

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

In the Matter of)	
)	
D C)	OAH No. 16-1094-SNA
_____)	Agency No.

DECISION

I. Introduction

Due to an agency error that overlooked D C’s wage income from a new job, the Division of Public Assistance (Division) notified Ms. C that her household received \$414 in overpaid Food Stamps for July 2016. It also notified her that she received \$483 in overpaid Alaska Temporary Assistance Program benefits for July 2016, and \$360 in overpaid Temporary Assistance benefits for August 2016. It sought to recoup the overpayments.

This decision concludes that Ms. C received \$414 in overpaid Food Stamps and \$483 in overpaid Temporary Assistance benefits for July 2016. As of early August 2016, when the Division calculated the amount of her August overpayment, it appropriately relied on her estimated August income to calculate the overpayment amount. However, by the time of the hearing in this case, Ms. C’s actual August wage information was available. For the reasons discussed below, that figure should be used to calculate her August benefit amount and corresponding overpayment amount. Using her actual wages, Ms. C received \$331 in overpaid Temporary Assistance benefits for August 2016.

As a matter of law, the Division must seek to recoup overpaid Food Stamp and Temporary Assistance benefits. Its decision to do so is affirmed.

II. Facts

Ms. C lives in City A.¹ Her household consists of herself and her two young children.² Her household began receiving Food Stamp and Temporary Assistance benefits in August 2015.³

¹ Exhibit 4.2.

² Exhibits 1, 4.

³ Exhibit 1. The Food Stamp program is also known as the Supplemental Nutrition Assistance Program, or SNAP.

On June 6, 2016, Ms. C reported to her case manager at Facility A that she had recently started a new job, working part-time at Employer A, earning \$11 per hour. The same day, the Facility A manager made a case entry that notified the Division of Ms. C's new employment.⁴

On June 28, 2016, Ms. C submitted a recertification application for Food Stamps and Temporary Assistance.⁵ Her application included information about her new employment. Ms. C wrote that she earns \$11 per hour at Employer A; she works roughly 16 hours per week; and, she is paid weekly.⁶

The Division did not process Ms. C's application until August 3, 2016.⁷ When it did, it reviewed her gross pay from Employer A over an eight-week period, starting with the paycheck received June 17, 2016, and ending with the paycheck received on August 5, 2016.⁸ Her average gross pay over this period totaled \$251.59 per week.⁹ This translates to estimated gross monthly income of \$1,081.82.¹⁰ However, because she received five paychecks in July, Ms. C's actual gross wages in July 2016 totaled \$1,395.14.¹¹

The Division then recalculated Ms. C's Food Stamp and Temporary Assistance benefits for July and August 2016. For July, its calculation included her actual income from Employer A.¹² Because it did not yet have actual income information for August, it calculated her August benefits based on her estimated monthly income.¹³

On August 12, 2016, the Division notified Ms. C that her household had received \$414 more in Food Stamps benefits than the household was entitled to for the month of July 2016.¹⁴ On August 19, 2016, it notified her that her household had received \$843.00 in overpaid Temporary Assistance benefits: \$483 for July 2016 and \$360 for August 2016.¹⁵

⁴ Exhibit 2.

⁵ Exhibit 4.2 – 4.6.

⁶ Exhibit 4.4.

⁷ Exhibit 4.

⁸ Exhibit 4 – 4.1.

⁹ Exhibit 4.1 ($\$199.87 + \$254.10 + \$139.48 + \$372.02 + \$236.50 + \$294.31 + \$352.83 + \$163.57/8 = \$251.585$).

¹⁰ See Food Stamp Manual § 603 (convert weekly income to a monthly amount by multiplying weekly pay by 4.3 weeks); Temporary Assistance Manual § 756-1 (same). $\$251.585 \times 4.3 = \$1,081.82$.

¹¹ *Id.* ($\$139.48 + \$372.02 + \$236.50 + \$294.31 + \$352.83 = \$1,395.14$).

¹² Exhibit 6.5 – 6.6 (Food Stamps); Exhibit 7.7 – 7.8 (Temporary Assistance).

¹³ Exhibit 7.8.

¹⁴ Exhibit 6 – 6.10.

¹⁵ Exhibit 7 – 7.8.

