

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

In the Matter of	)		
	)	OAH No.	12-0322-CMB
F T	)	Agency No.	
_____	)		

**DECISION**

**I. Introduction**

F T did not attend a meeting with her case manager that scheduled as part of her Family Self-Sufficiency Plan. The Division of Public Assistance (division) reduced her Temporary Assistance and Food Stamps benefits as a penalty for missing this meeting. Ms. T appealed that penalty.

A hearing was held on September 11, October 12, and October 19, 2012. Ms. T appeared by telephone and represented herself. The division was represented by Public Assistance Analyst Terri Gagne, who also appeared by telephone.

Based on the evidence presented, Ms. T did not have good cause to miss this meeting, and the imposition of the penalty is upheld.

**II. Facts**

Ms. T is receiving Food Stamps and Temporary Assistance benefits.<sup>1</sup> As part of the Temporary Assistance program, she completed a Family Self-Sufficiency Plan.<sup>2</sup> This plan set a next appointment date of July 13, 2012, and included the statement: “I agree to keep the appointment and participate in reviewing and updating my family’s plan.”<sup>3</sup> This plan also states:

I understand that my family may lose some or all of our temporary assistance benefits if I fail to follow through with this plan and complete work activities or other activities related to my family’s self-sufficiency or my ability to work.<sup>[4]</sup>

Prior to Ms. T’s July 13, 2012 appointment, her case manager, Kay Howell, attempted to visit Ms. T’s place of business.<sup>5</sup> Ms. Howell testified that she was unable to

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<sup>1</sup> Exhibit 1.  
<sup>2</sup> Exhibit 2.3.  
<sup>3</sup> Exhibit 2.4.  
<sup>4</sup> Exhibit 2.4.  
<sup>5</sup> Testimony of Ms. Howell.

locate the business, so she entered a nearby business.<sup>6</sup> She spoke with the owner of that business who was also Ms. T's mother and the primary investor in Ms. T's business.<sup>7</sup> The parties dispute exactly what was said during Ms. Howell's conversation with Ms. T's mother. However, Ms. T was concerned that Ms. Howell had disclosed confidential information.<sup>8</sup>

On July 6, 2012, Ms. T spoke with the regional supervisor, Susan Lacey, about her concerns.<sup>9</sup> She explained that she did not trust Ms. Howell, and would not meet with her or provide confidential information to her until after her concern had been investigated and resolved.<sup>10</sup> Ms. T did not attend her July 13, 2012 appointment with Ms. Howell.

### **III. Discussion**

Individuals receiving Temporary Assistance benefits are required to participate in a Family Self-Sufficiency Plan.<sup>11</sup> Failure to comply with the terms of the FSSP may result in a reduction in benefits.<sup>12</sup> For the first four months of non-compliance, the recipient's benefits are reduced by 40%.<sup>13</sup> However, this penalty is only imposed if the non-compliance with the FSSP is without good cause.<sup>14</sup>

In addition, when a penalty is imposed under the Temporary Assistance program, food stamp benefits may also be reduced by 25%.<sup>15</sup>

There is no dispute that Ms. T was non-compliant with her FSSP when she failed to attend the July 13, 2012 appointment. The question in this appeal is whether she had good cause not to attend.

Ms. T testified about prior concerns she had about the efforts of Ms. Howell, and whether she was receiving sufficient support in obtaining proper child care for her son, and referrals for assistance to help address some of the problems he was experiencing. Ms. T had not previously elevated those concerns to the formal complaint level, but their existence

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<sup>6</sup> See also Exhibit 30.7 (case note describing visit).

<sup>7</sup> Testimony of Ms. Howell and Ms. T.

<sup>8</sup> Testimony of Ms. T.

<sup>9</sup> Testimony of Ms. T and Ms. Lacey; Exhibit 30.12.

<sup>10</sup> Ms. Lacey did agree that Ms. T could send her work activity logs directly to Ms. Lacey, which she did. *Id.* AS 47.27.030.

<sup>12</sup> AS 47.27.030(a)(4) 7 AAC 45.980(a)(1).

<sup>13</sup> AS 47.27.085(a)(1). The penalty increases if the non-compliance continues longer than four months.

<sup>14</sup> AS 47.27.085(a).

<sup>15</sup> 7 C.F.R. §273.11(j). The 25% reduction is based on the actual reduced income after the imposition of the ATAP penalty. *Id.*

would certainly be a factor in her mind when she was deciding what to do in response to Ms. Howell's conversation with her mother.

Given her concern that Ms. Howell might have divulged confidential information, and in light of her prior concerns, it was appropriate for Ms. T to complain to Ms. Lacey. Under the facts of this case, however, she did not have good cause to miss the July 13, 2012 meeting. Assuming that Ms. Howell had divulged confidential information, Ms. T could still meet with her to move forward with her FSSP. The discussion of her FSSP would not necessarily involve additional confidential information, but to the extent it did Ms. T could have reminded Ms. Howell that the information should not be disclosed to others, including her mother. Ms. T had already informed Ms. Howell's supervisor of the problem, and there is no evidence in the record that Ms. T believed that the breach of confidentiality had occurred on other occasions. One mistake, although serious, was not enough to refuse to meet with her case manager.

#### **IV. Conclusion**

Ms. T missed a required meeting with her case manager. Under the facts in evidence, she did not have good cause to miss that meeting. Accordingly, it was appropriate to impose a penalty, and the division's determination to do so is upheld.

Dated this 29<sup>th</sup> day of October, 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 15<sup>th</sup> day of November, 2012.

By: *Signed*  
\_\_\_\_\_  
Name: Ree Sailors  
Title: Deputy Commissioner, DHSS

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