<sup>th</sup> day of September, 2014.

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
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 19<sup>th</sup> day of September, 2014.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
Title/Agency: Admin. Law Judge, DOA/OAH

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

---

<sup>12</sup> See fn. 4 above.

<sup>13</sup> 7 AAC 46.021(a)(28); 7 C.F.R. § 273.10(c)(2)(i).

<sup>14</sup> If Ms. S had been included in the household, her child support income of \$495.65, when added to Mr. U's income of \$2,431.13, would also result in an ineligibility finding, because the income limit for a three-person household is \$2,645. See *Alaska Food Stamp Manual Addendum 4*.