

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

In the Matter of)	
)	OAH No. 16-0459-SNA
S N)	Agency No.
_____)	

DECISION

I. Introduction

S N had been receiving Food Stamp benefits through the Supplemental Nutrition Assistance Program. She submitted paystubs to the Division of Public Assistance (Division) showing her most recent income figures, but the Division did not process that information immediately. Because of the processing delay, Ms. N received more benefits than she was entitled to receive. The Division notified her that she would need to repay that amount, and Ms. N appealed.

A hearing was held on May 16, 2016. The Division was represented by Sally Dial. Ms. N was represented by her husband Z N.¹ At the hearing Mr. N showed that Ms. N had been scrupulous about meeting her own obligations to report changes in her income, and that the overpayment was the result of Division errors that she could not have been expected to identify or correct. However, because the evidence showed that she did receive an overpayment, the Division's decision requiring repayment must be affirmed. For purposes of the requirement to repay, the reason for the overpayment is immaterial. Therefore, the Division may seek to recover the overpayment of \$288.00.

II. Facts

Ms. N submitted two paystubs to the Division, reflecting an increase in her income, on December 30, 2015. Unfortunately, the Division did not process her report until February 6, 2016.² At that time Division staff determined that as of February 1, 2016, the Ns were over the income limit for a household of four persons: the income limit is \$3,285, and the Division calculated Ms. N's average monthly gross income to be \$3,356. In a letter dated February 22, 2016, the Division informed Ms. N that, based on its calculations, she had been overpaid benefits

¹ The Division did not object to Mr. N appearing on behalf of his wife at the hearing.

² Exhibit 4; testimony of Ms. Dial.

in the amount of \$288 for the month of February.³ The Division acknowledged that the overpayment was due to an agency error.⁴

Ms. N appealed the overpayment notice. In her hearing request, she stated that she “submitted all required payment documentation in a timely manner,” and she argued that she had “no control over how long” the Division’s eligibility technician took to process her paperwork.⁵

III. Discussion

The Supplemental Nutrition Assistance Program is governed by federal law. Federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits.⁶ This is true even when the overpayment is caused by the Division’s error.⁷ Thus, the Division correctly sought to recover the overpaid benefits.

At the hearing, Mr. N reiterated the arguments presented in Ms. N’s request for hearing: that they had followed the rule and provided all required information in a timely manner, they spent the Food Stamp benefits in the belief that they had been found to be eligible for the benefits, and if they had known they weren’t eligible, they wouldn’t have spent the benefits.⁸ In essence, Mr. N argued that the Division created this situation, and therefore the agency should be required to live by its own miscalculation.

While Ms. N’s frustration is understandable, unfortunately the law requires the Division to collect any overpayment of Food Stamps benefits. The Division has no discretion to refrain from collection based on who was at fault for the overpayment.⁹ This 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*.¹⁰ 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

³ Exhibit 4.1.

⁴ *Id.*; testimony of Ms. Dial.

⁵ Exhibit 5.

⁶ 7 C.F.R. §273.18(a)(1)(i); 7 C.F.R. §273.18(a)(2).

⁷ 7 C.F.R. §273.18(b)(3); *In re D E*, OAH No. 14-0190-SNA (Commissioner of Health and Social Services 2014). This and other Food Stamp cases can be found at <http://doa.alaska.gov/oah/Decisions/SNA.html>.

⁸ Testimony of Mr. N.

⁹ 7 C.F.R. §273.18(b)(3); 7 C.F.R. §273.18(e)(1).

¹⁰ 203 P.3d 1155 (Alaska 2009).

percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.¹¹

Thus, despite the fact that the overpayment in this case was caused by an agency error, i.e., the Division's delay in processing Ms. N's income report, the Division had no choice but to seek repayment of the overpaid benefits received by Ms. N.

IV. Conclusion

Based on the authorities discussed above, the Division's decision to seek recovery of \$288 in overpaid Food Stamp benefits is AFFIRMED.

Dated this 9th day of June, 2016.

Signed

Andrew M. Lebo
Administrative Law Judge

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 20th day of June, 2016.

By: *Signed*

Name: Andrew M. Lebo
Title: Administrative Law Judge

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

¹¹ *Id.* at 1164 (footnotes omitted).