

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

In the Matter of	)	
	)	
T C	)	OAH No. 15-0001-SNA
_____	)	Agency No.

**DECISION**

**I. Introduction**

Due to an agency error, T C received higher Food Stamp benefits during the month of October 2015 than his household was entitled to. The Division of Public Assistance (DPA) notified him that it would require him to repay excess benefits totaling \$161. Mr. C requested a hearing.

A hearing was held on January 21, 2015. Mr. C appeared by telephone. The division was represented by Michelle Cranford, who also appeared by telephone. As discussed below, the division's request for repayment must be upheld.

There is an option for taking care of the reimbursement obligation through reduction of future benefits. Ms. Cranford and the ALJ discussed this option with Mr. C during the hearing.

**II. Facts**

In the summer of 2014, the C household was receiving Food Stamp benefits. In accordance with their obligation to report changes in household composition, they informed the agency that their daughter F had moved out to attend the No Name University (the record shows that the Cs were *extremely* conscientious, reminding DPA of the change multiple times). This should have resulted in a reduction in household size from four to three and a corresponding reduction in benefits effective in October. However, the information was not processed timely, and the benefit reduction did not go into effect until November.<sup>1</sup>

Because the system calculated the benefit based on an extra household member, the October benefit was paid at \$445, whereas it should have been \$284.<sup>2</sup> The amount of excess payment was \$161.<sup>3</sup>

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<sup>1</sup> See Ex. 2, 3, 3.1.

<sup>2</sup> Ex. 3.3, 4.7.

<sup>3</sup> Ex. 4.4, 4.6.

### III. Discussion

Food Stamp benefits are governed by federal law. The federal statute pertaining to the recoupment of overpaid Food Stamp benefits is 7 U.S.C. § 2022. Subsection (b)(1) of that statute provides that the “state agency *shall* collect any overissuance of benefits issued to a household . . .” [emphasis added]. This statute requires, on its face, that the division attempt to recover overpaid Food Stamp benefits.

The federal implementing regulation pertaining to the recoupment of Food Stamp benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides that “the State agency *must* establish and collect any claim . . .” Under subsection (b)(3), collection action is required even where (as here) the “overpayment [is] caused by an action or failure to take action by the State agency.” Thus, federal law requires the division attempt to recover overpaid Food Stamp benefits, even if the overpayment is the result of the division’s own error.

This was recently confirmed by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*.<sup>4</sup> After holding that federal law requires the state to pursue repayment of all overpaid Food Stamp benefits, the court observed:

We are sympathetic to the argument that it is unfair to require indigent food stamp recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar or ten percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.<sup>[5]</sup>

The federal regulations and the *Allen* decision are binding on the Department of Health and Social Services.<sup>6</sup>

### IV. Conclusion

Mr. C received an overpayment of Food Stamp benefits. Although the overpayment was not his fault, he is still required to repay the excess benefit. Accordingly, the division’s decision to require repayment of \$161.00 is upheld.

Dated: January 21, 2015

*Signed*  
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Christopher Kennedy  
Administrative Law Judge

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<sup>4</sup> 203 P.3d 1155 (Alaska 2009).

<sup>5</sup> *Id.* at 1164 (footnotes omitted).

<sup>6</sup> As alluded to in the quoted language from *Allen*, most recipients do have the right to request that the division compromise (write-off or forgive) all or part of the overpaid benefits. *See* 7 C.F.R. § 273.18(e)(7).

## Adoption

The undersigned, by delegation from of 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 4th day of February, 2015.

By: Signed \_\_\_\_\_  
Name: Christopher M. Kennedy  
Title: Administrative Law Judge

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