

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

In the Matter of )  
 )  
 N V ) OAH No. 12-0166-CMB  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

N V applied for a continuation of Food Stamp benefits and to receive Temporary Assistance benefits. The Division of Public Assistance (division) approved her application, but the amount for her Food Stamps was reduced from what she had previously been receiving. Ms. V appealed the division’s determination of both the Food Stamps and the Temporary Assistance amounts, and requested a hearing.

A hearing was held on August 14, 2012. Ms. V appeared in person and the division was represented by Ms. Terri Gagne. Based on the evidence in the record, the division’s calculation of benefits is affirmed.

**II. Facts**

Ms. V is a widow who is caring for her seven grandchildren.<sup>1</sup> The grandchildren range in age from less than one year old to 13 years old.<sup>2</sup> Her only income has been \$1,000 per month from her daughter’s husband. This has been paid in exchange for household chores.<sup>3</sup> In addition, four of her grandchildren receive social security benefits in the amount of \$113 per month each.

After reviewing her application, the division determined that she was eligible to receive \$795 per month in Temporary Assistance,<sup>4</sup> and \$999 per month in Food Stamps.<sup>5</sup> The Food Stamp amount is about \$500 lower than what she had been receiving before applying for Temporary Assistance.<sup>6</sup> This is because the Temporary Assistance is

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<sup>1</sup> The facts are not in dispute, and unless otherwise noted these findings are based on Ms. V’s testimony, her application, and the written statements she submitted prior to the hearing. Ms. V also submitted some relevant Bible quotes at the hearing, along with copies of business cards from various law enforcement officers she had contacted in the past in an effort to regain some control over her daughter when her daughter was still a minor.

<sup>2</sup> Exhibit 2.1.

<sup>3</sup> Recently, her daughter’s husband has said he would stop making this payment.

<sup>4</sup> Exhibit 2.27.

<sup>5</sup> Exhibit 2.28.

<sup>6</sup> Exhibit 4.0.

considered as income in calculating Food Stamp benefits, and also because the division had not previously been including her self-employment income.<sup>7</sup>

### **III. Discussion**

As the person requesting the hearing, Ms. V has the burden of showing that the division's calculations are incorrect.<sup>8</sup> Ms. V does not dispute the income amounts used in the division's calculations,<sup>9</sup> or otherwise suggest that the division did not correctly apply its regulations. Instead she argued that it is not possible to raise seven children on the amount of money she is receiving in income and other benefits. She noted that she had previously paid taxes for many years to support government spending that she did not necessarily support, and that now when she was raising these grandchildren, the government should step in and provide more help. She also noted that the Office of Children's Services would readily step in and take responsibility for her grandchildren since their mother cannot care for them. If that were to happen, the cost to the state would be greater than what it would cost to support them in Ms. V's home.<sup>10</sup>

Ms. V has made sacrifices to keep her grandchildren together and raise them as a family. The amount of money she is receiving each month is not enough to support this family. However, she has not shown that the division's calculations are incorrect. She has made strong arguments for why the government should increase her benefits, but those are policy arguments. Our elected officials are the ones who make the policy decisions that Ms. V is contesting. Once those policy decisions are made, they are implemented through statutes and regulations. The division is required by law to apply the Food Stamp and Temporary Assistance statutes and regulations as they are written.

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<sup>7</sup> Exhibit 4.0. Only half of the self-employment income is included in the calculation. Exhibit 2.28.

<sup>8</sup> 2 AAC 64.290(e).

<sup>9</sup> Since the division's determination, she may have stopped receiving self employment income. She has informed the division of this change and if it is verified her benefit amounts can be recalculated. Ms. V would have a new opportunity to appeal that new calculation if she disagrees with it, or to appeal a decision not to recalculate her benefits.

<sup>10</sup> Ms. V has begun to explore the possibility of becoming the children's foster parent so that she could receive state payments for their care. Whether she would qualify as a foster parent is not yet known. She may also wish to contact the Child Support Services Division to see if she is eligible for any child support from her grandchildren's parents.

#### **IV. Conclusion**

Because Ms. V has not shown that the benefit calculations are based on the wrong amount of income, or are otherwise incorrect, the division's determination is affirmed.

Dated this 15<sup>th</sup> day of August, 2012.

*Signed*

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Jeffrey A. Friedman  
Administrative Law Judge

#### **Adoption**

The undersigned, by delegation from of 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 29<sup>th</sup> day of August, 2012.

By: *Signed*

\_\_\_\_\_  
Name: Jeffrey A. Friedman  
Title: Administrative Law Judge

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