

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

In the Matter of)
)
L Q) OAH No. 16-1096-SNA
) Agency No.

DECISION

I. Introduction

L Q receives food stamps. She notified the Division of Public Assistance when she obtained employment in February 2016. The division did not process the information about Ms. Q's increased income until August 2016. In August, it notified Ms. Q that her food stamp benefits had been overpaid, and that she would need to repay the amount of the overpayment. Ms. Q appealed.

Because the division is required to collect an overpayment regardless of who caused the overpayment, the division's decision is upheld.

II. Facts

Ms. Q applied for food stamps in January of 2016.¹ The division approved Ms. Q's application, and determined that she was eligible for \$183 in food stamps for the month of January 2016, and \$237 a month in food stamps starting in February 2016.² In February 2016, Ms. Q began working full time in a temporary position with the University of Alaska. She promptly notified the division.³ In March, she provided additional information regarding her wages and schedule, as well as a copy of her first paystub.⁴ The division did not immediately process this information. In June, Ms. Q called the division to about Medicaid coverage.⁵ On June 30, 2016, the division acknowledged receipt of the information Ms. Q had submitted, but said it needed copies of all of her paystubs for April through June, as well as employer verification.⁶ In August Ms. Q' employer confirmed the

¹ Exhibit 2, 3.
² Exhibit 4.
³ Exhibit 5.
⁴ Exhibit 6, 6.1.
⁵ Exhibit 7.
⁶ Exhibit 8.

amount of Ms. Q' wages for April through June.⁷ The division then notified Ms. Q that her benefits had been overpaid for the month of June 2016.⁸

Ms. Q appealed. While her appeal was pending, the division issued a new notice of overpayment, covering both May and June 2016, and establishing the total amount of the overpayment at \$474.⁹ Ms. Q informed the division that repaying this amount would be a hardship, and requested a compromise. In response, the division reduced the amount of the overpayment to \$360.¹⁰

A telephonic hearing was held on October 10, 2016. Ms. Q represented herself. Jeff Miller, a Public Assistance Analyst with the division, represented the division.

III. Discussion

Ms. Q challenges the division's finding that she is required to repay the amount of the overpayment of her food stamp benefits. She also challenges the division's subsequent decision to only partially compromise the amount of the overpayment.

A. Repayment obligation and fault

Ms. Q argues that she should not be held responsible for the overpayment in this case, because she provided timely notice of her new job. She informed the division of her hourly wage and the number of hours she would be working.¹¹ Instead of processing the change, the division waited to receive confirmation from Ms. Q's employer. The information Ms. Q provided in March corresponded exactly with the confirmation her employer provided in August.¹² Although the division claimed at one point that Ms. Q's additional income was not reported until August, the division has now acknowledged that it had enough information to calculate the change in Ms. Q's food stamp benefits based on the information Ms. Q submitted in February and March.¹³ Had the division promptly responded to the information Ms. Q provided, the overpayment would not have occurred.

However, the law underlying the repayment obligation does not take fault into account. The food stamp program is a federally funded program administered by the state.

⁷ Exhibit 9.13.

⁸ Exhibit 10.

⁹ Exhibit 15.

¹⁰ Exhibit 16.

¹¹ Exhibit 6.

¹² Exhibits 7, 8, 9.

¹³ Exhibit 10.10; Position Statement at 3.

When the state overpays a person’s food stamp benefits, federal law requires the state to recover the amount of the overpayment, even if the overpayment is caused by the division’s error.¹⁴ The Alaska Supreme Court confirmed this in *Allen v. State*. In that case, two food stamp recipients received excess benefits due to agency error. The court held that this did not prevent the division from collecting the overpayment:

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 equitable estoppel cannot be used to effectively override this policy decision.¹⁵

Thus, the court found that federal policy requires recoupment of overpayments, even where the overpayment is not the recipient’s fault. Based on the precedent established in the *Allen* case, the division is required to attempt to recover the overpayment of benefits to Ms. Q, even though it was the division’s delay that caused the overpayment.

B. Compromise

Ms. Q also challenges the division to compromise only part of the overpayment, rather than the full amount. Federal law permits the division to compromise an overpayment claim if it determines that “the household’s economic circumstances dictate that the claim will not be paid in three years.”¹⁶ The division calculated that a reduction of \$10 a month in Ms. Q’s food stamp benefits would result in the repayment of \$360 over the course of three years. The division’s decision to compromise part but not all of the overpayment is consistent with federal law.

IV. Conclusion

Having established that there was an overpayment, the division is obligated to attempt to recover the amount of the overpayment. The division has discretion to compromise overpayments, and the division’s decision to compromise only part of the

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

¹⁵ *Id.* at 1164.

¹⁶ 7 C.F.R. §273.18(e)(7).

overpayment in this case is consistent with the exercise of its discretion under the controlling federal regulation.

The division's decisions to reduce the amount of the overpayment to \$360 and to require Ms. Q to repay the \$360 are upheld.

Dated: October 13, 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 26th day of October, 2016.

By: *Signed*

Name: Kathryn L. Kurtz
Title: Administrative Law Judge

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