

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

In the Matter of	)	
	)	
K T	)	OAH No. 17-0575-SNA
	)	Agency No.

**DECISION**

**I. Introduction**

K T applied for and received Supplemental Nutrition Assistance Program benefits, commonly called “Food Stamps.” The Division of Public Assistance (Division) notified Ms. T that she was issued \$1,533 in Food Stamp overpayments that she was not entitled to receive, and that she was required to repay that amount.<sup>1</sup> Ms. T requested a hearing.<sup>2</sup>

Because Ms. T received \$1,533 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 January 3, 2017, Ms. T filed a Change Report Form with the Division.<sup>3</sup> Ms. T reported that she was making \$16.43 per hour and working 35 - 40 hours per week at the post office.<sup>4</sup> She also reported a new address.<sup>5</sup> The Division processed the new address, but did not update Ms. T’s income.<sup>6</sup> The Division issued Ms. T’s household \$790 per month in Food Stamp benefits for February and March 2017, based on inaccurate income.<sup>7</sup>

On March 27, 2017, Ms. T submitted her Food Stamp Recertification application.<sup>8</sup> The Division calculated the household’s gross monthly income as \$3,604, which included her average wages, plus \$1,000 per month in child support.<sup>9</sup> The Division determined that Ms. T’ household was over the \$3,292 gross income limit for a four person household.<sup>10</sup> The Division denied her recertification.<sup>11</sup>

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<sup>1</sup> Exhibit 7. The Division’s original notice identified a \$1,580 overpayment, based on average wages. In preparation for hearing, the Division recalculated the overpayment using actual income. This reduced the overpayment to \$1,533. Dial testimony. See Ex. 6 - 7.

<sup>2</sup> Ex. 5.

<sup>3</sup> Ex. 2.1.

<sup>4</sup> Ex. 2.1.

<sup>5</sup> Ex. 2.2.

<sup>6</sup> Ex. 2 - 3; Dial testimony; position statement.

<sup>7</sup> Ex. 4.5 - 4.9.

<sup>8</sup> Ex. 3.

<sup>9</sup> Ex. 3 – Ex. 4.9.

<sup>10</sup> Ex. 4.4.

<sup>11</sup> Ex. 3.

While processing the recertification, the Division noticed that Ms. T's change in income was not recorded back in January.<sup>12</sup> On April 26, 2017, the Division notified Ms. T that she received \$1,580 in Food Stamp overpayments for February and March 2017.<sup>13</sup> The overpayment was due to inadvertent agency error, based on the Division's failure to timely process her updated income information.<sup>14</sup> Ms. T requested a fair hearing.<sup>15</sup>

The Division reviewed Ms. T's case and recalculated her eligibility using her actual, as opposed to average, income.<sup>16</sup> The Division's updated calculation showed that Ms. T's household was eligible for \$47 in Food Stamps in February, and was over income for March.<sup>17</sup> The Division sent Ms. T an updated overpayment notice, stating that she actually owed \$1,533 in overpayments.<sup>18</sup>

A hearing was held on June 20, 2017. Ms. T represented herself and Sally Dial presented the Division's position. Ms. T verified the accuracy of the income information used in the Division's recalculation. Ms. T also requested a reduction in the overpayment amount, based on her correct and timely report of the income change.

### **III. Discussion**

The issue in this case is whether Ms. T is required to pay back \$1,533 in Food Stamp benefits that were issued to her in error. No facts are in dispute. Ms. T supplied the required information in a timely manner and the overpayment was due solely to Division error. The Division failed to correctly process Ms. T's Change Report form, causing her household to receive more Food Stamp benefits than entitled to in February and March.<sup>19</sup>

The Food Stamp program is a federal program administered by the State.<sup>20</sup> 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.<sup>21</sup>

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<sup>12</sup> Ex. 3.

<sup>13</sup> Ex. 4.

<sup>14</sup> Ex. 4; Dial testimony.

<sup>15</sup> Ex. 5.

<sup>16</sup> Ex. 6 - 7; Dial testimony.

<sup>17</sup> Ex. 6 - 6.8; Dial testimony.

<sup>18</sup> Ex. 7; Dial testimony; position statement.

<sup>19</sup> Ex. 6 - 7.

<sup>20</sup> 7 C.F.R. § 271.4(a).

<sup>21</sup> 7 C.F.R. § 273.10(e)(2)(ii)(A).

The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.<sup>22</sup> This is true even when the overpayment is caused by the Division’s error.<sup>23</sup> Ms. T was overpaid \$1,533 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 error.

Federal law permits compromising or writing off a claim, but only if the claim cannot be paid off in three years.<sup>24</sup> Ms. T planned to request that the Division reduce her repayment amount. The Division has discretion whether to grant a compromise request.<sup>25</sup>

#### **IV. Conclusion**

The Division's decision to collect \$1,533 in Food Stamp overpayments is affirmed.

DATED June 20, 2017.

Signed  
\_\_\_\_\_  
Bride Seifert  
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 7<sup>th</sup> 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.]

<sup>22</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

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

<sup>24</sup> 7 C.F.R. § 273.18(e)(7).

<sup>25</sup> 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.