

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

In the Matter of)	
)	OAH No. 14-1617-SNA
M M)	Division No.
_____)	

DECISION

I. Introduction

M M is a former Food Stamp¹ recipient. The Division of Public Assistance (Division) sent her notice that she had received \$1,188 more in Food Stamp benefits than she was entitled to receive, and that she was required to repay that amount. She requested a hearing. After her hearing request was made, the Division reduced its repayment claim to \$720.

Ms. M's hearing was held on October 16, 2014. She represented herself and testified on her own behalf. Jeff Miller, Public Assistance Analyst with the Division, represented the Division.

Ms. M received \$1,188 more in Food Stamp benefits than she should have due to the Division's error. She is liable to repay the Division, despite the fact that the overpayment was caused by its error. She, however, is not liable to repay the entire \$1,188 because the Division voluntarily reduced its claim to \$720. Because that amount can reasonably be paid off within three years, Ms. M is required to repay the Division \$720 in overpaid Food Stamp benefits.

II. Facts

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

Ms. M has a three person household, which consists of her and her two minor daughters.² Ms. M applied for Food Stamp benefits in January 2014. She was approved for Food Stamp benefits beginning in January 2014. At the time she applied, she was unemployed.

Ms. M became employed in mid-February 2014. She received her first paycheck at the end of February 2014. She testified that she informed the Division when she was hired and faxed them a copy of her new hire offer letter, which included her pay rate, as soon as she was offered her job. She further testified that she followed up with a phone call to Division staff.³

¹ 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.

² Ex. 2, p. 1.

³ Ms. M's testimony.

Ms. M's Food Stamp benefits were not terminated. She continued to receive Food Stamp benefits through June, 2014. She received \$594 in benefits per month in May and June, for a total of \$1,188 in benefits during those two months.⁴

Ms. M applied to renew her Food Stamp benefits on June 18, 2014.⁵ Her application disclosed her employment, and included copies of her three most recent paystubs.⁶ After processing that application, the Division determined that her gross monthly income was \$3,160.18, which exceeded the Food Stamp program's \$2,645 gross income for a three person household. She was consequently not financially eligible for Food Stamp benefits.⁷ The Division also determined that she was not financially eligible for and should not have received Food Stamp benefits in May and June.⁸ It sent Ms. M notice that she was required to repay the \$1,188 in benefits she received during those months.⁹

Ms. M requested that the Division compromise its repayment claim on financial hardship grounds: she is the sole support for herself and her two minor children and does not receive child support payments.¹⁰ The Division reduced its claim to \$720, stating that Ms. M should be able to repay that amount over a three year time period at \$20 per month.¹¹

Ms. M did not dispute that she was overpaid Food Stamp benefits or the amount. She disagreed with the requirement that she repay the Food Stamp benefits, because the overpayment was caused by the Division's error and because it would cause her and her family financial hardship.

III. Discussion

The issue in this case is whether Ms. M is required to pay back \$720 in compensation for the \$1,188 in Food Stamp benefits that were issued to her in error. There are no factual disputes. The overpayment was due to Division error.

The Food Stamp program is a federal program administered by the State.¹² The Code of Federal Regulations (C.F.R.) contains the rules for determining a household's monthly Food

⁴ Ex. 6.5.
⁵ Exs. 2 – 2.7.
⁶ Exs. 2.2, 3, 6.1 – 6.3.
⁷ Exs. 3, 4.
⁸ Ex. 5. 6.10.
⁹ Ex. 6 – 6.9.
¹⁰ Ex. 8.
¹¹ Ex. 9.
¹² 7 C.F.R. § 271.4(a).

Stamp payment. Food Stamp benefit amounts are calculated based upon the monthly income, after applicable deductions, received by all household members, and upon the number of people living in the household.¹³

Ms. M argued that she should not have to repay the Division because its own error had caused the overpayment. The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.¹⁴ This is true even when the overpayment is caused by the Division’s error.¹⁵ Adult members of the Food Stamp recipient’s household are the persons responsible for repaying overpaid Food Stamp benefits.¹⁶ As a matter of law, Ms. M was overpaid \$1,188 in Food Stamp benefits, which the Division has reduced to \$720. She 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. M argued that she should not have to pay because the repayment would be a hardship for her family. However, compromising or writing off this claim is only a discretionary option for the Division if the claim cannot be paid off in three years.¹⁷ Given that Ms. M is employed, she should be able to pay the \$720 off in three years by paying a minimum of \$20 per month. Accordingly, compromising or writing off the claim, regardless of any hardship that repayment imposes, is not an available option.

IV. Conclusion

The Division's decision to seek recovery of the \$720 in Food Stamp (SNAP) benefits overpaid to Ms. M in June and July 2014 is affirmed.

DATED this 31st day of October, 2014.

Signed

Lawrence A. Pederson
Administrative Law Judge

¹³ 7 C.F.R. § 273.10(e)(2)(ii)(A).

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

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

¹⁶ 7 C.F.R. § 273.18(a)(4)(i).

¹⁷ 7 C.F.R. § 273.18(e)(7).

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 14th day of November, 2014.

By: *Signed* _____

Name: Andrew M. Lebo

Title/Agency: Admin. Law Judge, DOA/OAH

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