

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

In the Matter of )  
 )  
K K ) OAH No. 18-0192-SNA  
 ) Division No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

K K was a Food Stamp<sup>1</sup> recipient in December 2017 and January 2018. The Division of Public Assistance (Division) sent him notice that he had received \$181 more in Food Stamp benefits than he was entitled to receive, and that he was required to repay that amount. He requested a hearing on January 29, 2018.<sup>2</sup>

Mr. K received \$181 more in Food Stamp benefits than he should have due to the Division’s error. Regardless of the fact that the overpayment was caused by the Division’s error, he is required to repay those benefits. The Division’s decision establishing a repayment claim in that amount is affirmed.

**II. Facts**

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

Mr. K was a Food Stamp recipient in December 2017 and January 2018. There are two other people in his household, which means that his household consists of three people. His household began receiving Temporary Assistance to Needy Families (TANF) in December 2017. It received \$567 in TANF benefits in January 2018.<sup>3</sup> Ms. M, a disabled member of the household, received \$648 in Social Security payments and \$362 in Adult Public Assistance payments in January 2018.<sup>4</sup> Mr. K was also receiving \$1,281.40 in monthly gross (pretax) unemployment benefits in January 2018.<sup>5</sup> The household therefore received a total of \$2,858.40 in gross income during January 2018.

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<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program (“SNAP”). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> See Ex. 5. The Division did not refer this case to the Office of Administrative Hearings (OAH) until February 20, 2018, 22 days after Mr. K’s hearing request. The Division is required to refer cases to OAH for hearing “no later than 10 days after” it receives a hearing request. 7 AAC 49.080.

<sup>3</sup> Ex. 2.1.

<sup>4</sup> Exs. 2.2 – 2.3.

<sup>5</sup> The record shows that Mr. K was receiving \$298.00 in gross weekly unemployment benefits during January 2018. Exs. 2, 2.4 – 2.5.

On January 18, 2018, the Division reviewed Mr. K's Food Stamp case and determined that his household income made it ineligible to receive Food Stamp benefits in January 2018. That January 2018 payment was \$282. However, the Division's review also revealed that Mr. K had been underpaid benefits by \$101 for December 2017. As a result, the Division determined that Mr. K had been overpaid a total of \$181.<sup>6</sup> In its calculations, the Division counted the household as being comprised of three people, with a total household income of \$2,858.40, allowed a standard deduction of \$273, and did not provide for any shelter cost deduction.<sup>7</sup>

Mr. K did not dispute the income figures that the Division used in its calculations. However, he disagreed with the expense figures used in determining the amount of benefits which he should have received. Specifically, Mr. K testified that he should receive a shelter cost deduction because he paid monthly rent in the amount of \$800 and had utility costs. Mr. K further testified that a family trust used to pay for his rent but stopped doing so a number of years ago.

Mr. K has a January 24, 2018 public assistance application that states that his rent is paid for by the family trust.<sup>8</sup> He was afforded an opportunity to provide documentation supporting his testimony regarding rent, utilities, etc. and did not do so. The Division submitted additional information corroborating that Mr. K's rent and heat was paid for by the family trust and that he only paid electric and telephone.<sup>9</sup> The evidence therefore shows that it is more likely true than not true that Mr. K does not pay rent or heat, and that those are paid for by the family trust.

Mr. K's hearing was held on March 22, April 12, and April 26, 2018. JJ from the Disability Law Center represented him. Mr. K testified. Sally Dial, Public Assistance Analyst with the Division, represented the Division.

### **III. Discussion**

The issue in this case is whether Mr. K is required to pay back \$181 in Food Stamp benefits that were issued to him in error. Mr. K did not dispute the income used by the Division in its calculations. He disagreed with the Division's not providing him with a shelter cost deduction, testifying that he paid rent and heat costs for his home. However, as found above, he

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<sup>6</sup> The Division initially notified Mr. K that he had been overpaid a total of \$266. Exs. 3 – 3.12. However, on February 26, 2018, after reviewing all of its records including his December 2017 benefit amount, the Division determined that Mr. K's total liability was \$181. Exs. 4 – 4.12.

<sup>7</sup> Ex. 4.8.

<sup>8</sup> Ex. 13.10.

<sup>9</sup> Exs. 12, 12.1, 13, 14.

did not pay rent and heat for his home. As a result, the Division's calculations which did not provide him with a shelter cost deduction, were correct.

Consequently, the Division has met its burden of proof that Mr. K was overpaid \$181 in Food Stamp benefits. The federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits issued.<sup>10</sup> This is true even when the overpayment is caused by the Division's error.<sup>11</sup> Adult members of the Food Stamp recipient's household are the persons responsible for repaying overpaid Food Stamp benefits.<sup>12</sup> As a matter of law, Mr. K was overpaid \$181 in Food Stamp benefits and is required to repay those benefits to the Division, regardless of the fact he was not at fault and the overpayment was caused by the Division's error.

#### **IV. Conclusion**

The Division's decision to seek recovery of the \$181 in Food Stamp (SNAP) benefits which were overpaid to Mr. K in January 2018 is affirmed.

DATED this 30<sup>th</sup> day of April, 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 11<sup>th</sup> day of May, 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. Names may have been changed to protect privacy.]

<sup>10</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>11</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

<sup>12</sup> 7 C.F.R. § 273.18(a)(4)(i).