

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

In the Matter of)	
)	OAH No. 17-1251-SNA
U X)	Agency Case No.
_____)	

DECISION

I. Introduction

U X applied for Food Stamp benefits for her two-person household, consisting of her and her minor grandson. The Department of Health and Social Services, Division of Public Assistance (Division), approved the application, but only issued benefits for a one-person household. Ms. X requested a hearing.

Ms. X's hearing was held on January 4, 2018. Ms. X represented herself and testified on her own behalf. Sally Dial, a Public Assistance Analyst with the Division, represented the Division.

The evidence shows that Ms. X is permanently ineligible for Food Stamps because she had three prior administrative disqualifications. As a result, even though she resides with her grandson, benefits can only be issued for a one-person household. The Division's issuance of benefits for a one-person household, instead of a two-person household, is **AFFIRMED**. However, the Division's decision on the amount of the monthly Food Stamp on the monthly benefit amount for that one-person household, as recalculated at hearing, is \$19, rather than the \$18 per month previously calculated.

II. Facts¹

The following facts were proven by a preponderance of the evidence.

Ms. X lives with a son and her minor grandson. Her son receives Food Stamp benefits as a separate household. Ms. X applied for Food Stamp benefits on November 22, 2017 for her and her grandson.² The Division reviewed Ms. X's application. It determined that Ms. X was not eligible for Food Stamp benefits because she has three prior Food Stamp program administrative disqualifications.³

¹ Unless otherwise stated, the facts are taken from Ms. X's testimony.

² Exs. 2.1 – 2.7.

³ Ex. 5.

The Division approved Ms. X's application, however, it excluded Ms. X from being counted as part of the Food Stamp household, which meant that it issued Food Stamp benefits for a household of one, based upon Ms. X' income and expenses. That household consists of the minor grandson. The Food Stamp benefit amount approved by the Division was \$18 per month beginning in December 2017.⁴

Ms. X did not dispute the income figures used by the Division in calculating the household benefits. Ms. X, however, provided additional information at hearing, which the Division used in recalculating the benefit amount. The changed benefit amount was \$19 per month, rather than \$18. The Division filed a copy of the calculation sheet post-hearing.

It is undisputed that Ms. X has three prior administrative disqualifications from the Food Stamp program. The first disqualification occurred in March 1987. Ms. X signed a document that she was admitting to the underlying facts, and that she was aware that she was disqualified from receiving Food Stamp benefits for a six-month period.⁵ The second disqualification occurred in September 1988. Ms. X signed a consent agreement, in lieu of criminal prosecution, where she acknowledged that she had been overpaid Food Stamp benefits, and further acknowledged, that she was subject to a twelve-month disqualification period from the Food Stamp program for a second intentional program violation. That same consent agreement advised her that a third violation would permanently disqualify her from receiving Food Stamp benefits.⁶ The third disqualification occurred in February 1999. Ms. X signed an administrative disqualification document that stated, in pertinent part:

I do not admit that the facts as presented in Part 1, above are correct; however, I have chosen to sign this waiver. I understand that a **permanent** Food Stamp program disqualification penalty will be imposed if I sign this waiver because it is my **third** violation.⁷

Ms. X testified that she had received conflicting advice from the Division about how her husband's fishing permit affected her financial eligibility for Food Stamp benefits. She further testified that her reliance on the Division's conflicting advice then led to the three administrative disqualification proceedings the Division pursued against her. She stated that she did not dispute

⁴ Ex. 5.

⁵ Exs. 6 – 6.3.

⁶ Exs. 7 – 7.6.

⁷ Ex. 8 (emphasis in original).

the proceedings and signed the agreements because she was young, scared, and was pressured into signing them.

III. Discussion

The Food Stamp program is a federal program which is administered by the State of Alaska.⁸ The Code of Federal Regulations contains the rules for determining if an applicant is eligible for Food Stamp benefits.

An administrative disqualification proceeding consists of an allegation that a Food Stamp recipient has committed an intentional violation of the program rules, which consist of either misrepresenting facts used to determine eligibility and benefit amounts, or intentionally failing to timely report changes that affected the benefit amount.⁹ The Division has the burden of proof on these cases by clear and convincing evidence.¹⁰ If the case results in a finding in favor of the Division, the recipient is required to repay any benefits improperly received, and the recipient is barred from receiving benefits for a period of time, which varies depending on whether it is the first, second, or third disqualification. A third administrative disqualification results in the recipient being permanently disqualified from receiving Food Stamp benefits.¹¹

The practical effect of a Food Stamp program disqualification is that the disqualified individual's income is counted in determining the total household income, but that the excluded individual is not counted as part of the household when determining eligibility and benefit levels.¹²

Ms. X objected to the Division's determination that she was permanently disqualified from receiving Food Stamp benefits. Her argument was that the disqualifications arose from her reliance on erroneous advice she received from the Division, and that she was pressured into signing the documents that waived her right to challenge the disqualifications. Ms. X's objection is noted. However, the last document she signed, where she agreed to being permanently disqualified from receiving Food Stamp benefits, was signed in February 1999, almost 19 years ago. She waited far too long to object to the disqualification, and her objection cannot be considered at this late date. Accordingly, the Division has established that Ms. X is permanently disqualified from receiving Food Stamp benefits.

⁸ 7 C.F.R. § 271.4(a).

⁹ 7 C.F.R. § 273.16(c).

¹⁰ 7 C.F.R. § 273.16(e)(6).

¹¹ 7 C.F.R. § 273.16(b)(1)(iii).

¹² 7 C.F.R. § 273.11(c)(1); 7 C.F.R. 273.16(b)(11).

Because Ms. X is permanently disqualified from receiving Food Stamp benefits, her Food Stamp household consists only of one person - her minor grandson. However, Ms. X's income is used to determine whether the minor grandson is financially eligible for Food Stamp benefits, and if eligible, the amount of those benefits. Ms. X testified about her income and the household bills during the hearing. As calculated by the Division during the hearing, that benefit amount should be \$19 per month.

IV. Decision

The Division's decision determining that Ms. X only had a one-person Food Stamp household, due to her permanent disqualification, is AFFIRMED. However, the Division's decision on the amount of the monthly Food Stamp on the monthly benefit amount for that one-person household, as recalculated at hearing, is \$19.

DATED this 10th day of January, 2018.

Signed _____
Lawrence A. Pederson
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 25th day of January, 2018.

By: *Signed* _____
Name: Lawrence A. Pederson
Title: Administrative Law Judge/OAH

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