

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

In the Matter of)	
)	
B T)	OAH No. 16-1280-SNA
_____)	Agency No.

DECISION

I. Introduction

The Division of Public Assistance determined that it overpaid \$1,971.00 in food stamps benefits to B T. The Division admits that the overpayment was due to its own error. The Division sent a demand to B T that she pay the money back. Ms. T appealed, arguing that she did everything right and should not be penalized for another person’s error. Under the law, however, the Division must recoup overpaid benefits without regard to fault. Because the Division followed the law, and did not make any material errors in its calculations, its decision is affirmed.

II. Facts

B T was receiving food stamp benefits for her household of four when she was hired as a cashier/rental clerk at No Name Company on May 2, 2016.¹ She timely reported the change in employment, noting that she would now be earning income at \$13.00 per hour for forty hours per week. If the Division had processed this report in a timely manner, Ms. T would have been ineligible for food stamps in subsequent months.²

The Division, however, did not process Ms. T’s report of change until August. When the Division finally calculated Ms. T’s eligibility based on her changed circumstances, it determined that she was no longer eligible for food stamps as of July 1, 2016. Because it did not make this determination until August, the Division was required to process her September benefit. As a result, Ms. T was awarded benefits of \$657.00 per month for three months when, in fact, she was not entitled to food stamp benefits for those months.³

On September 15, 2016, the Division sent Ms. T a notice that her benefits were overpaid by \$1,971.00.⁴ Included in this notice was detailed information about how the benefit level was calculated.⁵ Ms. T requested a fair hearing, arguing that “I don’t feel like I should be held

¹ Division Exhibit 2.1.
² Dial testimony; T testimony.
³ Dial testimony.
⁴ Division Exhibit 3.
⁵ Division Exhibit 3-3.12.

responsible for someone else’s error.”⁶ A telephonic hearing was held on November 22, 2016. At the hearing, both sides presented their view of the issue. These arguments are addressed below.

III. Discussion

The food stamp program is a federal program administered by the State of Alaska.⁷ The Division administers the program and calculates food stamp benefits according to federal law.⁸ Under federal regulations, the Division “must establish and collect” overpaid food stamp benefits.⁹ This is true even when the overpayment is caused by the Division’s error.¹⁰ At times, as here, this overpayment works a hardship on a recipient who is not at fault. The Division, however, must first establish the debt. Its options for addressing the hardship are to allow a payment plan, or, in some cases, compromise some or all of the debt. Neither of these options are at issue in this hearing—this hearing involve only the question of whether, under the law, the recipient is initially responsible for the debt created by the overpayment.

Here, at the hearing, evidence was received regarding Ms. T’s income and her shelter expenses. Examination of Ms. T’s check stubs revealed that the Division was correct that she was not eligible for food stamps during the months in question. Although some questions were raised regarding her, the rental figure provided by Ms. T would not have changed the outcome.

Ms. T’s main argument in this case is that she was not responsible for the error. In addition, she pointed out that she is in a very difficult situation at this time, having recently been evicted from her home.¹¹ She suggested that the Division attempt to recover from the person who made the error. Although Ms. T has made a good point, the only issue in this appeal is whether she is the person legally responsible for the debt. As the Commissioner has explained in several past cases where the recipient is not to blame for the overpayment, it is the recipient’s obligation to repay the overpayment.¹² Because the Division followed the law, and did not make a mistake in its calculations, its decision must be affirmed.

⁶ Division Exhibit 4.

⁷ 7 C.F.R. 271.4(a).

⁸ 7 AAC 46.010.

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

¹⁰ 7 C.F.R. § 273.18(b)(3); *Allen v. State, Dep’t Health and Soc. Servs.*, 203 P.3d 1155, 1164-1166 (Alaska, 2009).

¹¹ T testimony.

¹² See, e.g., *In re J.L.*, OAH No. 14-0426-SNA at 3 (Dep’t of Health and Soc. Servs 2014), available at http://aws.state.ak.us/officeofadminhearings/Documents/SNA/SNA140246.pdf?_ga=1.263351372.1741211287.1424461288.

IV. Conclusion

The Division's determination that Ms. T is obligated to repay \$1,971.00 in overpaid food stamp benefits is affirmed.

DATED this 25th of November, 2016.

By: Signed _____
Stephen C. Slotnick
Administrative Law Judge

Adoption

Under a delegation from the Commissioner of Health and Social Services and under the authority of AS 44.64.060(e)(1), I adopt this decision 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 13th day of December, 2016.

By: Signed _____
Name: Stephen C. Slotnick
Title: Administrative Law Judge

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