

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

In the Matter of	)	
	)	
B C	)	OAH No. 17-0037-SNA
_____	)	Agency No.

**DECISION**

**I. Introduction**

The Division of Public Assistance sought to recoup \$142 in overpaid food stamp benefits from B C. Ms. C appealed, and a hearing was held. Because federal law requires the Division to seek recoupment of overpaid benefits even when the recipient has done nothing wrong, the Division’s decision is affirmed.

**II. Facts**

B C applied for food stamps in November 2016.<sup>1</sup> She was approved for food stamps in December for a household of two, herself and her child. At the time, her estranged husband, who did not live in the home, was paying the rent for the home. Ms. C disclosed to the Division of Public Assistance that her husband was paying the rent. She did not ask the Division to apply any deduction from her income for rent.<sup>2</sup>

Nevertheless, when the Division calculated her eligibility for food stamps, it included the rent deduction in its calculations.<sup>3</sup> Based on the error, the Division paid \$142 more in food stamp benefits to Ms. C than it should have. When the Division discovered the error, it issued an order seeking to recoup the \$142 in overpaid food stamp benefits from Ms. C.<sup>4</sup> The order identified the cause of the overpayment as “agency error.”<sup>5</sup>

Ms. C appealed. Although Ms. C missed her first two hearing dates, she was granted a third hearing on March 28, 2017, at which she appeared. The arguments raised by parties at the hearing are discussed below.

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<sup>1</sup> Division Exhibit 2.1-2.18. The food stamp program is a federal program administered by the State of Alaska. 7 C.F.R. 271.4(a). The division administers the program and calculates food stamp benefits according to federal law. 7 AAC 46.010.

<sup>2</sup> C testimony.

<sup>3</sup> Division Exhibit 2, 4.

<sup>4</sup> Division Exhibit 4-4.3.

<sup>5</sup> Division Exhibit 4.

### III. Discussion

Ms. C does not dispute that her husband paid her rent. She does not dispute that the Division should not have given her credit for the rent deduction at the time that it computed her eligibility. She does not argue that the Division made a math error or dispute that she should not have been paid the \$142.

What Ms. C argues is that the Division should be held accountable for the error. In her view, until the Division is held accountable, it will continue to make errors. These errors create hardships and difficulties for the recipients, who are relying on the Division to correctly calculate benefits. Ms. C has already spent the money she received. It works a hardship on her to have to repay the money now. Although she did not cite any regulations or cases to support her view that she should not have to pay back this money, she was confident that the law would require the Division to be accountable.

Ms. C's expectation about the law might be correct in some circumstances. In some situations, a state law doctrine (called "estoppel") might bind the government and prevent it from seeking to recoup a benefit from a person who did not nothing wrong and who relied on the government's representation that the person was entitled to the benefit.

In this situation, however, Ms. C is not correct about the law. The Alaska Supreme Court has addressed whether the Division could require innocent food stamp recipients to repay benefits when the overpayment was due to the Division's error.<sup>6</sup> The court discussed the state law of "estoppel," and if it applied to a person who did everything right in her food stamp application.<sup>7</sup> The court concluded that the Division must apply federal law, not state law.<sup>8</sup> Therefore, this decision will apply federal law to Ms. C.

Under federal regulations, the Division "must establish and collect" overpaid food stamp benefits.<sup>9</sup> This is true even when the overpayment is caused by the Division's error.<sup>10</sup> At times, recouping this overpayment works a hardship on a recipient who is not at fault. Previous cases establish that even where the recipient has done everything right, and even when the outcome works a hardship on a person who has done nothing wrong, the Division must collect the

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<sup>6</sup> *Allen v. State, Dep't Health and Soc. Servs.*, 203 P.3d 1155, 1164-1166 (Alaska, 2009).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>10</sup> 7 C.F.R. § 273.18(b)(3); *Allen*, 203 P.3d at 1164-1166.

overpayment.<sup>11</sup> Therefore, under the law, the Division must require Ms. C to repay the money that was overpaid to her in error.

Ms. C also expressed concern that this case might come back to haunt her in the future. In her view, the mere fact that she was required to pay back money for overpaid public assistance creates an appearance of wrongdoing on her part. She is very concerned that the record reflect that she did nothing wrong.

Ms. C's concern about a possible allegation of fraud being lodged against her does not provide legal grounds for not following federal law. Moreover, this decision, and other decisions on the same issue, clearly explain that the requirement for paying back overpayments is imposed without regard to fault. No one has accused Ms. C of fraud, and on this record, no one could make that allegation.

#### **IV. Conclusion**

The Division of Public Assistance made an error in computing B C's monthly food stamp benefits. Although Ms. C was not at fault, federal law requires the Division to recoup the overpayment from Ms. C. Therefore, the decision to recoup \$142 in overpaid food stamp benefits from Ms. C is affirmed.

DATED this 6<sup>th</sup> of April, 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 26<sup>th</sup> day of April, 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.]

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<sup>11</sup> 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](http://aws.state.ak.us/officeofadminhearings/Documents/SNA/SNA140246.pdf?_ga=1.263351372.1741211287.1424461288).