

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

In the Matter of)
)
 M J) OAH No. 17-1277-SNA
) Agency No.
_____)

DECISION

I. Introduction

M J and her children received food stamp benefits from the Division of Public Assistance. The division notified Ms. J that it had overpaid her food stamp benefits for October 2016 through January 2017 because her son E was receiving food stamp benefits in Washington during that time. The division found Ms. J liable for repayment of \$904. Ms. J requested a fair hearing.

Because the division has not shown that E was receiving food stamp benefits in Washington, the division's decision that Ms. J's food stamp benefits were overpaid and that she is liable for repayment of \$904 is reversed.

II. Facts

Ms. J has three children. Her eldest child, E, turned 18 in August 2016.¹ E had been living in Washington with Ms. J's sister M G to pursue educational opportunities.² He was receiving medical coverage and public assistance under Washington's temporary assistance program as a member of Ms. G's household. When he turned 18, he was no longer eligible for temporary assistance in Washington. Consequently, on August 16, 2016, Washington terminated Ms. G's household from participation in the temporary assistance program, and placed it in the transitional food assistance program.³

On August 26, 2016, Ms. J notified the division that E had returned to her household in Alaska, and requested food stamp and Medicaid benefits.⁴ Ms. J's application was approved based on household income of \$2,978 and a household size of four (including Ms. J, E, and Ms. J's two younger children).⁵

Ms. G reported E's departure to the Washington authorities. Ms. G testified that she reported E's departure to the Washington public assistance office shortly after E went back

¹ Div. Ex. 1.
² Test. of J.
³ Test. of Dial; Div. Ex 13.
⁴ Div. Ex. 2; test. of Dial.
⁵ Test. of Dial; position stmt at 2.

to Alaska. According to the records of the Washington food stamp program, Ms. G went to the No Name office in person and reported that E was no longer in the household on November 16, 2016. However, Washington did not remove E from Ms. G's food stamp case. A case note from the Washington food stamp program dated November 16, 2016 said "cont with removed nephew off of basic food - benefit amount will not change as clt is on transitional benefits." A March 1, 2017 case note documents that although E's departure from the household was reported, E was not removed from the case because the household was participating in the transitional food assistance program.⁶

To catch instances of fraud within its food stamp program, Alaska periodically checks its list of food stamp recipients against lists of food stamp beneficiaries in other states.⁷ A routine cross-check in February 2017 of a federal database comparing Alaska food stamp recipients to food stamp recipients in other states showed that E had been included in both Ms. J and Ms. G's food stamp household from October 2016 through January 2017 (the "PARIS match").⁸

The division investigated the PARIS match, and found that E's departure from Ms. G's household was not a reportable change in Washington. It determined that it would not pursue an intentional program violation because "Ms. J could not be expected to know assistance was received on E's behalf in another state." Thus, the division investigated the matter as a potential case of fraud and decided that it did not have grounds to pursue a fraud case. Nonetheless, based on the PARIS match, the division found that E had been receiving benefits in two households at once.⁹

The division reasoned that E was ineligible for food stamp benefits because he was already receiving them in Washington, and without E in the household, Ms. J had a household of three. Ms. J's household income of \$2,978 exceeded the program's gross income limit of \$2,730 for a three-person household. Thus, the division concluded that Ms. J had been overpaid \$904 in food stamp benefits for the period October 2016 through January 2017.¹⁰

⁶ Div. Ex. 13.

⁷ Test. of Dial.

⁸ Test. of Dial; Div. Ex. 13.

⁹ Div. Ex. 5.12.

¹⁰ Div. Ex. 5.5 - 5.9; 5.12.

On August 17, 2017, the division notified Ms. J of the repayment obligation, and gave her 90 days to appeal.¹¹ Ms. J requested a fair hearing on October 11, 2017.¹² The division referred the matter to the Office of Administrative Hearings on December 14, 2017. A hearing was held on January 10, 2018. Ms. J represented herself. Fair Hearing Representative Sally Dial represented the division. M G testified. The record was held open until January 26, 2018, to allow both parties to file additional exhibits and briefing.