The Division acknowledged that the overpayment occurred as a result of inadvertent agency error.¹⁶

Ms. C requested a hearing to contest both overpayment determinations.¹⁷ She argued that she had properly reported her new job, and it was not her fault that the Division did not process that information in a timely manner. She asserted that repayment will cause financial hardship, and she should not be penalized for the agency's error. She does not contest the amounts of her Employer A paychecks. However, she challenged the Division's calculation of the overpaid benefits.¹⁸

The hearing took place on October 11, 2016. Ms. C appeared telephonically, represented herself, and testified on her own behalf. Public Assistance Analyst Sally Dial appeared telephonically and represented the Division. The record remained open after the hearing, so the Division could address whether the August 2016 Temporary Assistance overpayment should be calculated using Ms. C's actual monthly income.¹⁹ Ms. C had an opportunity to respond to the Division's post-hearing submission, but she did not do so. All submitted documents were admitted into the record, and the record closed on October 27, 2016.

III. Discussion

Ms. C disputed that her household had received more Food Stamp and Temporary Assistance benefits than it was entitled to in July and August 2016. She also questioned whether she must repay any overpaid benefits, since the Division's error caused the overpayment.

A. Food Stamps

1. Overpayment Calculation

Food Stamp benefits are governed by federal law, which establishes the rules for determining a household's monthly Food Stamp benefit. Benefit amounts are calculated based, in large part, on the number of people living in the household and the household monthly income, after allowable deductions.²⁰ The Division determines Food Stamp eligibility on a

¹⁶ Exhibit 5, 6.

¹⁷ Exhibit 8.

¹⁸ Testimony of Ms. C.

¹⁹ See Division's October 19, 2016 submission to record.

²⁰ 7 CFR § 273.9(b), (d); 7 C.F.R. § 273.10(e).

prospective basis.²¹ This means that it must estimate a household's likely monthly income in order to approve forward-looking benefits.²²

When the Division errs by using incorrect income information in its benefit calculation, for example by omitting wages from a new job, it is required to correct the error. In doing so, the Food Stamp Manual instructs it to recalculate using the "actual income" that was not included in the initial calculation, rather than "previously estimated income."²³ For this reason, when it recalculated Ms. C's Food Stamp benefits on August 3, 2016, the Division relied on her actual July income of \$1,395.14.

To calculate the benefits Ms. C's household should have received for July 2016, the Division first determined Ms. C's countable gross income for the month. This included her \$1,395.14 Employer A wage income, plus \$923 in unearned income, for gross monthly income of \$2318.14.²⁴ Ms. C does not dispute these income amounts.

The Division appropriately reduced the gross income figure by the earned income deduction of \$279.03 and the standard income deduction of \$265.²⁵ This resulted in net monthly income of \$1,774.²⁶ The Division then calculated that the appropriate monthly Food Stamp allotment for an urban household of three with this net monthly income is \$89.²⁷

Once the Division factored Ms. C's July wage income into its benefit formula, it became apparent that her household should have received \$89 in Food Stamps for that month. The Division had already paid Ms. C \$503 in benefits for July.²⁸ The difference in the amount she received, minus the amount she should have received, is \$414.²⁹ Ms. C received overpaid Food Stamps of \$414 for July 2016.

²¹ 7 AAC 46.021(a)(48); 7 CFR § 273.21(a)(2).

²² See Food Stamp Manual, § 603-1. The Food Stamp Manual is online at <http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm>.

²³ Food Stamp Manual § 607-1A.

²⁴ Exhibit 6.5 – 6.6; Exhibit 9.

²⁵ 7 CFR § 273.9(d)(1), (d)(2). See Exhibit 6.4 (standard deduction for a household of three is \$265); Exhibit 6.6 (earned income deduction is 20% of Ms. C's \$1,395.14 July earned income, or \$279).

²⁶ Exhibit 6.6; Exhibit 9. $\$2,318 - (\$265 + \$279) = \$1,774$.

²⁷ Exhibit 9 – 9.1. The maximum food stamp allotment for an urban household of three is \$622. Ms. C's \$1,774 monthly net income, multiplied by .3, results in an Adjusted Food Stamp Income of \$532. The maximum allotment of \$622, minus the adjusted income of \$532, is \$89. See also Exhibit 6.5 – 6.6.

²⁸ Exhibit 6, 6.5 – 6.6.

²⁹ See Exhibit 6.5. $\$503 - \$89 = \$414$.

