

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

In the Matter of	)	
	)	
T L	)	OAH No. 17-1195-SNA
<hr style="width:40%; margin-left:0"/>	)	Agency No.

**DECISION**

**I. Introduction**

T L submitted a Food Stamp renewal application on October 12, 2017. He was notified several weeks later that his Food Stamp renewal application was approved and he was eligible for \$18 in Food Stamp benefits each month. Mr. L then requested a hearing.

A telephonic hearing was held on December 7, 2017. Mr. L represented himself; his wife, U, was a witness on his behalf. Jeff Miller represented the Department of Health and Social Services, Division of Public Assistance (Division) and also provided testimony. Since Mr. L’s primary language is Russian, an interpreter from Language Link provided translation assistance during the hearing. The record was held open until December 14, 2017 and both parties submitted additional documents prior to the record closure.

The Division’s decision that Mr. L is entitled to receive \$18 a month in Food Stamp benefits is affirmed.

**II. Facts**

T L has been a Food Stamp recipient since November of 2012.<sup>1</sup> On September 1, 2017, Mr. L filed a “Change Report Form” with the Division, reporting that he had paid off the mortgage on his home.<sup>2</sup> On October 11, 2017, he filed a Food Stamps renewal application, which included numerous receipts for various household and medical expenses.<sup>3</sup> At the time Mr. L filed the renewal application, the L household was receiving \$148 a month in Food Stamp Benefits.<sup>4</sup>

The Division representative processed Mr. L’s renewal application on October 26, 2017 and on October 30, 2017.<sup>5</sup> On October 31, 2017, the Division sent a notice to Mr. L advising

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<sup>1</sup> Exh. 1.

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

<sup>3</sup> Exh. 3-3.4 and Exh. 6.3-6.78. Mr. L’s Food Stamps renewal application claimed his household had \$588 a month in medical expenses. See Exh. 3.3. The Division subsequently determined that certain receipts Mr. L had provided with his renewal application were not allowable deductions for medical costs because they were not for prescription drugs or over-the-counter medications. See Exh. 4.1; see also Testimony of Mr. Miller.

<sup>4</sup> Exh. 6; Testimony of Mr. Miller.

<sup>5</sup> Exhs. 4 – 4.1; see also Testimony of Mr. Miller.

him that his new Food Stamp Benefit amount beginning in November of 2017 would be \$18 a month.<sup>6</sup>

On November 15, 2017, Mr. L requested a fair hearing.<sup>7</sup> The following day, a telephonic pre-referral conference between a Division employee and Mr. L occurred.<sup>8</sup> With the assistance of an interpreter, Mr. L verified that his home was paid off and that his recertification application included all of medical bills which he and his wife had incurred.<sup>9</sup> At this time, Mr. L also clarified the number of doctor visits he and his wife have each month and the round-trip mileage for each such trip.<sup>10</sup> The Division concluded that the Food Stamp benefit amount should remain at \$18 a month. Mr. L's fair hearing request was forwarded to the Office of Administrative Hearings on November 21, 2017.

At the hearing, the Division's representative explained how the Division had determined that the L household was now only entitled to \$18 a month in Food Stamp benefits. He noted that Mr. and Mrs. L each receive SSI in the amount of \$551.50, Senior Benefits in the amount of \$175, and Adult Public Assistance in the amount of \$264.<sup>11</sup> Thus, the L household's total gross monthly income is \$1,981 ( $\$551.50 + \$175 + \$264 = \$990.50 \times 2 = \$1,981$ ).<sup>12</sup>

Mr. L and his wife are both over 60 years of age and receive SSI.<sup>13</sup> Consequently, their household is considered a "special category" household.<sup>14</sup> Under Food Stamp program regulations, the special category household's *net monthly income* is used to determine their eligibility for Food Stamps.<sup>15</sup> In order to determine the L household's net income, the Division deducted \$273 for the standard deduction and \$312.38 in excess medical costs.<sup>16</sup> The excess

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<sup>6</sup> Exh. 5.

<sup>7</sup> Exh. 5.2.

<sup>8</sup> Exh. 6. Although the Division in its notes and through the testimony of Mr. Miller referred to this conference as a "pre-hearing conference," that is incorrect. This was a *pre-referral* conference prior to referring Mr. L's request for a fair hearing to the Office of Administrative Hearings. *See* Exh. 6; *see also* Testimony of Mr. Miller.

