



the Division, filed three of her paystubs and reported that Mr. Z was no longer a member of her household.<sup>5</sup>

On January 7, 2016, Ms. M reapplied for food stamps for her household.<sup>6</sup> She also requested a fair hearing regarding her request to have her prior food stamp claim for July 1, 2015 recertified.<sup>7</sup> On January 8, 2016, a notice was sent by the Division notifying Ms. M that her June 30, 2015 recertification application was denied, based on her not having provided the information previously requested by the Division.<sup>8</sup>

A telephonic hearing was held on February 10, 2016. Sally Dial represented the Division of Public Assistance, and Ms. M represented herself. The sole issue at the hearing was whether the Division should process and approve Ms. M's June 30, 2015 recertification application. The record in this case closed on February 22, 2016.

At the hearing, Ms. M testified that she called the Division's field office and informed them that Mr. Z was incarcerated. Ms. M believes that she made this call in August about a week after getting the Division's notice requesting her and Mr. Z's employment information. Ms. M testified that she left a voicemail with this information. The Division, however, has no record of receiving this voicemail.

Ms. M also testified that she had faxed her paystubs to the Division's No Name office in the second week of August 2015. The Division has no record of receiving this fax transmission.

Ms. M also testified that about two weeks after she left the voicemail, and one week after she had faxed her pay information, she received a call regarding her case from a Division employee notifying her that she still needed to submit income documentation. Ms. M testified that after receiving this call, she had her sister drop her pay information off at the Division's office. Ms. M testified that a Division employee then contacted her by phone and asked her why she was providing her earnings information.

The Division testified that there was no record of this phone call or that any information from Ms. M was received in August of 2015. After the hearing, the Division filed a report of an inquiry to determine if Ms. M had contacted the Division or submitted any documents in August of 2015, after the notice was sent to her on August 7, 2015. The Division found no records of

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<sup>5</sup> Division Exhibit 5.

<sup>6</sup> Division Exhibit 7.

<sup>7</sup> Division Exhibit 5.

<sup>8</sup> Division Exhibit 6.

any contacts or filings from Ms. M. The Division also explained how its record-keeping system would have recorded these contacts if they had been made. The Division's first recorded interaction with Ms. M after August 7, 2015 was when she provided updated contact information on December 1, 2015.<sup>9</sup>

At the hearing, Ms. M explained that she works at No Name Company. She testified that Mr. Z went into jail about three days after her conversation with the Division in August 2015. Mr. Z had moved into her household for two weeks in late July and early August. Ms. M also explained that her application for food stamps that she filed on January 7, 2016 was approved. Ms. M admitted that she did not check to find out what had happened to her claim after August of 2015 until December of 2015. She explained that she had become annoyed by the whole situation and just gave up.

After the hearing, Ms. M was given an opportunity to search for and provide evidence that would support her testimony regarding her contacts with the Division in August of 2015, such as a fax confirmation showing she faxed her paystubs in mid-August. Ms. M did not file any corroborating evidence.

### **III. Discussion**

It is Ms. M's burden to prove, by a preponderance of the evidence, that the Division's denial of her application for food stamp eligibility recertification was incorrect. Proof by a preponderance of the evidence means that the fact being proven is more likely true than not true. Meeting this burden only requires that the fact be slightly more likely true than not true.<sup>10</sup>

Under federal law, the Division must obtain verification of income before it can approve an application for food stamps.<sup>11</sup> The law requires that "[t]he household has primary responsibility for providing documentary evidence to support statements on the application and to resolve any questionable information."<sup>12</sup> Federal law requires the Division to verify information about an applicant before the Division determines whether the applicant is eligible for food stamp benefits. The Division has authority to deny food stamp benefits to an applicant who "refuses to cooperate."<sup>13</sup>

Based on a careful review of the evidence in the record, I find that it is more likely than

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<sup>9</sup> Division's submission to record dated February 19, 2016.

<sup>10</sup> See *In re H.N.*, OAH No. 12-0715-SAN (Commissioner of Health and Social Services 2013).

<sup>11</sup> Exhibit 4.

<sup>12</sup> 7 C.F.R. § 273.2(f)(5).

<sup>13</sup> 7 C.F.R. § 273.2(d)(1).

not that Ms. M did not provide her employment information until December 10, 2015, and that she did not cooperate with the Division in providing the information needed to verify the information in her June 30, 2015 food stamp recertification application.

Here, Ms. M was not cooperative, in that she failed to provide the information requested by the Division in a timely manner. Although Ms. M was very articulate at the hearing, her testimony regarding her contacts with the Division in August 2015 was not credible, because the Division's records do not show that any contacts with the Division were made in August 2015 after the notice was sent to her on August 7, 2015. Furthermore, Ms. M's assertion that she made several untraceable contacts with the Division in August of 2015 is not consistent with the expected behavior of someone who was diligently attempting to ensure that the Division had the information needed to establish her food stamp eligibility. Ms. M admitted at the hearing that she "gave up" on pursuing her recertification application in late August 2015. At any time before December 1, 2015, when she filed her new contact information, Ms. M could have gone to a Division's office to talk about her case. Even if her recertification application had been denied, she could have reapplied and received ongoing food stamp eligibility as she did in January of 2016.

The Division sent Ms. M a notice on August 7, 2015 advising her of the August 17, 2015 deadline to provide the information needed to receive recertification and still be eligible for food stamps for July 2015.<sup>14</sup> Some of this information was received on December 10, 2015, which was several months after the date of that deadline for her recertification application. No information was ever provided regarding Mr. Z's income. Ms. M, therefore, did not meet her burden of proving that the Division's action in denying her food stamp recertification was incorrect.

#### **IV. Conclusion**

The Division's decision denying Ms. M's June 30, 2015 application for food stamps eligibility recertification, for failure to timely provide verification information, is affirmed.

DATED this 31<sup>st</sup> day of March, 2016.

By: Signed \_\_\_\_\_  
Andrew M. Lebo  
Administrative Law Judge

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<sup>14</sup> Division Exhibits 5, 10.2.

## 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 14<sup>th</sup> day of April, 2016.

By: *Signed*

Name: Andrew M. Lebo

Title: Administrative Law Judge

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