2. Repayment Obligation

When an overpayment of Food Stamps benefits occurs, federal law requires the Division to recoup it.³⁰ The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.³¹ This is true even when the overpayment is the result of the Division’s own error.³²

In a similar case, the Alaska Supreme Court acknowledged Ms. C’s position on this issue. Nonetheless, it confirmed that federal law obligates recipients of overpaid Food Stamps to repay those benefits. It stated:

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.³³

The Division showed that Ms. C was overpaid \$414 in Food Stamp benefits for the month of July 2016. Ms. C is required to repay those benefits to the Division, regardless of the fact that she was not at fault and the overpayment was caused by the Division’s error.

Ms. C asserted that repayment would cause financial hardship to her household. Federal regulations allow the Division discretion to compromise on all or a portion of the claim if “it can be reasonably determined that a household’s economic circumstances dictate that the claim will not be repaid in three years.”³⁴ Ms. C may submit a request for compromise if she believes she meets this standard.

B. Temporary Assistance

The Temporary Assistance Program is created by Alaska statute to implement the federal Temporary Aid to Needy Families (TANF) program.³⁵ It provides cash assistance and work services to low income families with minor children. The program’s goal is to move recipients off of public assistance and into jobs, while maintaining a safety net as they work toward self-

³⁰ 7 C.F.R. § 273.18(a)(2).

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

³² 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 – 1166 (Alaska 2009).

³³ *Allen*, 203 P.3d at 1164 (citations omitted).

³⁴ 7 C.F.R. § 273.18(e)(7).

³⁵ See Temporary Assistance Manual, § 700-1. The Temporary Assistance Manual can be found online at <http://dpaweb.hss.state.ak.us/manuals/ta/ta.htm>.

sufficiency.³⁶ Benefits are based on a family's household size and the total countable household income.³⁷

As with Food Stamps, when a household has received an incorrect benefit amount because of an income error, the Division is required to correct the error. In doing so, the Temporary Assistance Manual directs it to use actual income for any month for which all income has been received, and estimated income for months in which all income has not been received.³⁸ For this reason, when it recalculated Ms. C's Temporary Assistance benefits on August 3, 2016, the Division relied on her actual income from July and her estimated monthly income for August.

1. Overpayment Calculation for July 2016

To calculate the Temporary Assistance benefits Ms. C's household should have received for July 2016, the Division started with her July wage income of \$1395.14. It then reduced this amount by the earned income deduction of \$560.90.³⁹ This resulted in countable income of \$834.24.⁴⁰

The need standard for a household of three is \$1590.⁴¹ The Division correctly determined Ms. C's monthly benefit amount by subtracting her \$834.24 countable income from the \$1590 adjusted need amount. This resulted in a monthly benefit amount of \$755.76.⁴² After application of the 58.32% ratable reduction, or percentage of need payable, this calculation resulted in a new benefit amount of \$440.⁴³

Once Ms. C's July wage income was factored into the benefit formula, the Division correctly determined that her household should have received \$440 in Temporary Assistance benefits for that month. However, the Division had already paid Ms. C \$923 for July. As a result, Ms. C received overpaid July 2016 benefits of \$483.⁴⁴

//

³⁶

Id.

³⁷

7 AAC 45.470.

³⁸

Temporary Assistance Manual § 792-1, 792-1A.

³⁹

See 7 AAC 45.470(b), 7 AAC 45.480(b)(1); Temporary Assistance Manual § 760-2B (earned income deduction is \$560.90 [$\$150 + 33\% \times (\$1395.14 - \$150) = \560.90]); Exhibit 7.8.

⁴⁰

Exhibit 7.8. $\$1395.14 - \$560.90 = \$834.24$.

⁴¹

Exhibit 31 (Temporary Assistance Manual Addendum 2). *See also* Exhibit 7.8; 7 AAC 45.525. Ms. C's adjusted need standard was also \$1590, because her shelter allowance and shelter costs did not reduce her need amount. *See* Temporary Assistance Manual § 780-3.

⁴²

Exhibit 7.8; Temporary Assistance Manual § 780-3.

⁴³

Exhibit 7.8; 7 AAC 45.525; Temporary Assistance Manual §§ 780-1G, 780-3, 780-4.

⁴⁴

See Exhibits 7, 7.7. $\$923 - \$440 = \$483$.