<sup>9</sup> Exh. 6.

<sup>10</sup> Exh. 6. During the pre-referral conference with the Division's representative on November 16, 2017, Mr. L stated that he and his wife drive 60 miles roundtrip from their home eight times a month to Ms. L's doctor in No Name City. In addition, Mr. L said they drove 250 miles round trip six times a month to No Name City 2 for Mr. L's visits to his doctor.

<sup>11</sup> Exhs. 4.2-4.7; Testimony of Mr. Miller.

<sup>12</sup> Exh. 6.1-6.2; *see also* Testimony of Mr. Miller.

<sup>13</sup> Exhs. 3, 3.2, 7 & 11.

<sup>14</sup> Exhs. 6.1, 11 & 19.1.

<sup>15</sup> Exh. 7.

<sup>16</sup> Exhs. 8 & 19.2; *see also* Testimony of Mr. Miller.

medical costs consisted of prescription medicine and the cost of transportation to doctor's visits for Mr. and Mrs. L.<sup>17</sup> This gave the L household an adjusted income of \$1,395.62.<sup>18</sup>

Special category households receive a deduction for the cost of shelter, but only for that portion of the shelter costs which exceed 50% of the household's adjusted income.<sup>19</sup> The Division calculated the L's shelter deduction to be \$694.27 a month, comprised of \$130.27 (the cost of home insurance), and \$564 (utility deduction for the northern region).<sup>20</sup> Because the shelter deduction was less than 50% of the household's adjusted income, the L household did not qualify for an excess shelter deduction.<sup>21</sup> Thus, the L's household's *net monthly income* at the time of the Food Stamp renewal application was \$1,395.62.<sup>22</sup>

A household's Food Stamp benefit amount for a special category household is based upon 30% of the household's net income.<sup>23</sup> Accordingly, the Division multiplied the L household's monthly net income of \$1,395.62 by .3, which gave an adjusted Food Stamp income of \$418.69.<sup>24</sup> The total Food Stamp allotment for a two-person household is \$422, so that the L household would only be entitled to a \$3 monthly Food Stamp Benefit absent the applicability of

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<sup>17</sup> In calculating the L household's excess medical costs, the Division added their monthly prescription medicine costs over a six-month period and then divided the total amount by six, for \$10.78 in average monthly prescription costs. *See* Exh. 19. The cost of transportation to medical visits was calculated using the IRS standard mileage rate of 17 cents a mile. Using the IRS mileage rate, the Division's representative determined that the L household's monthly cost for transportation for doctor's visits was \$81.60 (60 miles round trip x 8 trips per month = 480 miles x 17 cents a mile = \$81.60) for Mrs. L and \$255 (250 miles round trip x 6 trips per month = \$255) for Mr. L. *See* Exh. 6. Although the total monthly medical costs for the L household were \$347.38, it is only medical costs in excess of \$35 a month (*i.e.*, \$312.38) that can be deducted. *See* Exh. 19.2; Testimony of Mr. Miller.

<sup>18</sup> The Division initially concluded that the L household's total adjusted income was \$1,398.93. *See* Exh. 6.1. Later, the Division reported that the household's adjusted income was \$1,399.50. *See* Division's Position Statement. Subsequently, the Division revised the L household's adjusted income to \$1,395.62. *See* Exh. 19.2, which was part of the additional documents the Division provided after the hearing. Although the Division's calculation of the L household's adjusted income are not entirely consistent, these minor variations do not affect the Division's final determination that the L household is only entitled to \$18 in Food Stamp benefits. This is because the L household's benefits are determined by 7 CFR 23.10(e)(2)(ii)(c), which gives them a greater benefit than the difference between the maximum Food Stamp allotment for a household of two (\$422) and the L household's adjusted Food Stamp income of \$418.69. *See* Exhs. 12 & 19.1.

<sup>19</sup> *See* Exh. 9.5; Testimony of Mr. Miller. The adjusted income is the household's gross income minus the standard deduction and any excess medical expenses. Here, 50% of the household's adjusted income was \$697.81 (\$1,395.62 divided by 2 = \$697.81). *See* Exh. 19.2.

