

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

In the Matter of)	
)	
T C)	OAH No. 17-0466-SNA
<hr style="width:40%; margin-left:0;"/>)	Agency No.

DECISION

I. Introduction

T C applied for and received Supplemental Nutrition Assistance Program benefits, commonly called “Food Stamps.” The Division of Public Assistance (Division) notified Ms. C that she was issued \$531 in Food Stamp overpayments that she was not entitled to receive, and that she was required to repay that amount.¹ Ms. C requested a hearing.²

Because Ms. C received \$531 more in Food Stamp benefits than she should have, the Division’s decision establishing a repayment obligation in that amount is affirmed.

II. Facts

On May 9, 2016, Ms. C submitted a benefits recertification application with the Division.³ Ms. C reported that her live-in boyfriend K H was making \$16.82 per hour and working 40 hours per week at the City of No Name.⁴ She also reported that she is self-employed and that her income varies.⁵ Ms. C also noted that she would not be working from May through August, but would still have bills from her business.⁶ She was taking time off because she was having a child.⁷

The agency did not calculate the household’s income or deductions correctly.⁸ Based on these inaccurate calculations, the Division issued Ms. C’s household \$588 per month in Food Stamp benefits for June and August 2016, and \$573 in benefits for October and November 2016.⁹ The household should have received \$0 in benefits for June, \$572 in August, \$412 in October, and \$660 in November.¹⁰

¹ Exhibit 32. The sent four different overpayment notices to Ms. C, on November 21, 2016, April 12, 2017, May 11, 2017, and June 9, 2017. The June 9, 2017, notice is most accurate.

² Ex. 32.

³ Ex. 2.1.

⁴ Ex. 2.3.

⁵ Ex. 2.3.

⁶ Ex. 2.3.

⁷ Ex. 2.3.

⁸ Miller testimony; position statement; June 9, 2017 letter.

⁹ Ex. 32.6.

¹⁰ Ex. 531.

The Division first noticed an error in November and sent Ms. C a \$290 overpayment notice for July through November 2016.¹¹ Ms. C appealed and the case was assigned to the Office of Administrative Hearings (OAH).¹² In December 2016 the Division noticed errors in its overpayment notice, spoke with Ms. C, and the OAH dismissed her case.¹³ The Division sent an updated \$717 overpayment notice on April 12, 2017.¹⁴ Ms. C again appealed and the Division once again noticed errors in its calculations. The Division sent a new \$531 overpayment notice on May 10, 2017.¹⁵

Ms. C requested a fair hearing, which convened on May 15, 2017. Ms. C represented herself and Jeff Miller presented the Division's position. At hearing, Ms. C testified that she reported information accurately and on time, and the Division continued to make errors over which she has no control. Based on this, Ms. C did not believe she should be obligated to repay any overpayments.

Inconsistencies in the agency record were noted while preparing the draft decision. The Division supplied clarifying information, and an updated overpayment notice on June 9, 2017. The clarifying information contained a history of Ms. C's Food Stamp issuance, prior overpayment calculations and balances, and prior recoupment information.¹⁶ The information supported a finding that Ms. C's household has a \$531 overpayment.¹⁷

The overpayments were due to inadvertent agency error, based on the Division's failure to accurately process her income, rent, and allowable deductions.¹⁸

III. Discussion

The issue in this case is whether Ms. C is required to pay back \$531 in Food Stamp benefits that were issued to her in error. No facts are in dispute. Ms. C supplied the required information in a timely manner and the overpayment was due solely to Division error. The Division failed to correctly process Ms. C's eligibility review form, causing her household to receive more Food Stamp benefits than entitled to in June, August, and October 2016.¹⁹

¹¹ Ex. 6 – 6.12.

¹² See OAH No. 16-1427-SNA.

¹³ Ex. 8; Position statement; Miller testimony.

¹⁴ Ex.12.9.

¹⁵ Ex. 31.

¹⁶ Ex. 32 – 33.1; June 9, 2017, letter.

¹⁷ June 9, 2017, letter,

¹⁸ Ex. 4; Dial testimony.

¹⁹ Ex. 32.6.

The Food Stamp program is a federal program administered by the State.²⁰ The Code of Federal Regulations (C.F.R.) establishes the rules for determining a household's monthly Food Stamp benefit. Benefit amounts are calculated based on the number of people living in the household and monthly income.²¹

The federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits issued.²² This is true even when the overpayment is caused by the Division's error.²³ Ms. C was overpaid \$531 in Food Stamp benefits and is required to repay those benefits to the Division, regardless of the fact that the overpayment was caused by the Division's multiple errors.

Federal law permits compromising or writing off a claim, but only if the claim cannot be paid off in three years.²⁴ Ms. C may contact the Division if she wishes to request a reduction in the amount to be recouped or to set up a payment plan. The Division has discretion whether to grant a compromise request.²⁵

IV. Conclusion

The Division's decision to collect \$531 in Food Stamp overpayments is affirmed.

DATED June 30, 2017.

Signed _____
Bride Seifert
Administrative Law Judge

²⁰ 7 C.F.R. § 271.4(a).

²¹ 7 C.F.R. § 273.10(e)(2)(ii)(A).

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

²³ 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

²⁴ 7 C.F.R. § 273.18(e)(7).

²⁵ 7 C.F.R. § 273.18(e)(7), Compromising claims. (i) As a State agency, you may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.

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 18th day of July, 2017.

By: Signed
Name: Bride Seifert
Title/Division: ALJ/OAH

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