2. Overpayment Calculation for August 2016

To calculate the Temporary Assistance benefits Ms. C should have received for August 2016, the Division relied on her estimated monthly income of \$1,081.82. This was entirely appropriate at the time, because the Division processed Ms. C's recertification application on August 3, 2016, before it could have known what her actual income would be.⁴⁵ Based on this income amount, the Division correctly calculated that Ms. C should have received \$563 for August benefits, and she was overpaid \$360.⁴⁶

By the time of the hearing in this case, however, Ms. C's actual August income information was available. Her gross August wages totaled \$1,005.62, which is slightly below the Division's monthly estimate.⁴⁷ To ensure consistent treatment of the overpayment calculations in this case, this decision calculates Ms. C's August benefits using her actual wages.

This approach is not mandated by applicable regulations or the Temporary Assistance Manual. However, it is justified in this case by the fact that Ms. C's July income was higher than average, because of the unusual occurrence of five paydays in that month. As a result of her five July paychecks, Ms. C's July overpayment amount is higher than it would have been, had the Division timely processed her application and relied on her estimated income for that month.

Conversely, and perhaps due in part to the five paydays in July, Ms. C's actual August income is less than her average monthly wage. Therefore, reliance on her estimated income again disadvantages her and results in a higher overpayment calculation. Use of Ms. C's actual income for both the July and August benefit calculations provides consistency, and it eliminates this disadvantage for August. This is done as a matter of equity, given the particular circumstances of this case.

When Ms. C's actual August wages are factored into the benefit formula, it results in Temporary Assistance countable income of \$573.27.⁴⁸ After subtracting this countable income amount from the \$1,590 adjusted need standard, it results in a monthly benefit

⁴⁵ See 7 AAC 45.425; Temporary Assistance Manual § 792-1A.

⁴⁶ See Exhibit 7.7 – 7.8.

⁴⁷ Exhibit 4.11 ($\$163.57 + \$313.50 + \$253.22 + \$275.33 = \$1,005.62$).

⁴⁸ $\$1005.62$, less the earned income deduction of $\$432.35$, equals $\$573.27$. The earned income deduction is calculated as follows: $\$432.35 = \$150 + 33\% \times (\$1005.62 - \$150)$. See Temporary Assistance Manual § 760-2B.

amount of \$1,016.73. The ratable reduction is then applied, resulting in a new benefit amount of \$592.⁴⁹ In fact, Ms. C received \$923.⁵⁰ This resulted in an overpayment of \$331 for August 2016.⁵¹

Ms. C's household received \$483.00 more in Temporary Assistance benefits than it was entitled to receive for July, and \$331 more than it should have for August 2016. In total, her overpaid Temporary Assistance benefits are \$814.

2. Repayment Obligation

As is the case for Food Stamps, the Division is required by law to seek collection of overpaid Temporary Assistance benefits. When the overpayment was caused by the Division's error, it must pursue collection of overpayments that exceed \$100.⁵²

In this case, the amount of the overpayment exceeds \$100.00, and the Division therefore is required to seek recoupment. It has no discretion to waive or ignore the repayment requirement, and financial hardship is not an available defense to collection. At most, the Division may exercise its discretion to suspend recoupment withholding for up to three months, if a recipient submits evidence that the benefit reduction would result in extreme economic hardship to the household.⁵³

IV. Conclusion

The Division met its burden to show that Ms. C received overpaid Food Stamp benefits of \$414 for July 2016. It also met its burden to show that Ms. C received overpaid Temporary Assistance benefits for July and August 2016. The July Temporary Assistance overpayment was \$483. The August overpayment amount is adjusted to \$331, because Ms. C's actual August income was less than the estimated amount that the Division relied on when it processed her recertification application.

⁴⁹ \$1,016.73 x 58.32% = \$592.96, rounded down to \$592.

⁵⁰ Exhibit 7, 7.7.

⁵¹ See Exhibit 7. \$923 – \$592 = \$331. Following the October 11, 2016 hearing in this case, the Division was directed to provide an overpayment calculation based on Ms. C's actual August wage income. It declined to do so. See Division post-hearing submission dated 10/19/16. As a result, the undersigned has manually calculated the overpayment amount, and the Division will be bound by that calculation. See 2 AAC 64.360.

⁵² 7 AAC 45.570(a), (f).

⁵³ 7 AAC 45.570(f).

Applicable law requires the Division to pursue collection of these overpayments, even when they were caused by the Division's own error. The Division's decision to seek recovery of these benefits is affirmed.

Dated: November 17, 2016.

Signed _____
Kathryn Swiderski
Administrative Law Judge

Adoption

The undersigned 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 1st day of December, 2016.

By: Signed _____
Signature
Douglas Jones _____
Name
Medicaid Program Integrity Manager
Title

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