III. Discussion

The food stamp program is a federally funded program administered by the state. When the state overpays a person's food stamp benefits, federal law requires the state to recover the amount of the overpayment.¹³ A person may not participate as a member of more than one food stamp household in any month.¹⁴ Because the division is attempting to reduce Ms. J's food stamp benefits, the division bears the burden of proof by a preponderance of the evidence.¹⁵

The division contends that Ms. J's food stamp benefits were overpaid because E was receiving food stamp benefits in both Washington and Alaska during the period October 2016 through January 2017.¹⁶ Specifically, the division argues that when E was added to Ms. J's food stamp household in Alaska, he was still included in Ms. G's food stamp household in Washington.

Resolving this case requires an understanding not only of Alaska law and federal law governing the food stamp program, but also Washington law. Between October 2016 and January 2017, Ms. G's household participated in Washington's transitional food assistance program. Washington bases a household's transitional food assistance benefit on "the regular monthly benefit allotment issued to your Basic Food assistance unit for the last month your household received temporary assistance for needy families."¹⁷

E was in the G household during August 2016, the last month the household received temporary assistance for needy families. After E turned 18, the G household no longer qualified for temporary assistance in Washington, and the household was placed in the transitional food

¹¹ Div. Ex. 5.

¹² Div. Ex. 6.

¹³ 7 U.S.C. 2022(b)(1); 7 C.F.R. 273.18(a)(2).

¹⁴ 7 C.F.R. 273.3(a).

¹⁵ 7 AAC 49.135.

¹⁶ Div. Ex. 5.

¹⁷ Div. Ex. 12.1 (WAC 388-489-0010).

assistance program. The household's transitional food assistance benefits were based on its basic food allotment for the G household for August 2016, when E was still in the household. Meanwhile, E left for Alaska. E's departure in August 2016 did not affect the amount of transitional food assistance benefits to which the G household was entitled.

Ms. G notified Washington that E was no longer in her household on November 16, 2016 at the latest. According to Ms. G, she reported E's departure earlier. There is nothing more that Ms. G, much less Ms. J, could have done to avoid the PARIS match besides notify Washington of E's departure. Washington did nothing in response to the report of E's departure other than record a case note, apparently because E's departure did not affect Ms. G's benefits under Washington's transitional food assistance program.

The division concluded that E was participating in more than one food stamp household and receiving food stamp benefits in Washington between October 2016 and January 2017 based on the PARIS match. However, the PARIS match does not prove that E was a member of more than one food stamp household during this period. According to the federal regulations governing the food stamp program, a household is composed of "individuals who live together and customarily purchase food and prepare meals together for home consumption."¹⁸ Applying this definition, E was clearly a member of Ms. J's household between October 2016 and January 2017, not Ms. G's household. The division did not contest Ms. J's report that E had moved back into her home on August 26, 2016.¹⁹ There is no evidence suggesting that E was living with Ms. G in Washington or receiving any of the G household's transitional food assistance benefits between October 2016 and January 2017. The division's conclusion that E was a member of two food stamp households between October 2016 and January 2017 based on the PARIS match was erroneous.

E was clearly in Ms. J's household, not Ms. G's household, between October 2016 and January 2017. The division did not show E was receiving benefits in the state of Washington during this period. The division correctly calculated and paid Ms. J's benefits based on a household size of four. Therefore, there was no overpayment of benefits to Ms. J.

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¹⁸ 7 C.F.R. 273.1(a)(3).

¹⁹ See Div. Ex. 2.

IV. Conclusion and Order

The division has not shown that Ms. J's Alaska food stamp benefits were overpaid. Consequently, the division's decision that Ms. J must repay the food stamp benefits her household received from October 2017 through January 2017 is reversed.

Dated: February 14, 2018.

Signed _____
Kathryn L. Kurtz
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 30 day of March, 2018.

By: *Signed* _____
Name: Erin Shine
Title/Agency: Special Assistant, DHSS

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]