

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

In the Matter of)
)
 U D) OAH No. 16-0988-SNA
) Agency No.
_____)

DECISION

I. Introduction

U D receives food stamps from the Division of Public Assistance. Ms. D got a new job that increased her income, and she notified the division. The division recalculated Ms. D’s eligibility for food stamps, but not in time to avoid an overpayment of benefits. The division notified Ms. D that there had been an overpayment of \$355 and that it would seek repayment. Ms. D appealed.

Ms. D’s benefits were overpaid, and the division is required to collect the amount of the overpayment. The division’s decision is upheld.

II. Facts

Ms. D spent four years out of the work force for medical reasons. She is a single parent with a 14 year old daughter.¹ In May 2016, Ms. D informed her case manager at the division that she had found a job.² Once she started work, Ms. D delivered a copy of each of her first three paystubs to the division. The division continued to pay Ms. D food stamp benefits, including \$355 for the month of July.

In mid-July, the division recalculated Ms. D’s eligibility for food stamps based on her income from the new job. The division calculated Ms. D’s gross monthly income at approximately \$2,361, including \$1,490 a month in earned income from the new job, as well as the \$821 a month in temporary assistance benefits and \$50 a month in child support that she had been receiving.³ This put Ms. D over the food stamp program’s monthly gross income limit of \$2,158 for a two-person household.⁴ The division determined that Ms. D had not been entitled to food stamps for the month of July based on her income.⁵ The division notified Ms. D that she had been overpaid and would need to repay the \$355 in

¹ Testimony of D.
² Division Exhibit 2.1.
³ Division Exhibit 2.5, Testimony of Dial.
⁴ Division Exhibit 5.
⁵ Division Exhibit 2.

food stamp benefits she received for July to the division.⁶ The division also acknowledged that the overpayment was due to its own failure to timely process Ms. D's report of her new job.⁷ Ms. D requested a hearing.

A telephonic hearing was held on September 15, 2016. Ms. D represented herself. Sally Dial, a Public Assistance Analyst with the division, represented the division.

III. Discussion

The food stamp program is a federally funded program administered by the state. When the state overpays a person's food stamp benefits, federal law requires the state to recover the amount of the overpayment.⁸

Ms. D did not dispute the fact of the overpayment, but she did argue that she should not be held responsible for repaying the overpayment. Ms. D promptly notified the division when she got her new job, and timely furnished copies of her first three pay stubs. It was the division's delay in processing the information that resulted in the overpayment of benefits. For these reasons, Ms. D argues that it is unfair to require her to repay this overpayment. In her view, since the division has admitted its responsibility for the overpayment, the division should not be permitted to collect the overpayment from her, because to do so would be unfair and unjust.

The Alaska Supreme Court considered and rejected this argument in the case of *Allen v. State*. In that case, two food stamp recipients received excess benefits due to agency error. The recipients argued that the doctrine of equitable estoppel should bar the division from recovering the overpayment, since they had relied on the division's eligibility determination. The court found that Alaska's doctrine of equitable estoppel conflicted with the congressional objective of recouping food stamp overpayments from recipients.⁹ The court wrote:

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. Alaska's doctrine of

⁶ Division Exhibit 3 - 3.10.

⁷ *Id.*

⁸ 7 U.S.C. 2022(b)(1); 7 C.F.R. §273.18(a)(2).

⁹ *Allen v. State*, 203 P.3d 1155, 1162 - 1164 (Alaska 2009).

equitable estoppel cannot be used to effectively override this policy decision.¹⁰

Thus, the court recognized the fairness issue, but determined that federal policy requires recoupment of overpayments, even where the overpayment is not the recipient's fault.

Having established that there was an overpayment in this case, the division is obligated to attempt to recover the amount of the overpayment. The division acknowledged that the overpayment was due to agency error. Nonetheless, under established state and federal law, the division is still required to attempt to recoup the overpayment.

IV. Conclusion and Order

The division's decision that Ms. D was overpaid \$355 in food stamps and is required to repay that amount is affirmed.

Dated: September 23, 2016.

Signed _____
Kathryn L. Kurtz
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 6th day of October, 2016.

By: *Signed* _____
Name: Mark T. Handley
Title: Administrative Law Judge

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

¹⁰ *Id.* at 1164.