

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

In the Matter of )  
 )  
K E ) OAH No. 17-0923-SNA  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

K E's husband T E reported to the Division of Public Assistance that he and his wife were living together in City A. So, the division closed Mr. E's Food Stamp case and added him to Ms. E's case. Ms. E requested a hearing to appeal that decision. After a full hearing, and based on the evidence presented, the division's decision is affirmed.

**II. Facts**

K E and her husband, T, are both Food Stamp recipients.<sup>1</sup>

On May 17, 2017, Mr. E reported that he was living with his wife in City A.<sup>2</sup> Accordingly, the division closed Mr. E's case and added him to Ms. E's case.<sup>3</sup> The division representative noted that Mr. E goes back and forth between City A and Village B, but living in City A with his wife is his main living arrangement.<sup>4</sup> The division notified Ms. E that her Food Stamp benefit for June 2017 would be \$249.<sup>5</sup>

On June 2, 2017, division representative, Jeff Miller talked to Mr. E, who verified that he was living with Ms. E.<sup>6</sup> Mr. E reported that he and Ms. E had been married for 50 years, and he was back in City A to take care of her.<sup>7</sup>

On June 15, 2017, Mr. and Ms. E went to the division's City A office and reported to a different representative that they are married but do not live together, and have not been a couple since July 2011.<sup>8</sup> Based on that report, the City A division representative removed Mr. E from Ms. E case and reopened Mr. E's separate case.<sup>9</sup>

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<sup>1</sup> Ex. 1-1.2.

<sup>2</sup> Ex. 2-2.2.

<sup>3</sup> Ex. 2.2.

<sup>4</sup> Ex. 2.2.

<sup>5</sup> Ex. 2.3.

<sup>6</sup> Miller Testimony.

<sup>7</sup> Miller Testimony.

<sup>8</sup> Ex. 3-3.1.

<sup>9</sup> Ex. 3-3.1.

On June 26, 2017, Mr. Miller asked N U—the division representative who processed Mr. E’s original report of changed household composition—to verify Mr. E’s report.<sup>10</sup> Ms. U confirmed that Mr. E called the division and reported that he goes fishing and has a house in Village B, but he primarily lives with Ms. E in City A.<sup>11</sup> Mr. E reported that the Village B house is uninhabitable, so he stays with friends while he is fishing and then goes home to City A.<sup>12</sup>

On August 8, 2017, Mr. Miller informed the City A division representative that he had talked to Mr. E, who confirmed that he was living with Ms. E.<sup>13</sup> The division added Mr. E back to Ms. E’s case and closed Mr. E’s separate case.<sup>14</sup> The division notified Ms. E that her Food Stamp benefit for September 2017 would be \$26.<sup>15</sup>

On August 22, 2017, Ms. E requested a hearing, arguing that Mr. E has his own bills in Village B, and that he is going back to Village B.<sup>16</sup> Ms. E submitted a letter from Dr. N G, dated June 9, 2017, noting that due to health issues resulting from moisture and mold in the Village B house, Mr. E was temporarily, but indefinitely, living in City A.<sup>17</sup> Finally, Ms. E submitted a letter dated March 24, 2017, from D X, Behavioral Health Director of the City A Indian Community, addressed to the Social Security Administration, about a reduction in Ms. E’s Social Security benefits.<sup>18</sup>

ALJ Kathryn Swiderski held a separate hearing for Ms. E’s Adult Public Assistance benefits on September 12, 2017.<sup>19</sup> The division submitted the recording of that hearing as evidence in this case. In that hearing, Mr. E confirmed that he was living in City A with Ms. E and that they had moved there seven years ago.<sup>20</sup>

A hearing was held for this case on October 12, 2017. In that hearing, both Mr. E and Ms. E confirmed that they are living together in City A.<sup>21</sup> Mr. E testified that he was

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<sup>10</sup> Ex. 4; Miller Testimony.

<sup>11</sup> Ex. 4; Miller Testimony.

<sup>12</sup> Ex. 4; Miller Testimony.

<sup>13</sup> Ex. 5; Miller Testimony.

<sup>14</sup> Ex. 5; Miller Testimony.

<sup>15</sup> Ex. 2.3.

<sup>16</sup> Ex. 7-7.2.

<sup>17</sup> Ex. 7.3.

<sup>18</sup> Ex. 7.4.

<sup>19</sup> Hearing Recording, OAH Case No. 17-0700-APA.

<sup>20</sup> Hearing Recording, OAH Case No. 17-0700-APA.

<sup>21</sup> T E Testimony; K E Testimony.

displaced—that he was supposed to be in Village B fixing the roof on their house, but that he was living in City A to take care of Ms. E, instead.<sup>22</sup>

### III. Discussion

The only issue for this case is whether the division properly treated T and K E as a single household for purposes of Food Stamp eligibility. In her Fair Hearing Request, Ms. E does not dispute that Mr. E has been living with her in City A. She instead objects to the division’s decision to treat them as a single household for purposes of Food Stamps eligibility because she claims that Mr. E lives in City A only temporarily. In short, she and Mr. E claim that Mr. E was displaced—forced to move to City A to take of Ms. E. They insist that Mr. E is going to go back to Village B, and that he remains responsible for the costs of maintaining the Village B home.<sup>23</sup> Given these facts, they argue that the reduction in Food Stamps they receive as a single household is unreasonable.

The rules governing the Food Stamp program are established by statute and regulation. Under 7 U.S.C. § 2012(n),

(1) “Household” means:

(A) an individual who lives alone or who, while living with others, customarily purchases food and prepares meals for home consumption separate and apart from the others; or

(B) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(2) Spouses who live together . . . shall be treated as a group of individuals who customarily purchase and prepare meals together for home consumption even if they do not do so.

The regulation implementing the statute, 7 C.F.R. § 273.1, states:

(a) General household definition. A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

(1) an individual living alone;

(2) an individual living with others, but customarily purchasing food and preparing meals apart from others; or

(3) a group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

(b) Special household requirements.

(1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing

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<sup>22</sup> T E Testimony.

<sup>23</sup> Ex. 7; T E Testimony; K E Testimony.

meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified:

(i) Spouses . . .

Mr. E is Ms. E's spouse.<sup>24</sup> The statute and regulation clearly and expressly preclude treating a married couple as separate households while they are living together.<sup>25</sup> Here, although Mr. and Ms. E claim that Mr. E's housing situation is temporary, there is no dispute that Mr. and Ms. E are indeed living together in City A and have been living together for as long as seven years.<sup>26</sup> Even if that shared occupancy is temporary, it has been extended in time. That they have been living together by necessity, rather than choice, does not change their single household status. Accordingly, the division's decision to treat T and K E as a single household for purposes of Food Stamp eligibility was correct.

#### **IV. Conclusion**

The division correctly determined that Mr. and Ms. E are living together in City A even though they maintain two separate residences and their joint occupancy of the City A premises is temporary. Accordingly, the division's decision to treat them as a single household for Food Stamp purposes is affirmed.

Dated: October 24, 2017

*Signed* \_\_\_\_\_  
Jessica L. Srader  
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 13th day of November, 2017.

By: *Signed* \_\_\_\_\_  
Name: Bride Seifert  
Title: Administrative Law Judge

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

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<sup>24</sup> Ex. 11.

<sup>25</sup> 7 U.S.C. § 2012(n); *see also* 7 C.F.R. § 273.1

<sup>26</sup> T E Testimony; K E Testimony; Hearing Recording, OAH Case No. 17-0700-APA.