

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

In the Matter of)	
)	OAH No. 13-0878-CMB
D C)	Division No.
_____)	

DECISION

I. Introduction

D C receives Temporary Assistance and Food Stamp¹ benefits. On June 5, 2013, the Division of Public Assistance (Division) notified Mr. C that, beginning in July 2013, his Temporary Assistance benefits would be reduced to \$442 and his Food Stamp benefits would be reduced to \$562. Mr. C requested a hearing.

Mr. C's hearing was held on July 11, 2013. Mr. C represented himself and testified on his own behalf. Terri Gagne, Public Assistance Analyst with the Division, represented the Division.

This decision concludes that although the Division should have included one of Mr. C's children and a portion of that child's income as part of his household for Temporary Assistance benefit determination purposes, when the child and his relevant income was included, the Temporary Assistance benefit amount remained the same: \$442. Accordingly, the Division's decision to reduce Mr. C's Temporary Assistance benefit amount to \$442 is upheld. Because Mr. C's Food Stamp benefit amount was based both upon the \$442 in Temporary Assistance benefits and other income and expenses, which are not in dispute, the Division's decision to reduce the Food Stamp benefits to \$562 is similarly upheld.

II. Facts

Mr. C is a widower with four children in his home. Three of those children have the same mother. Mr. C testified that while the other child (L) is biologically his and he has had physical custody of the child for over 10 years, he is not the father listed on the birth certificate, has not had paternity established in his name, does not have legal custody, and does not receive child support for the child.²

¹ In 2008, Congress changed the name of the Food Stamp program to the Supplemental Nutrition Assistance program. The program is still commonly referred to as the Food Stamp program.

² C testimony.

In May 2013, Mr. C began receiving \$1,025 in Temporary Assistance benefits. Those benefits were based upon a four person³ household with no income.⁴ Mr. C also received \$940 in Food Stamp benefits during May 2013. The Food Stamp benefit amount was arrived at based upon a household size of five people,⁵ with no income other than the Temporary Assistance payment of \$1,025.⁶

Mr. C's three children with the same mother each receive a monthly Social Security Administration survivor's (SSA) payment in the amount of \$403.⁷ On May 22, 2013, the Division was notified that Mr. C's child X, one of the SSA recipients, was approved to receive \$327 in monthly Supplemental Security Income (SSI) benefits beginning in July 2013.⁸ The Division then reviewed Mr. C's public assistance case and determined that it had mistakenly failed to take the SSA payments received by Mr. C's children into account when it authorized his \$1,025 Temporary Assistance payment and a \$940 Food Stamp payment.⁹

The Division then recalculated Mr. C's Temporary Assistance benefit amount. It did not include either L or X in the household, which made for a three person household. Because X was not included in the household, the Division did not count either his SSA income or his SSI income as part of the household income. This meant the total household income was \$806, which was the SSA income for the remaining two children. The Division arrived at a new Temporary Assistance benefit amount of \$442, based upon a three person household with \$806 in income.¹⁰

The Division then recalculated Mr. C's Food Stamp benefit amount. It included both L and X in the household, which made for a five person household. It also counted the entirety of X's income, SSA \$403 and SSI \$327, the \$803 in SSA income received by the other children, and the \$442 in Temporary Assistance income, to arrive at a total household income of \$1,978. Based upon a five person household with a total of \$1,978 in unearned income, the Division arrived at a new Food Stamp benefit amount of \$562. There was no disagreement regarding the household expenses used by the Division in arriving at the benefit amount.¹¹

³ L was not counted as part of the Temporary Assistance household. The other three children were.

⁴ Ex. 2.7.

⁵ L was included as a household member for Food Stamp program purposes.

⁶ Ex. 2.7.

⁷ Exs. 2.10 – 2.12.

⁸ Ex. 2.8.

⁹ Ex. 2.9.

¹⁰ Exs. 2.9, 2.17.

