

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

In the Matter of	)	
	)	OAH No. 16-0572-SNA
H K	)	Agency No.
_____	)	

**DECISION**

**I. Introduction**

H K had been receiving Food Stamp benefits through the Supplemental Nutrition Assistance Program. He and his girlfriend, the mother of his children, submitted wage information showing their most recent income figures, but the Division of Public Assistance (Division) did not process that information immediately. Because of the processing delay, Mr. K received more benefits than he was entitled to receive. The Division notified him that he would need to repay the overpayment, and Mr. K appealed.

A hearing was held on July 7 and July 15, 2016. The Division was represented by Sally Dial. Mr. K represented himself. At the hearing Mr. K stated that he felt the overpayment was the Division’s fault, and therefore he should not have to repay it. However, for purposes of the requirement to repay, the reason for the overpayment is immaterial. Therefore, the Division may seek to recover the overpayment of \$5,278.00.

**II. Facts**

In April 2015, Mr. K and his girlfriend, B Q, informed their case manager at Nine Star<sup>1</sup> that they were working at No Name and No Name, respectively, and they gave the caseworker their income information. The caseworker then “casenoted” that information in the Division’s computer system. In July 2015, when Mr. K submitted a recertification application for Food Stamps and Temporary Assistance benefits, he did not list any income in response to the question “complete if you or anyone in your household is working.” Unfortunately, at that time the Division eligibility worker processing the application did not see the casenote previously entered by the Nine Star case manager. Food Stamp benefits were approved for Mr. K’s household at that time.

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<sup>1</sup> Nine Star is a private service agency that works in tandem with the Division and assists Alaska Temporary Assistance program benefit recipients with job skills and job search efforts. Mr. K and Ms. Q were receiving Temporary Assistance benefits at that time, along with the Food Stamp benefits at issue in this case.

In December 2015, Nine Star submitted a “report of change” to the Division, indicating that Mr. K had changed jobs and was working at No Name, while Ms. Q was continuing to work at No Name, and both were making more money than previously reported in April. This information was casenoted in the Division’s system on January 20, 2016, but Division staff took no action on it at that time.<sup>2</sup>

Mr. K’s household submitted a recertification application on January 29, 2016, which was “pending for income verification” for Mr. K and Ms. Q. In early March, they submitted paystubs showing their income in January and February of 2016. Division staff determined that they were over the income limit for the Food Stamps program, and benefits were denied.

In a letter dated April 12, 2016, the Division informed Mr. K that based on its calculations, his household had been over the income limit for the months of September 2015 through January 2016 and had been overpaid benefits in the amount of \$2,915.<sup>3</sup> The Division acknowledged that the overpayment was due to an agency error.<sup>4</sup> Mr. K then requested a hearing during a telephone call with Division staff.<sup>5</sup>

Division staff subsequently reviewed the case and determined that an additional error had been made in calculating the overpayment; in actuality the period of overpayment was from June 2015 through February 2016, and the total overpayment was in the amount of \$5,278. A revised letter describing these changes was sent to Mr. K on June 28, 2016.<sup>6</sup>

### **III. Discussion**

The Supplemental Nutrition Assistance Program, also known as the Food Stamps program, is governed by federal law. Federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits.<sup>7</sup> This is true even when the overpayment is caused by the Division’s error.<sup>8</sup>

Mr. K felt he had met his obligations to report changes in the household’s income, and that the overpayment was the result of Division errors that he could not have been expected to

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<sup>2</sup> The Division’s eligibility worker actually submitted Mr. K’s case as a fraud referral at that time, which resulted in benefits continuing while the fraud allegation was investigated.

<sup>3</sup> Exhibit 8-8.15.

<sup>4</sup> *Id.*; testimony of Ms. Dial.

<sup>5</sup> Exhibit 9.

<sup>6</sup> Exhibit 11–11.1

<sup>7</sup> 7 C.F.R. §273.18(a)(1)(i); 7 C.F.R. §273.18(a)(2).

<sup>8</sup> 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>.

identify or correct. Mr. K did not dispute the Division's evidence regarding its income calculations or the amount of the benefit overpayments. In essence, Mr. K argued that the Division created this situation, and therefore the Division should be required to live by its own miscalculation.

While Ms. K'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.<sup>9</sup> 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*.<sup>10</sup> 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.<sup>[11]</sup>

Thus, despite the fact that the overpayment in this case was caused by an agency error, i.e., the Division's delays in processing Mr. K's and Ms. Q's income reports, the Division had no choice but to seek repayment of the overpaid benefits received by Mr. K. Because the evidence showed that his household did receive the overpayments detailed by the Division's representative at the hearing, the Division correctly sought to recover the overpaid benefits, and the Division's decision requiring repayment must be affirmed.

#### **IV. Conclusion**

Based on the authorities discussed above, the Division's decision to seek recovery of \$5,278 in overpaid Food Stamp benefits is **AFFIRMED**.

Dated this 26<sup>th</sup> day of July, 2016.

*Signed*  
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Andrew M. Lebo  
Administrative Law Judge

<sup>9</sup> 7 C.F.R. §273.18(b)(3); 7 C.F.R. §273.18(e)(1).

<sup>10</sup> 203 P.3d 1155 (Alaska 2009).

<sup>11</sup> *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 9<sup>th</sup> day of August, 2016.

By: Signed

Name: Kathryn A. Swiderski

Title: Administrative Law Judge

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