

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

In the Matter of)	
)	
E Q)	OAH No. 15-1518-SNA
_____)	Agency No.

DECISION

I. Introduction

E Q was receiving Food Stamps. He received an overpayment of benefits because of agency error. The Division of Public Assistance (Division) seeks reimbursement of those benefits. Mr. Q does not believe he should have to repay those benefits when he was not at fault. Federal law requires the Division seek reimbursement, there is no discretion afforded in this tribunal. The Division’s decision is affirmed.

II. Facts

The facts are not in dispute. Mr. Q agrees that he received \$163 in Food Stamp Benefits that he was not eligible to receive. He agrees that the money should be repaid. He is concerned by how long it took the Division to discover its error.

Mr. Q was not in error in this case. He timely provided the information required. The overpayment occurred due to agency error. The agency error was not caught for several months. This is the crux of Mr. Q’s appeal. He wants to know why it took several months before the error was discovered.

III. Discussion

Because there is no dispute that Mr. Q received an overpayment of benefits, the only issue is a question of law: May the division seek reimbursement of those benefits? Mr. Q does not dispute that the payments were received or that he should repayment. The relief he seeks regarding the internal workings of the Division are beyond the scope of this proceeding.

The SNAP is a federal program administered by the State of Alaska pursuant to 7 CFR §§ 271 – 274 and 7 AAC 46.010 – 990. The division, as the state agency administering the SNAP, is required to “establish and collect” all claims pursuant to the federal regulations.¹ The federal regulations define a claim to include amounts owed because benefits were overpaid due to

¹ 7 CFR §273.18(a)(2) (“[Claims for overpaid benefits regardless of fault are] a federal debt . . . The State agency must establish and collect any claim”); 7 CFR 273.18(a)(4)(i) (“Each person who was an adult member of the household when the overpayment . . . occurred” is responsible for the claim); 7 CFR 273.18(b)(3) (recognizing that an overpayment caused by agency error is a collectable claim); *Also see Allen v. State, DHSS*, 203 P.3d 1155 (Alaska, 2009).

agency error.² There is no applicable exception to this requirement.³ Under the controlling law, the Division must seek to recover any overpayment.

However, notwithstanding its obligation to recover overpayments, the Division recognizes (as did Congress) that recouping of overpayments made to innocent households may cause hardship. The Division seeks to minimize the hardship by providing that, where appropriate, the parties may enter into a repayment agreement that provides for periodic payments,⁴ and may compromise all or a portion of the claim if it is determined that, because of the household's economic circumstances, the claim will not be paid in three years.⁵

IV. Conclusion

Mr. Q did receive an overpayment of food stamp benefits in the amount of \$163. The Division has no discretion in this matter. Its decision to seek reimbursement of the overpayment is affirmed. This decision does not preclude the parties from entering into a repayment or compromise agreement.

DATED this 13th day of January, 2016.

By: Signed _____
Rebecca L. Pauli
Administrative Law Judge

Adoption

The undersigned adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 22nd day of January, 2016.

By: Signed _____
Signature
Rebecca L. Pauli
Name
Administrative Law Judge
Title

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

² 7 CFR §273.18(a)(1)(i).

³ The state has exercised its discretion not to establish and collect claims that are not cost effective. 7 AAC 46.021(a)(43); 7 CFR §273.18(e)(2). There is no indication in the record that this claim would fit within the definition of claims that would not be cost effective.

⁴ 7 CFR §273.18(e)(4).

⁵ 7 CFR §273.18(e)(7).