

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

In the Matter of)
)
K U-C)
_____)

OAH No. 15-0367-SNA
Agency No.

DECISION

I. Introduction

K U-C applied for and received Supplemental Nutrition Program benefits (Food Stamps) in late 2014 and early 2015. The Division of Public Assistance (“Division”) notified her that, due to inadvertent household error and agency error, she had been paid \$1,251 more in Food Stamps than her household was entitled to receive. Ms. U-C requested a hearing on whether she should be required to repay the overpayment amount.

A telephonic hearing was held by the Office of Administrative Hearings (“OAH”) on May 20, 2015. Ms. U-C represented herself and testified on her own behalf. Public Assistance Analyst Jeff Miller represented the Division. After Mr. Miller presented the Division’s case, Ms. U-C opted to not present a defense, indicating that she would instead submit settlement paperwork to Mr. Miller. As of the date of this decision, however, no such paperwork has been received by OAH. Accordingly, this decision is issued, finding that because Ms. U-C received an overpayment, the Division’s decision must be affirmed as to two of the three months of claimed overpayment.

II. Facts

No facts are in dispute in this case. In August 2014, Ms. U-C applied for Food Stamps benefits for her household.¹ Her application was approved in October 2014, and she started receiving benefits shortly thereafter. On December 18, 2014, she submitted a “change report form” to the Division indicating that she had started full-time employment at a No Name eye clinic as of November 11, 2014.² Ms. U-C also disclosed her rate of pay in the report form; at that point in time, she had not yet received her first paycheck.³ The Division, however, did not process

¹ Exh. 1.
² Exh. 2, Exh. 2.1.
³ *Id.*

the change report form until March 2015.⁴ In the meantime, Ms. U-C received \$417 per month in Food Stamps benefits for the months of January, February, and March, 2015.⁵

Ms. U-C fulfilled all of her obligations with regard to reporting income, but the agency delayed in processing her change report form and therefore erroneously awarded benefits to her. In March, the agency recognized that it had made an error, and sent her notice that the overpaid Food Stamps benefits in the amount of \$1251 would need to be repaid.

Ms. U-C appealed the Division's determination that she was required to repay the overpayment. In preparing for the appeal hearing, Division representative Jeff Miller requested that Ms. U-C provide copies of her actual paycheck stubs. When these were received, Mr. Miller was able to confirm that Ms. U-C's income was over the gross income limit for the Food Stamps program for each of the three months in question. However, he also noted that she did not receive her first paycheck until January 5, 2015. He therefore stated in the Division's position statement as follows: "There is no overpayment for January 2015 – as Ms. U-C did not go over the [Food Stamps] income limit until January 5th."⁶ The position statement further states:

The agency caused the overpayment for February and March 2015 due to not processing the report of change timely. The new [Food Stamps] overpayment claim is \$834 - \$417 for each month.⁷

At the hearing, Ms. U-C did not challenge the Division's calculations or its determination that she was over the income limit for the months in question. She simply questioned whether the Division could require repayment of the benefits where (1) she had fulfilled her reporting obligations regarding her new job, and (2) the overpayment was caused by the Division's delay in processing her change report form.⁸

III. Discussion

Ms. U-C does not dispute—and it is now clear—that an agency error caused the Division to pay her \$834 in benefits to which she was not legally entitled. For purposes of the requirement to repay, however, the reason for the overpayment is immaterial.

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 in relevant part that the "state agency *shall* collect any overissuance of benefits issued to

⁴ Exh. 2.

⁵ *Id.*

⁶ Division Position Statement, p. 2.

⁷ *Id.*

⁸ U-C testimony.

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 in relevant part that “the State agency *must* establish and collect any claim” Subsection (e)(1) of that regulation also provides in relevant part that “state agencies *must* begin collection action *on all claims*” Finally, pursuant to 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 department to attempt to recover overpaid Food Stamp benefits, even if the overpayment is the result of the agency’s own error.

The no-fault rule in recovering overpaid public benefits has been confirmed by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*.⁹ In that case, after holding that federal law required 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.^[10]

Essentially, the Food Stamps program has been designed with a policy choice to require wrongly-distributed benefits to be returned to the program, subject to certain limitations that do not apply to Ms. U-C. Even if an overpayment is solely caused by the Division’s own error or negligence, it must be repaid.

IV. Conclusion

Ms. U-C received \$834 in Food Stamps benefits that she was not entitled to receive due to her income exceeding the gross income limit. Accordingly, the Division correctly found that she should repay that amount, and the Division's decision to seek recovery of \$834 in Food Stamps benefits is affirmed.

DATED this 16th day of July, 2015.

Signed

Andrew M. Lebo
Administrative Law Judge

⁹ 203 P.3d 1155 (Alaska 2009).

¹⁰ *Id.* at 1164 (footnotes omitted).

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 27th day of July, 2015.

By: Signed
Name: Andrew M. Lebo
Title: Administrative Law Judge

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