

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

In the Matter of)
)
 J X)
_____)

OAH No. 14-1509-SNA
Agency No.

DECISION

I. Introduction

J X was the recipient of food stamps under the Supplemental Nutrition Assistance Program (SNAP). The Division of Public Assistance (division) determined that, because of its internal error, Ms. X received \$816 in food stamps that she was not eligible to receive. The division seeks reimbursement.

A hearing was held on September 30, 2014. Ms. X appeared in person, and the division was represented by Jeff Miller. The division has no discretion in matters like this; as a matter of law, the division is required to seek reimbursement of benefits paid in error, and its decision to do so is affirmed.

II. Facts

The underlying facts are not in dispute, and are taken from the evidence and testimony presented at hearing. Ms. X, as required by the food stamp program, informed the division of a change in her income. The division took this information and calculated Ms. X's weekly earnings. If a person is paid weekly or bi-weekly, the division will use a conversion factor to obtain a monthly income amount. This is where the error occurred. The division used a bi-weekly conversion factor rather than a weekly factor.

The bi-weekly factor significantly understated Ms. X's monthly income. This error resulted in Ms. X receiving food stamps that she was not eligible to receive, creating an overpayment situation. Had the division correctly calculated her income, Ms. X would have received \$106 in benefits for July and August rather than the \$415 she did receive. This resulted in a \$309 overpayment for both July and August (\$618 total).

III. Discussion

The facts are not in dispute: rather, it is the application of those facts to the controlling law. Ms. X received an overpayment of benefits. While she did not contribute to the error resulting in the overpayment, Ms. X did receive and use a benefit for which she was not eligible.

The SNAP is a federal program administered by the State of Alaska pursuant to 7 CFR §§ 271 – 274 and 7 AAC 46.010 – 990. The division, as the state agency administering the SNAP, is required to “establish and collect” all claims pursuant to the federal regulations.¹ The federal regulations define a claim to include amounts owed because benefits were overpaid due to agency error.² There is no applicable exception to this requirement.³ Under the controlling law, the division must seek to recover any overpayment.

However, notwithstanding its obligation to recover overpayments, the division recognizes (as did Congress) that recoupment of overpayments made to innocent households may cause hardship. The division seeks to minimize the hardship by providing that, where appropriate, the parties may enter into a repayment agreement that provides for periodic payments,⁴ and may compromise all or a portion of the claim if it is determined that, because of the household’s economic circumstances, the claim will not be paid in three years.⁵

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¹ 7 CFR §273.18(a)(2) (“[Claims for overpaid benefits regardless of fault are] a federal debt . . . The State agency must establish and collect any claim”); 7 CFR 273.18(a)(4)(i) (“Each person who was an adult member of the household when the overpayment . . . occurred” is responsible for the claim); 7 CFR 273.18(b)(3) (recognizing that an overpayment caused by agency error is a collectable claim); *also see Allen v. State, DHSS*, 203 P.3d 1155 (Alaska, 2009).

² 7 CFR §273.18(a)(1)(i).

³ The state has exercised its discretion not to establish and collect claims that are not cost effective. 7 AAC 46.021(a)(43); 7 CFR §273.18(e)(2). There is no indication in the record that this claim would fit within the definition of claims that would not be cost effective.

⁴ 7 CFR §273.18(e)(4).

⁵ 7 CFR §273.18(e)(7).

IV. Conclusion

Ms. X did receive an overpayment of food stamp benefits in the amount of \$618. The division has no discretion in this matter. Its decision to seek reimbursement of the overpayment is affirmed. This decision does not preclude the parties from entering into a repayment or compromise agreement.

DATED this 3rd day of October, 2014.

By: Signed
Rebecca L. Pauli
Administrative Law Judge

Adoption

The undersigned adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 14th day of October, 2014.

By: Signed
Signature
Christopher Kennedy
Name
Deputy Chief Admin. Law Judge
Title

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