<sup>20</sup> Exhs. 19.2 & 12.1. When the household is incurring heating fuel costs, there is a standard utility deduction of \$564 a month for the "northern utility region" in Alaska, which includes No Name City. *See* Exhs. 12.1 & 13. Even though a household may expend more than that amount on utility costs, the maximum deduction is \$564. *See* Testimony of Mr. Miller. In computing monthly shelter costs, the Division also considers the cost of taxes and garbage collection. *See* Exh. 19.2. However, the L household had no such expenses. *See* Exhs. 3.2 & 19.2

<sup>21</sup> Exh. 9.5; Testimony of Mr. Miller.

<sup>22</sup> Exh. 19.2.

<sup>23</sup> Exh. 19.1.

<sup>24</sup> Exhs. 19.1-19.2.

7 CFR 23.10e(2)(ii)(c) to their situation.<sup>25</sup> Under 7 CFR 23.10(e)(2)(ii)(c), all eligible two-person households receive the minimum monthly allotment equal to the minimum benefit for the geographic area where the Food Stamp recipient resides.<sup>26</sup> The Food Stamp program classifies No Name City as an “urban” area.<sup>27</sup> As an “urban” area, the minimum allotment for a two-person household is \$18. Consequently, the Division determined that the L household was entitled to \$18 a month in Food Stamp benefits.<sup>28</sup>

Mr. L did not dispute the Division’s calculations, which resulted in the Division’s determination of the amount of Food Stamp benefits his household was entitled to receive.<sup>29</sup> Instead, he and Mrs. L argued that the Division should have included the cost of certain over-the-counter supplements and vitamins they took as part of their medical deductions.<sup>30</sup> He also testified that the standard utility deduction did not cover his actual utility costs.<sup>31</sup> In addition, Mr. L described how his monthly household expenses had increased recently because he had to purchase a new car so he and his wife could travel to their medical appointments since there was no public transportation where they lived.<sup>32</sup> Finally, Mr. L noted that his internet service was \$80 a month.<sup>33</sup>

Mrs. L testified about her need for some of the over-the-counter supplements that she took on a regular basis. She stated that her physician had told her to take fiber supplements and that she took these supplements to avoid surgery. She also testified that she used eucalyptus oil to help alleviate her asthma and that he doctor said she could use this if it was helping her.<sup>34</sup> However, neither Mr. nor Mrs. L disputed the Division’s position that these supplements had not been *prescribed* by their physician at the time of the renewal application.<sup>35</sup>

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<sup>25</sup> Exh. 19.1; *see also* Testimony of Mr. Miller.

<sup>26</sup> Testimony of Mr. Miller; Exh. 19.1.

<sup>27</sup> Exh. 15.

<sup>28</sup> Exhs. 6.2 & 19.1.

<sup>29</sup> *See* Testimony of Mr. L.

<sup>30</sup> Testimony of Mr. and Mrs. L.

<sup>31</sup> Testimony of Mr. L; *see also* Exhs. 3.2 & 4 (noting that the household’s monthly heating expenses consisted of \$500 for wood, \$160.60 for electricity and that the household paid \$150 a month for sewage).

<sup>32</sup> Testimony of Mr. L.

<sup>33</sup> Testimony of Mr. L; *see also* Exh. 3.2.

<sup>34</sup> Testimony of Mrs. L.

<sup>35</sup> *See* Testimony of Mr. and Mrs. L; *see also* Exh. 4.1. After this appeal was filed, Mr. and Mrs. L submitted a prescription dated November 21, 2017 for Mrs. L’s supplements and a prescription dated December 12, 2017 for Mr. L for a male rib belt and for an enzyme supplement. *See* Exhs. 20.3-20.4 & 21.1. The Division has acknowledged in its position statement that these will be used to determine *future* medical deductions. However, these prescriptions do not affect the outcome of this appeal since the supplements at issue were not prescribed at the time the Division considered the renewal application.

