

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

In the Matter of:)
)
 Q J) OAH No. 16-0279-SNA
) Agency No.
_____)

DECISION

I. Introduction

Q J applied for food stamp benefits. The Division of Public Assistance (Division) denied his application because it concluded that Mr. J is a student who is enrolled at least half time in an institution of higher learning, and he does not meet any of the exceptions that would qualify him to participate in the food stamp program.

At the hearing, Mr. J maintained that he satisfied one of the student exemption provisions, because he experiences a disability. The record remained open until April 27, 2016, so Mr. J could submit additional documentation regarding his disability.

Mr. J demonstrated that he receives some educational accommodations and support from University X. However, he has not provided medical or psychiatric evidence of an ongoing disability, nor has he been adjudicated as being disabled. Consequently, he has not shown that he falls within any of the exemption categories that would allow him to be an enrolled student and still receive food stamp benefits. Accordingly, the Division's decision denying his food stamp application is upheld.

II. Facts

The parties do not disagree about the facts of this case. Mr. J was a recipient of food stamp benefits.¹ He submitted a recertification application on February 1, 2016; the application indicated that he was a college student, and he attended school on more than a half-time basis.² The Division determined that Mr. J did not meet any of the exemptions to the general rule precluding students from food stamp eligibility. It denied his application.³

Mr. J is currently enrolled at University X (U X) on more than a half-time basis. He began classes totaling 12 credit hours on January 18, 2016.⁴ At the time of the hearing, his class

¹ Ex. 1.
² Ex. 2.1-12.
³ Ex. 3.
⁴ Ex. 2.10-2.12

workload totaled 9 credit hours.⁵ Mr. J is not employed. Division records classify him as homeless, because he indicated on his recertification application that he often stays with the mothers of his children.⁶ However, his recertification application also indicated that he has a roommate who helps him financially.⁷ At the hearing, Mr. J indicated that he received certain disability and student support services at U X, and he argued that his disability should satisfy one of the student exemptions, thereby making him eligible for food stamps.

Mr. J submitted documentation from U X showing that he receives classroom accommodations such as alternative testing options and flexibility with deadlines.⁸ He does not receive Social Security disability payments or Interim Assistance under the Adult Public Assistance Program.⁹ He did not submit evidence showing that he is considered disabled for purposes of other federal or state benefit programs.

Mr. J qualified for U X disability support services because of his November 2010 psychiatric evaluation and treatment at No Name (NN).¹⁰ NN records indicate that Mr. J was diagnosed with mood disorder, possible bipolar disorder, possible adjustment disorder and personality disorder.¹¹ He was discharged with a 14 day prescription for an antipsychotic medication and a recommendation for mental health follow-up.¹² He did not submit evidence showing any ongoing treatment for the diagnosed conditions.

III. Discussion

The food stamp program is a federal program administered by the states. The program generally excludes student applicants who are “enrolled at least half-time in an institution of higher learning” unless they qualify for one of eleven specified exemptions.¹³ To qualify as a “student” at all, one requirement is that a person must be “physically and mentally fit.”¹⁴ For purposes of defining a “student,” an individual is physically and mentally fit if he or she is (1) capable of gainful employment; (2) not a disabled individual meeting the definition of “Special

⁵ Testimony of Q. J.

⁶ Ex. 1; Ex. 2.3.

⁷ Ex. 2.3.

⁸ Ex. 13.

⁹ Ex. 1.

¹⁰ See Ex. 15 (NN records dated 11/24/2010 to 11/26/2010).

¹¹ Ex. 15.2.

¹² Ex. 15.2

¹³ 7 C.F.R. §273.5(a).

¹⁴ Ex. 9 (Food Stamp Manual §605-1B).

Category Individual” under the Food Stamp Manual definitions; and (3) not incapacitated as defined in the Food Stamp Manual.¹⁵

Mr. J is a “student” under this definition. There is no evidence that suggests he is not capable of gainful employment. In addition, he does not meet any of the criteria that would qualify him as disabled or incapacitated as defined by the Food Stamp Manual.¹⁶ The relevant qualifying criteria generally require recognition of a disability by other state or federal benefit programs.

Mr. J does not satisfy the exemption for students who are physically or mentally unfit for the same reasons discussed above.¹⁷ Federal regulations provide that students who claim this exemption may verify their claim by showing they receive “temporary or permanent disability benefits issued by governmental or private sources,” or by showing “a statement from a physician or licensed or certified psychologist.”¹⁸ Mr. J’s challenges are not severe enough to qualify him for governmental benefits based on disability, for example, under Social Security or the Alaska Temporary Assistance Program.¹⁹ In addition, while he has shown documentation of certain psychiatric diagnoses in 2010, he has not provided a statement from a physician or licensed or certified psychologist that his mental condition is of a degree that should qualify him as disabled or mentally unfit. The fact that he qualifies for certain educational accommodations and support is not sufficient to show physical or mental unfitness for purposes of food stamp eligibility.

With certain exceptions, the food stamp program also excludes applicants who are considered Able Bodied Adults Without Dependents (ABAWD) if they do not comply with the program’s work requirements.²⁰ Because of his homelessness, the Division determined that Mr. J meets an exception to this rule for persons “physically or mentally unfit for employment.”²¹ The Division pointed out that the Food Stamp Manual provides it with some flexibility in

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Id.

¹⁶ Ex. 10.1 (“Special Category Individual” criteria); Ex. 12-12.1 (criteria for incapacity determination).

¹⁷ 7 C.F.R. §273.5(b)(2).

¹⁸ 7 C.F.R. § 273.2(f)(1)(viii)(B)(xi).

¹⁹ Ex. 9.1-9.2 (Food Stamp Manual §605-1B.2 (Student Eligibility)).

²⁰ *See* 7 C.F.R. § 273.7.

²¹ *See* 7 C.F.R. § 273.7(b)(1)(ii); Ex. 12.4 (Food Stamp Manual §602-1G.5 (ABAWD exemptions)).

making this determination.²² Therefore, the Division often exempts homeless individuals from the ABAWD work requirements.

Mr. J argued that his exemption from the ABAWD work requirements should be sufficient to qualify him for food stamp benefits. However, the rules outlining these exceptions specifically require that “[s]tudents enrolled at least half-time in an institution of higher education must meet the student eligibility requirements” set out elsewhere in the regulations.²³ As a result, even though he is currently exempted from the ABAWD work requirements, Mr. J also must show that he qualifies for benefits under the student eligibility rules. He did not meet his burden on this issue.²⁴

IV. Conclusion

Mr. J has not established a disability meeting the threshold required for the food stamp program student exemption based on physical or mental unfitness. Accordingly, the Division’s decision to deny his recertification application is affirmed.

Dated this 28th day of April, 2016.

Signed _____
Kathryn A. Swiderski
Administrative Law Judge

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 12th day of May, 2016.

By: *Signed* _____
Name: Kathryn A. Swiderski
Title: Administrative Law Judge

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

²² Ex. 12.4 (Food Stamp Manual §602-1G.5 (for purposes of ABAWD work exemptions, prudent worker judgment is required to determine whether an individual is physically or mentally unable to work)).

²³ 7 C.F.R. § 273.7(b)(1)(viii).

²⁴ See, e.g., *In re LT*, OAH 13-0120-SNA (2013) (food stamp applicant bears burden to establish eligibility by preponderance of the evidence).