

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

In the Matter of)	
)	
K S)	OAH No. 17-0870-SNA
_____)	Agency No.

DECISION

I. Introduction

K S applied for and received Supplemental Nutrition Assistance Program benefits, commonly called “Food Stamps.” The Division of Public Assistance (Division) notified Ms. S that she was issued \$360 in Food Stamp overpayments that she was not entitled to receive, and that she was required to repay that amount.¹ Ms. S requested a hearing.²

Because Ms. S received \$360 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 February 16, 2017, Ms. S reported that T S would receive \$276 in unemployment benefits each week.³ The Division did not process this new information until June 22, 2017.⁴ In the meantime, the Division had issued Ms. S’s household \$790 per month in Food Stamp benefits for April, May and June 2017, based on outdated income information.⁵

When the Division processed Ms. S’s report of income change, it recalculated the amount of Food Stamp benefits her household should have received.⁶ The Division initially determined that Ms. S received \$282 in Food Stamp overpayments.⁷ The Division next sent an updated overpayment notice on August 30, 2017, finding that Ms. S received \$532 in Food Stamp overpayments.⁸

Ms. S’s initial hearing occurred on September 7, 2017. Ms. S represented herself and Sally Dial presented the Division’s position. Ms. S provided additional income information for

¹ Overpayment notice, September 8, 2017; Additional information for follow up hearing, September 7, 2017. The Division sent Ms. S an initial overpayment notice on July 27, 2017 (Ex. 3 – 3.11), and an amended notice on August 30, 2018 (Ex. 6 – 6.9). Ms. S corrected the income information during the hearing on September 7, 2017. The Division issued a second amended overpayment notice on September 8, 2017.

² Ex. 4.

³ Ex. 2.1.

⁴ Ex. 2; Dial testimony; position statement.

⁵ Food Stamps Overpayment Calculation Worksheet, attached to September 8, 2017, overpayment notice.

⁶ Dial testimony; Additional information; September 8, 2017, overpayment notice.

⁷ Ex. 3.

⁸ Ex. 6.

the hearing, and clarified the household's actual income. Ms. S challenged the Division's inclusion of Temporary Assistance to Needy Families (TANF) benefits as income. Ms. Dial testified regarding the household deduction calculation process.

The record remained open for both the Division and Ms. S to supply additional information and the Division to issue another amended overpayment notice. On September 8, 2017, the Division issued its final overpayment notification, which identified \$360 in Food Stamp overpayments for April through June 2017.⁹

A follow up hearing was scheduled for September 18, 2017. At the hearing, Ms. S testified that she agreed with the income used by the Division in its September 8, 2017 overpayment notice. The parties also discussed Food Stamp garnishment as an overpayment recoupment option.

III. Discussion

The issue in this case is whether Ms. S is required to pay back \$360 in Food Stamp benefits that were issued to her in error. Ms. S supplied the required information in a timely manner and the overpayment was due solely to Division error. The Division failed to timely process Ms. S's report of household income change, which caused her household to receive \$360 more in Food Stamp benefits than entitled to from April through June.¹⁰

The Food Stamp program is a federal program administered by the State.¹¹ 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.¹² TANF benefits are included in the income calculation.¹³

The federal 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 caused by the Division's error.¹⁵ Ms. S was overpaid \$360 in Food Stamp benefits and is required to repay those benefits.

⁹ Overpayment notice; Dial testimony.

¹⁰ September 8, 2017, overpayment notice.

¹¹ 7 C.F.R. § 271.4(a).

¹² 7 C.F.R. § 273.10(e)(2)(ii)(A).

¹³ 7 C.F.R. § 273.9(b)(2)(i).

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

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

IV. Conclusion

The Division's decision to collect \$360 in Food Stamp overpayments is affirmed.

DATED September 19, 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 5th day of October, 2017.

By: *Signed* _____
Name: Bride A. Seifert
Title: Administrative Law Judge

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