

unemployment benefits in March 2017.⁴ Ms. J submitted the report by placing it in a Division drop box.⁵ Mr. D received unemployment benefits totaling \$1,672 per month in April and May 2017.⁶

The Division agrees it should have processed the report of change within ten days, and it should have adjusted the household's Food Stamp benefit beginning with the month of April 2017.⁷ Unfortunately, due to agency error, the Division did not process the change until May 24, 2017.⁸ In the meantime, the household continued to receive \$790 in monthly Food Stamps, based on the original assessment of zero household income.

After it processed the change and accounted for Mr. D's unemployment income, the Division determined that the household should have received \$368 in Food Stamps for April 2017 and \$368 for May 2017.⁹ The Division calculated overpayments of \$422 per month, or \$844 in total.¹⁰ It sent Ms. J notice of the overpayment, which it attributed to inadvertent agency error, and it informed her that she must repay \$844 in erroneously-issued benefits.¹¹

III. Discussion

The issue in this case is whether Ms. J is required to repay \$844 in Food Stamp benefits that were issued to her in error. No relevant facts are in dispute. The Division acknowledges that the overpayment was due to agency error and Ms. J did nothing wrong.

Ms. J does not dispute the \$368 benefit her household would have received in April and May 2017, had the Division processed the report of change in a timely way. She argues that she should not be required to repay any amount, since she complied with all Food Stamp program rules. She timely reported Mr. D's unemployment income, and she provided the Division an ample opportunity to prospectively process that change. She argued that it is unfair to require repayment from her, when the Division was solely responsible for the error that resulted in excess benefits.

⁴ Division position statement, p. 1; D testimony; Exhibit 7.

⁵ D testimony; Exhibit 7.

⁶ Exhibits 3, 4, 6.5.

⁷ Exhibit 3. The Division concluded there was no adverse action for the month of March 2017. *See* 7 C.F.R. § 273.13(a) (ten-day notice requirement before adverse action becomes effective).

⁸ Exhibit 3.

⁹ Exhibits 5, 6 - 6.10.

¹⁰ Exhibit 6 - 6.10. \$790 - \$368 = \$422.

¹¹ Exhibit 6.

However, the Division’s responsibility for the error does not end the inquiry or require the result Ms. J seeks. The Food Stamp program is a federal program administered by the State.¹² As a result, Food Stamp benefits are governed by federal law, which explicitly addresses situations like this one.

When an overpayment of benefits occurs, federal law requires the Division to recoup it.¹³ The regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.¹⁴ This is true even when the overpayment is the result of the Division’s own error.¹⁵

The Alaska Supreme Court confirmed this conclusion in *B v. State of Alaska, Department of Health & Social Services*.¹⁶ There, the Court addressed the same fairness argument that Ms. J makes here. After determining that federal law requires the state to pursue repayment of all overpaid Food Stamp benefits, it observed:

We are sympathetic to the argument that it is unfair to require indigent food stamp recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar or ten percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.^[17]

The federal regulations and the *B* decision are binding on the Division.¹⁸

IV. Conclusion

The Division showed that Ms. J received overpaid Food Stamp benefits totaling \$844 for the months of April and May 2017. Under applicable federal law, she is required to repay those benefits to the Division, regardless of the fact that she was not at fault and the overpayment was

¹² 7 C.F.R. § 271.4(a).

¹³ 7 U.S.C. § 2022(b)(1); 7 C.F.R. § 273.18(a)(2).

¹⁴ 7 C.F.R. § 273.18(a)(1)(i), (a)(2).

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

¹⁶ 203 P.3d 1155 (Alaska 2009).

¹⁷ *Id.* at 1164 (footnotes omitted).

¹⁸ As referenced in *Allen*, Ms. J can request that the Division compromise (write-off or forgive) all or a portion of the overpaid benefits. See 7 C.F.R. § 273.18(e)(7). However, the Division may only compromise 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.” *Id.*

caused by the Division's error. The Division's decision requiring repayment of \$844.00 is affirmed.

Dated: August 18, 2017.

Signed

Kathryn Swiderski
Administrative Law Judge

Adoption

The undersigned 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 1st day of September, 2017.

By: *Signed* _____
Name: Christopher M. Kennedy
Title: Administrative Law Judge

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