

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

In the Matter of)

S Z)
_____)

OAH No. 17-0623-SNA
Agency No.

DECISION

I. Introduction

S Z applied for and received Supplemental Nutrition Assistance Program benefits, commonly called “Food Stamps.” The Division of Public Assistance (Division) notified Ms. Z that she was issued \$895 in Food Stamp overpayments that she was not entitled to receive, and that she was required to repay that amount.¹ Ms. Z requested a hearing.²

Because Ms. Z received \$895 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 19, 2017, Ms. Z filed a Change Report Form with the Division.³ Ms. Z reported that O Z’s work hours increased to 40 hours per week.⁴ She also reported a new address.⁵ The Division did not process the Change Report Form until May 18, 2017.⁶ In the meantime, the Division had issued Ms. Z’s household \$1,245 per month in Food Stamp benefits for March, April, and May 2017, based on outdated income information.⁷

When the Division processed Ms. Z’s Change Form, it recalculated her Food Stamp benefit amount using updated income information received from Mr. Z’s employer, Home Depot.⁸ The Division determined her household should have received \$767 in Food Stamp benefits in March, \$1,062 in April, and \$1,011 in May.⁹

¹ Exhibit 3.

² Ex. 4.

³ Ex. 2.1 – 2.2.

⁴ Ex. 2.2.

⁵ Ex. 2.2.

⁶ Ex. 2; Dial testimony; position statement.

⁷ Ex. 3.5; Ex. 3.10.

⁸ Ex. 2; Ex. 2.3 - 2.4; Dial testimony; position statement.

⁹ Ex. 3.5 – 3.7; Ex. 3.10.

On May 23, 2017, the Division notified Ms. Z that she received \$895 in Food Stamp overpayments for March through May 2017.¹⁰ The overpayment was due to inadvertent agency error, based on the Division's failure to timely process her updated income information.¹¹

Ms. Z requested a fair hearing, which was held on June 29, 2017.¹² Ms. Z represented herself and Sally Dial presented the Division's position. Ms. Z questioned the accuracy of the income information used in the Division's recalculation, noting that the March income appeared too high.

Ms. Z also testified that she personally went into the Division's No Name office to report the change as she has experienced problems with the Division updating information in the past. She followed up with the Division's office when her benefit amount did not get reduced the following month. After waiting two hours to speak with a representative, she was wrongly told that if her benefits did not change, it was because her income did not change enough to affect her benefits. Ms. Z also noted that deductions given by the Division did not reflect actual costs.

The record remained open until July 7, 2017, for the Division and Ms. Z to provide income information. Ms. Z and the Division supplied income verification.¹³ The income information matched the Division's calculations.¹⁴ The Division also supplied deduction information, which support its overpayment calculation.¹⁵

III. Discussion

The issue in this case is whether Ms. Z is required to pay back \$895 in Food Stamp benefits that were issued to her in error. Ms. Z supplied the required information in a timely manner and the overpayment was due solely to Division error. The Division failed to correctly process Ms. Z's Change Report form, causing her household to receive more Food Stamp benefits than entitled to in March through May.¹⁶

The Food Stamp program is a federal program administered by the State.¹⁷ The Code of Federal Regulations (C.F.R.) establishes the rules for determining a household's monthly Food

¹⁰ Ex. 3.

¹¹ Ex. 3; Dial testimony.

¹² Ex. 4.

¹³ Ex. A; Ex. 2.3 – 2.4; July 6, 2017 Division letter.

¹⁴ See Ex. A, with year to date total \$8,587.84, which matched Ex. 2.4. Mr. Z received three pay checks in March 2017 (March 3rd, March 17th, and March 31st), which explains the higher income.

¹⁵ Exs. 11 - 14.

¹⁶ Ex. 6 - 7.

¹⁷ 7 C.F.R. § 271.4(a).

Stamp benefit. Benefit amounts are calculated based on the number of people living in the household and monthly income.¹⁸

The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.¹⁹ This is true even when the overpayment is caused by the Division’s error.²⁰ Ms. Z was overpaid \$895 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.²¹ The Division has discretion whether to grant a compromise request.²²

IV. Conclusion

The Division's decision to collect \$895 in Food Stamp overpayments is affirmed.

DATED July 14, 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 2nd day of August, 2017.

By: Signed

Name: Bride Seifert

Title/Division: ALJ/OAH

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

¹⁸ 7 C.F.R. § 273.10(e)(2)(ii)(A).

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

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

²¹ 7 C.F.R. § 273.18(e)(7).

²² 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.