¹¹ Exs. 2.9, 2.17.

The Division notified Mr. C on June 5, 2013, that his Temporary Assistance benefit would be reduced to \$442 and his Food Stamp benefit would be reduced to \$562. Both reductions were to take effect in July 2013.¹²

III. Discussion

A. Temporary Assistance Program

The Temporary Assistance program bases a family's benefits both on the household size and the total household income. A household for Temporary Assistance benefits consists of the caretaker relative, which was Mr. C, and the dependent children. Due to his unique circumstances, L is not a part of Mr. C's Temporary Assistance household because Mr. C is not L's legal parent. Mr. C does not seek to have L included in his household for Temporary Assistance purposes. This would therefore provide for a four person household: Mr. C and his three children with the same mother.

Children who receive SSI benefits are treated differently than other children when determining a family's household size and income. If a child receives SSI, Temporary Assistance regulation 7 AAC 45.515(b) states the Division "will consider the income of the SSI child to be an amount equal to the need-standard increment for an additional child as specified in 7 AAC 45.520(a)(1)."¹³ The need-standard increment is \$172.¹⁴ The caretaker relative (Mr. C) may elect to not include the child as part of the Temporary Assistance household, in which case the child's income is not used when determining the household's Temporary Assistance benefit amount.¹⁵

Mr. C was initially provided with a Temporary Assistance benefit amount of \$1,025. That is the maximum amount a household of four persons can receive.¹⁶ It was based on the family having no income whatsoever. When the Division discovered that Mr. C's household had income, it was required to redetermine his Temporary Assistance benefit. When it did so, it did not count X or his income as part of the household. The Division counted the household as having a total of \$806 in income, which was the income from the other two children who received SSA benefits. Based on that income and a three person household,¹⁷ the Division

¹² Exs. 2.18 – 2.19.

¹³ 7 AAC 45.515(a).

¹⁴ 7 AAC 45.520(a)(1) and (b); *Alaska Temporary Assistance Manual*, Addendum 2. The *Manual* is available online at <http://dpaweb.hss.state.ak.us/manuals/ta/ta.htm>.

¹⁵ 7 AAC 45.515(a).

¹⁶ *Alaska Temporary Assistance Manual*, Addendum 2.

¹⁷ L and X were not counted as part of the household.

determined that the benefit amount should be \$442.¹⁸ As a result, the question arises as to whether X should have been counted as part of the household.¹⁹ The Division maintained that including him in the household would result in a lower benefit amount. It calculated that if X was included in the household, the household's Temporary Assistance benefit level would be \$199. The Division's calculations are based upon a four person household with a total income of \$1,381; that income consists of \$806 for X's siblings' SSA benefits, \$403 for X's SSA benefits, and \$172 for X's SSI benefits.²⁰

The Division, however, should not have counted X's SSA benefits (\$403) as income for benefit calculation purposes. The applicable regulation, 7 AAC 45.515(b), states that the Division "will consider the income of the SSI child to be an amount equal to the need-standard increment for an additional child as specified in 7 AAC 45.520(a)(1)."²¹ The regulation does not state that it only applies to SSI income; instead it just refers to the "income of the SSI child," and does not contain limiting language. As such, when an SSI child is included in the household, his or her income for Temporary Assistance purposes is limited to the need-standard increment, regardless of how much income the child receives or the source of the child's income other than SSI. The Division should therefore have only used the need-standard increment (\$172) for X's income.

When X's income of \$172 is added to the \$806 in SSA benefits his siblings received, the household income totals \$978. A four person Temporary Assistance household with \$978 in income is entitled to receive \$442 in benefits.²² This is the same figure arrived at by the Division when it did not count X and his income as part of the household. As a result, even though the Division erred when it excluded X and his income from the household, the financial result is the same in this case. Any error committed by the Division was therefore harmless and did not affect the result. Consequently, the Division correctly calculated that Mr. C's Temporary Assistance benefits should be reduced to \$442 per month.

