

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

In the Matter of)	
)	OAH No. 18-0254-SNA
C W)	Agency No.
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DECISION

I. Introduction

C W and her family receive Food Stamp benefits through the Supplemental Nutrition Assistance Program. She submitted wage information for her husband showing their most recent income figures, but the Division of Public Assistance (Division) did not process that information immediately. Because of the processing delay, Ms. W received more benefits than she was entitled to receive. The Division notified her that she would need to repay the overpayment, and Ms. W appealed.

A hearing was held on April 9, 2018. The Division was represented by Jeff Miller. Ms. W represented herself and testified on her own behalf. At the hearing Ms. W indicated that she felt the overpayment was the Division’s fault, and therefore it was unfair that she should have to repay it. However, under federal law, the reason for the overpayment is immaterial for purposes of the requirement to repay. Therefore, the Division may seek to recover the overpayment of \$927.00.

II. Facts

On or about October 30, 2017, Ms. W sent an email to the Division stating that her husband’s employment with No Name Business had changed from part time to full time, and as a result their income had gone up. In the email, Ms. W also stated “I am reporting to you a change of income to see if there will be any effect to the benefits of ... Food Stamps,” and she attached copies of her husband’s recent paystubs.¹ On November 13, 2017, Ms. W submitted a hard copy of the email to the Division, along with a handwritten note pointing out that she had sent the email to the Division’s office and had received no response, and she again asked for notice “of changed benefits.”²

¹ Exh. 2.1. In the email, Ms. W also pointed out that she had phoned the Division on October 20, 2017 and had spoken with a caseworker about the change of household income. *Id.*

² Exh. 3.

Unfortunately, due to a backlog of public assistance cases, Division staff did not process Ms. W's submissions regarding the change in her household income until January 25, 2018. At that time, a Division caseworker applied the increased income figures to Ms. W's case and determined that her household had been overpaid Food Stamp benefits for December 2017, January 2018, and February 2018. The Division sent her a notice to that effect on February 27, 2018, informing her that her household had received \$926 in benefits they were not entitled to receive.³

Ms. W requested an administrative hearing to contest the Division's overpayment claim on March 6, 2018.⁴ The Division later determined that there had been a small error in its calculations, and the correct overpayment amount was \$927; a corrected notice to that effect was sent to Ms. W on March 23, 2018.⁵

III. Discussion

The Supplemental Nutrition Assistance Program, also known as the Food Stamps program, is governed by federal law. Federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits.⁶ This is true even when the overpayment is caused by the Division's error.⁷

Ms. W felt she fully met her obligations to report changes in her household's income, she explicitly requested notice regarding changes to her household benefits, and the overpayment was the result of Division errors that she could not be expected to identify or correct. Ms. W did not dispute the Division's evidence regarding its income calculations or the amount of the benefit overpayments; however, she was obviously and justifiably frustrated both by the overpayment claim, and the general testimony at the hearing regarding the Division's processing of the case filings it receives from applicants and recipients. In essence, she argued that the Division created this situation, and therefore the Division should be required to live by its own miscalculation. Any other result, from her perspective, would be unfair and unreasonable.

³ Exh. 5.

⁴ Exh. 6 (showing receipt date of March 8, 2018; another copy of Ms. W's request for fair hearing, included with the Division's referral of the case to OAH, shows a receipt date of March 6, 2018).

⁵ Exh. 7. It is also noted that the Division's position statement submitted for this hearing misstated the overpayment amounts for December and January, listing them as \$356 per month rather than the correct figure of \$336 per month. Compare Division's March 23, 2018 Position Statement at p. 3, with exh. 5.7.

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

⁷ 7 C.F.R. §273.18(b)(3); *In re D E*, OAH No. 14-0190-SNA (Commissioner of Health and Social Services 2014). This and other Food Stamp cases can be found at <http://doa.alaska.gov/oah/Decisions/SNA.html>.

While Ms. W's frustration is understandable, unfortunately the law requires the Division to collect any overpayment of Food Stamps benefits. The Division has no discretion to refrain from collection based on who was at fault for the overpayment.⁸ This no-fault rule in recovering overpaid public benefits has been confirmed by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*.⁹ In that case, after holding that federal law required the state to pursue repayment of all overpaid Food Stamp benefits, the Court observed:

We are sympathetic to the argument that it is unfair to require indigent food stamp recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar or ten percent cap on monthly allotment reduction, coupled with allowing state agencies some flexibility to compromise claims, is sufficient to mitigate this unfairness.^[10]

Thus, despite the fact that it is undisputed that the overpayment in this case was caused by an agency error, i.e., the Division's delays in processing Ms. W's income report, the Division has no choice but to seek repayment of the overpaid benefits received by Ms. W and her household. Because the evidence showed that her household did receive the overpayments detailed by the Division's representative at the hearing, the Division correctly sought to recover the overpaid benefits, and the Division's decision requiring repayment must be affirmed.

During discussion at the hearing, it became clear that Ms. W's household is continuing to receive Food Stamp benefits. Repayment of the overpayment claim can be accomplished through a reduction in the monthly benefits paid to the household. Also, as discussed during the hearing, Ms. W is encouraged to contact the Division's claims department, also known as the benefit issuance and recovery unit.

IV. Conclusion

Based on the authorities discussed above, the Division's decision to seek recovery of \$927 in overpaid Food Stamp benefits is AFFIRMED.

Dated this 26th day of April, 2018.

Signed

Andrew M. Lebo
Administrative Law Judge

⁸ 7 C.F.R. §273.18(b)(3); 7 C.F.R. §273.18(e)(1).

⁹ 203 P.3d 1155 (Alaska 2009).

¹⁰ *Id.* at 1164 (footnotes omitted).

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 7th day of May, 2018.

By: Signed _____
Name: Andrew M. Lebo
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.]