



\$189 for July.<sup>4</sup> It sent Ms. T notice that she was required to repay the \$189 in benefits that she was erroneously issued.<sup>5</sup>

Ms. T 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 substantial hardship. Ms. T is unemployed, has no income whatsoever, and her daughter has a limited job. Her benefits were due to expire at the end of September 2014. She submitted a recertification application on September 9, 2014 to renew those benefits. As of October 22, 2014 (the date of hearing), that application had not been acted upon; Ms. T and her daughter have received no Food Stamp benefits since the September benefits were distributed. They have no food in the house. Ms. T used her PFD to pay past due rent, and is concerned about being evicted in the near future.

### **III. Discussion**

The issue in this case is whether Ms. T is required to pay back \$189 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.<sup>6</sup> The Code of Federal Regulations (C.F.R.) contains the rules for determining a household's monthly Food 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.<sup>7</sup> When a household reports that another person has joined that household and the benefit levels increase as a result, the change in benefit levels does not go into effect immediately; the change goes into effect during the next month.<sup>8</sup> This means that when Ms. T's daughter joined her household in July, her benefit amount should have changed effective with her August benefits. The Division erred when it made the change effective for July and issued Ms. T \$189 in supplemental benefits for that month.

Ms. T 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

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<sup>4</sup> Ex. 5.

<sup>5</sup> Ex. 6 – 6.9.

<sup>6</sup> 7 C.F.R. § 271.4(a).

<sup>7</sup> 7 C.F.R. § 273.10(e)(2)(ii)(A).

<sup>8</sup> 7 C.F.R. § 273.12(c)(1)(ii).

collect any claim” for overpaid Food Stamp benefits issued.<sup>9</sup> This is true even when the overpayment is caused by the Division’s error.<sup>10</sup> Adult members of the Food Stamp recipient’s household are the persons responsible for repaying overpaid Food Stamp benefits.<sup>11</sup> As a matter of law, Ms. T was overpaid \$189 in Food Stamp benefits and 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. T 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.<sup>12</sup> Ms. T presents a compelling argument, especially given the fact that she is not currently receiving Food Stamp benefits because her renewal application, which she filed on September 9, 2014, had not been acted upon as of the hearing date of October 22, 2014. Assuming the application is approved, the Division would be required to recover the overpaid benefits by reducing her monthly Food Stamp allotment by a minimum of \$10 or ten percent of her monthly allotment, whichever is greater, to pay the claim.<sup>13</sup> Because the claim is for \$189, a reduction of \$10 per month, which is the absolute minimum allowed by regulation, will result in the claim being paid off in less than three years. Even if her application is not approved, it should be possible for Ms. T to pay the \$189 off in less than three years. Accordingly, compromising or writing off the claim, regardless of any hardship that the repayment imposes, is not an available option.

#### **IV. Conclusion**

The Division's decision to seek recovery of the \$189 in Food Stamp (SNAP) benefits which were overpaid to Ms. T in July 2014 is affirmed.

DATED this 29th day of October, 2014.

*Signed*  
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Lawrence A. Pederson  
Administrative Law Judge

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<sup>9</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>10</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

<sup>11</sup> 7 C.F.R. § 273.18(a)(4)(i).

<sup>12</sup> 7 C.F.R. § 273.18(e)(7).

<sup>13</sup> 7 C.F.R. § 273.18(g)(1)(i).

## 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 7th day of November, 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.]