¹⁸ Ex. 2.9. See Ex. 2.17 for a printout of the Division's calculations.

¹⁹ Mr. C does not dispute L's exclusion from the Temporary Assistance household.

²⁰ Exs. 2.26 – 2.27.

²¹ 7 AAC 45.515(a).

²² The benefit amount is arrived at by subtracting the C's household's countable income (\$978) from the need standard for a four person household (\$1,713). That result (\$735) is then multiplied by what is referred to the "percentage of need" (.6017). That result is \$442.25. The benefit calculation process is set forth in regulations 7 AAC 45.525. An explanation of the calculation process, the 2013 need standards and the 2013 "percentage of need" are contained in the *Alaska Temporary Assistance Manual*, § 780 and Addendum 2.

B. Food Stamp Program

Food Stamps is a federal program administered by the State.²³ In Alaska, the Division follows the rules contained in the Code of Federal Regulations (C.F.R.) when determining both Food Stamp eligibility and benefit amounts.²⁴ Food Stamp benefit amounts are calculated based upon a household's monthly income, after allowable deductions are taken from the household's gross monthly income, and the number of people living in the household.²⁵

Food Stamp benefit calculations begin with a household's gross monthly income. The next step is to subtract the standard deduction, which is \$256 for a household of 5 persons or less. A household with earned income is entitled to an additional deduction which is based upon the amount income earned by the household.²⁶

After subtracting the standard deduction from the household's gross monthly income, the household's "shelter expenses" (rent and utilities) are taken into account. A Food Stamp recipient may deduct only those shelter costs that exceed 50 percent of income less the standard deduction.²⁷ After applying the "shelter expenses" deduction, the result is the household's net income.

The final step in the Food Stamp benefit calculation process is to subtract 30 percent of the household's net income from the maximum Food Stamp benefit for the household size. The result is the household's Food Stamp benefit.²⁸ The maximum Food Stamp allotment for a five person household located in an urban area in Alaska is \$946.²⁹

This case does not involve any disagreement regarding the household size, shelter costs, other deductions, or the Division's calculations. Instead, Mr. C is objecting to the Food Stamp reduction from \$940 to \$562. It is important to note that when Mr. C was provided \$940 in Food Stamp benefits, that amount was based upon the household's sole income being \$1,025 in Temporary Assistance benefits. The SSA income for the children and X's SSI income were not taken into account.³⁰ When the Division found out that it had not counted the household's entire income, it was required to recalculate and redetermine benefits using the correct income. The

²³ 7 C.F.R. § 271.4(a).

²⁴ 7 AAC 46.010.

²⁵ 7 C.F.R. § 273.9(b) and (d); 7 C.F.R. 273.10(e).

²⁶ 7 C.F.R. § 273.9(d).

²⁷ 7 C.F.R. § 273.9(d)(6)(2)(ii).

²⁸ 7 C.F.R. § 273.10(e)(1) and (2).

²⁹ *Alaska Food Stamp Manual Addendum 4*; Ex. 16.1.

³⁰ Unlike the Temporary Assistance program, the Food Stamp program does not exclude SSI recipient from the household and their entire income is counted.

household's Temporary Assistance income was \$442, as found above, and the remaining household income was \$1,536,³¹ for a total of \$1,978. The Division was correct when it took this income into account and arrived at the new amount of \$562.³²

IV. Conclusion

The Division's decision to reduce Mr. C's Temporary Assistance benefits to \$442 and his Food Stamp benefits to \$562 is affirmed.

DATED this 24th day of July, 2013.

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 7th day of August, 2013.

By: *Signed* _____
Name: Lawrence A. Pederson
Title: Administrative Law Judge

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

³¹ Three of the children received SSA income of \$403 apiece for a total of 1,209, plus \$327 for X's SSI income.

³² The Division's calculations are contained in Ex. 2.17.