

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

In the Matter of )  
 )  
 N G ) OAH No. 14-2405-SNA  
 ) Division No.  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

N G is a Food Stamp<sup>1</sup> recipient. The Division of Public Assistance (Division) sent her notice that she had received \$689 more in Food Stamp benefits than she was entitled to receive, and that she was required to repay that amount. She requested a hearing.

Ms. G's hearing was held on January 21, 2015. She represented herself and testified on her own behalf. Jeff Miller, Public Assistance Analyst with the Division, represented the Division.

Ms. G received \$689 more in Food Stamp benefits than she should have due to the Division's error. Regardless of the fact that the overpayment was caused by the Division's error, she is required to repay those benefits. The Division's decision establishing a repayment claim in that amount is affirmed.

**II. Facts**

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

Ms. G was a Food Stamp recipient. On July 30, 2014, while receiving benefits, she notified the Division that she had started working a 40 hour per week job that paid \$18.50 per hour.<sup>2</sup> The Division did not act upon that notice until December 8, 2014, when it received verification from Ms. G's employer, which confirmed Ms. G's wage and hour information.<sup>3</sup> Ms. G's actual monthly gross income in November was \$2,233.88.<sup>4</sup> Her average monthly income, based upon her actual paystubs received in November and early December, is \$2,472.84.<sup>5</sup> The

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<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> Ex. 5.1.

<sup>3</sup> Ex. 7.1.

<sup>4</sup> Her November pay was most likely low, given that she had one pay period of only 32 hours (pay period ending November 15, 2014), when the other two pay periods were for 79.75 hours and 88 hours (pay periods ending October 31 and November 30). See Ex. 7.1.

<sup>5</sup> See Ex. 7.1 and Division Position Statement, p. 2.

gross monthly income limit for a two-person Food Stamp household is \$2,130.<sup>6</sup> Based upon her income information, the Division determined that her average monthly income from that job caused her to exceed the Food Stamp income limit beginning in August 2014. As a result, it determined she was not eligible for Food Stamp benefits beginning with the next month - September 2014.<sup>7</sup> The Division terminated Ms. G's Food Stamp benefits in December, and notified her that she was responsible for repaying the Division for the \$689 in benefits she received during September through December.<sup>8</sup>

Ms. G did not dispute that her new job caused her to exceed the Food Stamp program's income limit in August or that her income made her ineligible for benefits in October through December. However, she testified that she thought she was eligible for Food Stamp benefits in September because she did not receive full pay that month. She was provided an opportunity to supplement the record with her pay records and did not.<sup>9</sup> She disagreed with the requirement that she repay the Food Stamp benefits, because the overpayment was caused by the Division's error.

### **III. Discussion**

The issue in this case is whether Ms. G is required to pay back \$689 in Food Stamp benefits that were issued to her in error. Ms. G did not dispute the fact that she received \$689 total in Food Stamp benefits during the months of September through December 2014. She also did not dispute the fact that she was not financially eligible for benefits in October through December 2014. While she testified that she thought she was eligible for Food Stamp benefits in September, because she did not receive full pay that month, she did not provide any supporting pay documentation despite being provided the opportunity. As a result, the evidence shows, based upon her original reporting of her income, her employer's verification of her income, and her actual pay history for the pay periods ending on October 31, November 15, and November 30, 2014, it is more likely true than not true that she was also not financially eligible for Food Stamp benefits in September.

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<sup>6</sup> Ex. 8.4 (*Alaska Food Stamp Manual Addendum 4*).

<sup>7</sup> Ex. 7.

<sup>8</sup> Ex. 1.

<sup>9</sup> Ms. G's hearing was held on January 21, 2015. She agreed to provide her pay information by January 28, one week after her hearing. As of the date of this decision, February 3, 2015, she has not provided any supplemental documentation, nor did she request an extension.

Ms. G's financial ineligibility for Food Stamp benefits in September through December 2014 meant that she should not have received any benefits during those four months. She, however, maintains that she should not have to repay those benefits back because she received those benefits due to an undeniable Division error: if the Division had acted in a timely manner when it received Ms. G's information about her new job, her benefits would have been terminated at the end of August and she would not have received \$689 in benefits during September through December 2014.<sup>10</sup>

The federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits issued.<sup>11</sup> This is true even when the overpayment is caused by the Division's error.<sup>12</sup> Adult members of the Food Stamp recipient's household are the persons responsible for repaying overpaid Food Stamp benefits.<sup>13</sup> As a matter of law, Ms. G was overpaid \$689 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.

#### **IV. Conclusion**

The Division's decision to seek recovery of the \$689 in Food Stamp (SNAP) benefits which were overpaid to Ms. G in September through December 2014 is affirmed.

DATED this 3<sup>rd</sup> day of February, 2015.

Signed  
Lawrence A. Pederson  
Administrative Law Judge

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<sup>10</sup> The Food Stamp program is a federal program administered by the State. 7 C.F.R. § 271.4(a). 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. 7 C.F.R. § 273.10(e)(2)(ii)(A). When a household reports that income levels have changed, which would result in a decrease in or termination of the household's benefits, the earliest the change could go into effect would be the next month. 7 C.F.R. § 273.12(c)(1)(ii).

<sup>11</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>12</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

<sup>13</sup> 7 C.F.R. § 273.18(a)(4)(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 23<sup>rd</sup> day of February, 2015.

By: *Signed* \_\_\_\_\_  
Name: Christopher Kennedy  
Title/Agency: Admin. Law Judge, DOA/OAH

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