

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

In the Matter of)	
)	
H Q)	OAH No. 16-1498-SNA
_____)	Agency No.

DECISION

I. Introduction

The Division of Public Assistance overpaid food stamp benefits to H Q. Mr. Q was not at fault and did nothing wrong. The overpaid food stamps he received were for his grandson who was, in fact, a member of his household. Under federal law, however, Mr. Q must pay back the food stamps he received on behalf of his grandson because his daughter also received food stamps for his grandson at the same time in a different state. The Division’s decision is affirmed.

II. Facts

J Q is the mother of D Z, age 10, and L Z age eight. J lives in Washington State. In June 2016, J asked her father, H Q, to care for her children for a time. She filled out a Child Guardian Consent form, and sent the children to Fairbanks, Alaska, to join their grandfather.

Since that time, Mr. Q has provided extensive care for the children. He enrolled them in school. He enrolled them in the Boys and Girls Club. He took the children to the doctor, dentist, and eye clinic.¹ And, on July 1, 2016, he applied for food stamps for himself and the two children.² The Division of Public Assistance approved the application, and food stamps were awarded.

In October, however, the Division was informed by Washington State that at the same time that Mr. Q had been receiving food stamps on behalf of the children, J had also been receiving food stamps on behalf of one of the children, D. The Division notified Mr. Q that food stamps for D had been overpaid and that he was responsible for paying back the overpayment of \$748. Mr. Q requested a fair hearing to contest the Division’s decision.

¹ Q Exhibits.

² Division Exhibit 2. Mr. Q’s application actually included a fourth resident of the household, K T. *Id.* at 2.3. The parties agreed, however, that Ms. T did not purchase or prepare food with the other members of the household. H. Q testimony. Therefore, she was withdrawn from the application at the time of the interview.

A hearing was held on January 11, 2017. At the hearing, Mr. Q did not contest that food stamps were overpaid or that the \$748 correctly represented the amount of overpayment.³ He did, however, contest that he was responsible for the overpayment.

At the hearing, J was called. She testified under oath that the children had been living with her father since July. She testified that through an oversight on her part she had been receiving food stamp benefits on behalf of D. She stated that she was responsible for the overpayment and that her father, to whom she was very grateful, had no legal responsibility. She agreed that she would pay back the money.⁴

The Division's representative agreed that she would contact officials in Washington State. If possible, arrangements would be made so that the debt to the food stamps program would be assigned to Washington and collected from J, rather than be assigned to Alaska and collected from Mr. Q. The record was held open until February 13 to give the Division an opportunity to negotiate with Washington.

On February 6, however, the Division filed a notice indicating that the Division would still hold Mr. Q responsible for the debt. According to the Division, "a debt cannot be transferred." The Division adds that "[t]his however does not mean that Ms. Q could not pay this debt on behalf of Mr. Q it just means if Ms. Q became delinquent Mr. Q would then be subject to any collection." The Division further explains that "[a]ny agreement for Ms. Q to pay the debt would be between her and Mr. Q and not the Division."⁵

The issues raised by this appeal are discussed below.

III. Discussion

Nothing in this case alleges that Mr. Q failed to follow the rules or did anything wrong. He did not. Indeed, the facts in this record show that Mr. Q has been vigilant in seeing to the health, education, and welfare of his grandchildren.

Here, the Division of Public Assistance did not detect that D was already receiving food stamps in Washington State when it awarded Mr. Q food stamps in June. Under federal rules, this error is considered the Division's "fault."⁶ Therefore, under federal rules, the State of Alaska

³ Division Exhibit 4.5 shows that the overpayment of \$187 per month was calculated correctly.

⁴ K. Q testimony.

⁵ Division Add'l Documents (Feb. 6, 2017).

⁶ See, e.g., 7 C.F.R. § 273.2(f)(4)(iv), which states, "(iv) *Discrepancies*. Where unverified information from a source other than the household contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to a determination of eligibility or benefits. The State agency may, if it chooses, verify the information directly and contact the household only if such direct verification efforts are

must collect the overpayment. The Alaska Supreme Court has affirmed that under federal law the State must collect overpayments of food stamps even when the recipient has done nothing wrong.⁷

The State of Alaska only has jurisdiction over its client, Mr. Q.⁸ It does not have jurisdiction over J. Therefore, it cannot collect the overpayment from J.⁹ Given that J has agreed that she is responsible for paying the debt, Mr. Q will need to make a personal arrangement with J in order to recoup the overpayment.

IV. Conclusion

The Division's decision is affirmed.

DATED this 17th day of February, 2017.

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 9th day of March, 2017.

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

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

unsuccessful. If the unverified information is received through the IEVS, as specified in §272.8, the State agency may obtain verification from a third party as specified in paragraph (f)(9)(v) of this section.”

⁷ *Allen v. State Of Alaska, Dep't of Health & Soc. Servs., Div. of Pub. Ass.*, 203 P.3d 1155 (Alaska 2009).

⁸ 7 CFR § 273.18(a)(4) (“(4) The following are responsible for paying a claim: (i) Each person who was an adult member of the household when the overpayment or trafficking occurred”).

⁹ The State of Washington could not bring an action for the overpayment against L because L was not required to report D's absence to the State of Washington until the end of the quarter. *See, e.g.*, WAC 388-418-005(2)(a).