

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

In the Matter of)	
)	
L O)	OAH No. 17-0969-SNA
_____)	Agency No.

DECISION

I. Introduction

L O applied for and received Supplemental Nutrition Assistance Program benefits, commonly called “Food Stamps.” The Division of Public Assistance notified Ms. O that she was issued \$333 in Food Stamp overpayments, and that she was required to repay that amount.¹ Ms. O requested a hearing.²

Because Ms. O received \$333 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 17, 2017, Ms. O filed an application for General Relief Assistance with the Division.³ Ms. O reported that she worked 12 -16 hours per week at the No Name Store.⁴ The Division should have used this information to update Ms. O’s income information, including her Food Stamp benefit calculation.⁵ It did not, and the Division recorded that Ms. O had zero income.

When the Division processed Ms. O’s Food Stamp benefits on April 17, 2017, it calculated her Food Stamp benefit using zero income.⁶ The Division approved Ms. O for \$675 in Food Stamp benefits beginning March 2017.⁷ On July 26, 2017, the Division performed a case review and caught its error. The Division then used Ms. O’s actual income to determine the amount of Food Stamp benefits her household should have received.⁸ The Division determined her household should have received \$639 in Food Stamp benefits in March, \$611 in April, \$617 in May and June, \$611 in July, and \$622 in August.⁹

¹ Exhibit 5.
² Ex. 6.
³ Ex. 2.1 – 2.17.
⁴ Ex. 2.5.
⁵ Dial testimony.
⁶ Ex. 2; Ex. 3; Dial testimony.
⁷ Ex. 3.
⁸ Ex. 4.4; Dial testimony.
⁹ Ex. 5.5; Ex. 5.11; Ex. 7 – 7.11.

On August 17, 2017, the Division notified Ms. O that she received \$333 in Food Stamp overpayments for March through August 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. O requested a fair hearing, which was held on November 30, 2017.¹² Ms. O represented herself and Sally Dial presented the Division's position. Ms. O testified that she stopped working in October 2017, but had not yet notified the Division.

III. Discussion

The issue in this case is whether Ms. O is required to pay back \$333 in Food Stamp benefits that were issued to her in error. Ms. O supplied the required information in a timely manner and the overpayment was due solely to Division error. The Division failed to correctly process Ms. O's updated information, causing her household to receive more Food Stamp benefits than entitled to in March through August.¹³

The Food Stamp program is a federal program administered by the State.¹⁴ 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.¹⁵

The federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits issued.¹⁶ This is true even when the overpayment is caused by the Division's error.¹⁷ Here, Ms. O was overpaid \$333 in Food Stamp benefits and is required to repay those benefits to the Division, even though the overpayment was caused by the Division's error.

IV. Conclusion

The Division's decision to collect \$333 in Food Stamp overpayments is affirmed. Ms. O may contact the Division to set up a repayment plan.

DATED December 1, 2017.

Signed

Bride Seifert
Administrative Law Judge

¹⁰ Ex. 5.

¹¹ Ex. 5; Dial testimony.

¹² Ex. 6. Ms. O failed to appear at the first two scheduled hearings due to telephone issues.

¹³ Ex. 5; Ex. 7-7.117.

¹⁴ 7 C.F.R. § 271.4(a).

¹⁵ 7 C.F.R. § 273.10(e)(2)(ii)(A).

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

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

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 19th day of December, 2017.

By: Signed _____

Name: Bride Seifert _____

Title: Administrative Law Judge/OAH _____

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