

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

In the Matter of	)	
	)	
H K	)	OAH No. 16-1095-SNA
_____	)	Agency No.

**DECISION**

**I. Introduction**

H K receives food stamps. Mr. K completed a required eligibility review form. The form showed an increase in his social security income. The Division of Public Assistance notified Mr. K that his new food stamp benefit amount, based on his increased social security income, would be \$172 a month. This is less than he had previously been receiving. Mr. K appealed.

The division correctly calculated the amount of Mr. K's benefits based on the income and expense information he provided. The division's decision is upheld.

**II. Facts**

Mr. K receives income from the Social Security Administration. Previously, he had been receiving widower's benefits. However, beginning in June 2016, his social security benefit increased to \$543 a month when he started receiving social security retirement benefits based on his own record with the Social Security Administration instead of the widower's benefits.<sup>1</sup> He reported this income to the division on his recertification application.<sup>2</sup> The division determined that Mr. K was entitled to \$172 a month in food stamp benefits, \$53 less than what he had been receiving.<sup>3</sup> The division notified Mr. K.<sup>4</sup> Mr. K appealed.

A telephonic hearing was held on October 10, 2016, and continued November 8, 2016 in order to allow Mr. K more time to prepare. Mr. K represented himself. Jeff Miller, a Public Assistance Analyst with the division, represented the division and testified on its behalf.

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<sup>1</sup> Exhibit 2.8.  
<sup>2</sup> Exhibit 2.2.  
<sup>3</sup> Exhibit 6.2; Fair Hearing Request.  
<sup>4</sup> Exhibit 7.

### III. Discussion

Mr. K challenges the division's determination of his monthly food stamp benefit amount. He argued that the reduction in his food stamp benefits following the increase in his social security benefits "makes no common sense."<sup>5</sup> He argued that someone had made a mistake, and that the division should not have cut his food stamp benefits.<sup>6</sup>

The food stamp program is a federal program administered by the State of Alaska.<sup>7</sup> The division administers the program and calculates food stamp benefits according to federal law.<sup>8</sup> The division has interpreted the federal regulations and set out specific instructions for its employees to use in calculating a person's monthly income and benefits in the Alaska Food Stamp Manual.<sup>9</sup> An addendum to that manual sets for the specific standards the division uses.<sup>10</sup>

To calculate Mr. K's benefits, the division subtracted the standard deduction of \$265 from his social security income of \$543, for a total adjusted income figure of \$278.<sup>11</sup> The division then considered Mr. K's shelter costs. It included \$161 in rent, Mr. K's portion of his \$600 monthly rent after the Alaska Housing Finance Corporation subsidy.<sup>12</sup> It also included a standard deduction of \$40 for telephone costs (even though Mr. K reported actual telephone costs of only seven dollars a month), for total monthly shelter costs of \$201.<sup>13</sup> From the monthly shelter costs, the division deducted \$139, one-half of Mr. K's total adjusted monthly income. This resulted in excess shelter costs of \$62 a month.<sup>14</sup> The division subtracted the excess shelter cost figure from the total adjusted income figure for a monthly net income of \$216 for Mr. K.<sup>15</sup> The division then calculated his benefit using the form for households with a person age 60 or older, and a household size of one person. The

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<sup>5</sup> Exhibit 7.1.

<sup>6</sup> Testimony of K.

<sup>7</sup> 7 C.F.R. 271.4(a).

<sup>8</sup> 7 AAC 46.010.

<sup>9</sup> Alaska Food Stamp Manual 603, Determining Eligibility and Benefit Levels, available at <http://dpaweb.hss.state.ak.us/manuals/fs/fsp.htm>.

<sup>10</sup> Exhibit 8 - 8.2, Alaska Food Stamp Program Standards and Maximum Allotments (effective October 1, 2015 through September 30, 2016).

<sup>11</sup> Exhibit 6, Exhibit 8.

<sup>12</sup> Exhibit 3, 6.

<sup>13</sup> Exhibit 2.2, 5, 6.

<sup>14</sup> The division has acknowledged that its original calculation of the excess shelter cost deduction differed from that generated by the agency's computer system by six dollars. Position Statement at 2. The benefit figure calculated by the computer system was two dollars higher, so the agency used the higher benefit figure.

<sup>15</sup> Exhibit 6.

division correctly used its standards and the information it had about Mr. K's finances in calculating Mr. K's income and benefits.<sup>16</sup>

Mr. K further argued that the cost of living in No Name had increased, and that the price of food there had doubled.<sup>17</sup> The standards take regional differences into account by setting different heating and nonheating utility standards that vary according to region, and setting different minimum benefit allotments for urban and rural areas.<sup>18</sup> Furthermore, the standards and maximum allotments are adjusted annually as required under federal law to reflect changes in the cost of living, and the division does not have discretion in administering this federal program to make further adjustments based on the economic circumstances in individual communities.

Mr. K also argued that the reduction in his benefits must be incorrect because his rent had increased. On his eligibility review form, Mr. K listed his rent as \$162 a month.<sup>19</sup> The division calculated his benefits based on rent of \$161 a month, the figure reported by Alaska Housing Finance Corporation (AHFC).<sup>20</sup> It is more likely than not that the division used the correct rent figure. Even if it did not, the one dollar difference between the rent figure Mr. K provided and the figure the division used is de minimus, and more than compensated for by the difference between Mr. K's actual telephone costs and the figure the agency used for his telephone costs in calculating his monthly shelter costs.<sup>21</sup> The agency's calculation of Mr. K's monthly shelter costs based on the rent figure provided by AHFC was correct.

Of course, if Mr. K's rent has increased since he completed his recertification application in July, nothing in this decision prevents him from providing updated information to the division. Also, the standards and maximum allotments used by the division to calculate benefits were updated effective October 1, 2016, so the amounts used to calculate Mr. K's benefit amount at his next recertification may be different.<sup>22</sup>

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<sup>16</sup> Exhibit 6 - 6.1. Note: the division filed a revised Exhibit 6 and 6.1 on October 5, 2016. This decision refers to the revised exhibits, not the original versions filed with the agency position statement on October 3, 2016.

<sup>17</sup> Testimony of K.

<sup>18</sup> Exhibit 8 - 8.1.

<sup>19</sup> Exhibit 2.2.

<sup>20</sup> Exhibit 3, 6.

<sup>21</sup> Exhibit 2.2, 6.

<sup>22</sup> Alaska Food Stamp Program Standards and Maximum Allotments (effective October 1, 2016 through September 30, 2017), Addendum 4 to the Alaska Food Stamp Manual. The income and utility standards are updated annually. *Id.*, Transmittal 2016-04.

Nonetheless, the division's calculation of Mr. K's benefit based on the information provided on his July 2016 recertification application and the standards in effect when the division made the calculation was correct.

**IV. Conclusion**

The division correctly determined that Mr. K is entitled to a monthly benefit of \$172 given his increased social security benefit income. The division's decision is upheld.

Dated: November 10, 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 28<sup>th</sup> day of November, 2016.

By: *Signed* \_\_\_\_\_  
Name: Kathryn L. Kurtz  
Title: Administrative Law Judge

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