### III. Discussion

There is no dispute concerning how the Division arrived at the food stamp allotment for the L household. Mr. Miller testified that the reason why Mr. and Mrs. L were receiving a much smaller Food Stamp benefit than they had received previously was because they no longer had a \$500 per month mortgage payment.<sup>36</sup> The Division's calculations corroborate his testimony.<sup>37</sup> By paying off their mortgage, the L household reduced their monthly shelter costs and thereby lost the excess shelter cost deduction.<sup>38</sup> Losing this deduction resulted in a larger net income for the L family which, in turn, affects the amount of food stamps they are entitled to receive.

When the Mr. L submitted his Food Stamps renewal application, the over-the-counter supplements he and his wife had been purchasing were not prescribed by a physician.<sup>39</sup> Although Mrs. L persuasively testified that these supplements were beneficial to her health and that her physician told her that she could take them, the regulations only permit a deduction for over-the-counter medications prescribed by a physician.<sup>40</sup> Consequently, the Division was correct in not considering the cost of these supplements when it processed the renewal application and calculated the household's medical deductions.

Although the L household pays more to the heat their home each month than the standard utility deduction, the deduction for their utility costs is limited to the standard utility deduction for No Name City.<sup>41</sup> Consequently, the Division appropriately used the standard utility deduction in calculating whether the L household had "excess shelter" costs.<sup>42</sup> The cost of internet service is not an allowable deduction.<sup>43</sup>

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<sup>36</sup> Testimony of Mr. Miller.

<sup>37</sup> The L household's current shelter costs were \$3.55 less than what was needed for them to qualify for the shelter cost deduction, since their monthly shelter costs were \$694.27 and such costs had to exceed \$697.81 in order for the household to get the benefit of the "excess shelter cost" deduction. *See* Exh. 19.2. Previously, they had monthly mortgage payments in the amount of \$500, which allowed them to get the benefit of that deduction. *See* Testimony of Mr. Miller.

<sup>38</sup> Testimony of Mr. Miller.

<sup>39</sup> Testimony of Mr. Miller; Testimony of Mr. and Mrs. L; *see also* Exh. 4.1. Under certain circumstances, an over-the-counter treatment is an allowable expense if a physician prescribes it as part of his patient's treatment. *See* Exh. 19.

<sup>40</sup> Exh. 8; Testimony of Mrs. L; Exh. 4.1.

<sup>41</sup> When the household pays heating costs, the standard utility deduction is used in computing "excess shelter" costs. *See* Exh. 19.2; *see also* Testimony of Mr. Miller. It results in a larger deduction than the non-heating utility standard (for households who do not incur heating fuels costs), which is limited to \$276 for the aggregate cost of telephone, electricity, water and sewage expenses. *See* Testimony of Mr. Miller.

<sup>42</sup> Exhs. 19.2, 12.1 & 13.

<sup>43</sup> Testimony of Mr. Miller.

Finally, although the L household may have needed a new vehicle to travel to their medical appointments, the allowable deduction for use of a vehicle for medical purposes is limited to the “reasonable cost of transportation . . . to obtain medical treatment.”<sup>44</sup> The Division used the IRS rate of \$.17 per mile in 2017 to calculate the “reasonable cost” of such transportation.<sup>45</sup> The Division’s representative testified that he was not aware of any deduction for the cost of vehicle, even in a location with no public transportation like No Name City.<sup>46</sup> The Ls did not counter this testimony by pointing to any authority which would allow the Division to factor in the cost of a vehicle as part of their reasonable transportation costs.

Because this was a Food Stamps renewal application, Mr. L has the burden of proof in this case. The preponderance of the evidence showed that the Division had calculated the L household’s Food Stamp benefits correctly. Thus, the Division’s determination that the L household should only receive \$18 a month in Food Stamp benefits beginning in November of 2017 was correct.

#### **IV. Conclusion**

The Division’s decision on Mr. L’s renewal application was correct; the household is only entitled to \$18 a month in Food Stamp benefits. Accordingly, the Division’s decision is affirmed.

DATED this 9th day of February, 2018.

*Signed*  
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Kathleen A. Frederick  
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 23rd day of February, 2018.

By: *Signed*  
\_\_\_\_\_  
Name: Cheryl Mandala  
Title/Agency: Admin. Law Judge/OAH

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

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<sup>44</sup> Exh. 8.1.

<sup>45</sup> Exh. 14.

<sup>46</sup> Testimony of Mr. Miller.