

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

In the Matter of)	
)	OAH No. 13-1164-CMB
D L)	Division No.
_____)	

DECISION

I. Introduction

D L was a Family Medicaid¹ and Food Stamp² recipient who applied to renew her Food Stamp benefits. On July 1, 2013, the Division of Public Assistance (Division) notified Ms. L that her Food Stamp application was denied. On August 19, 2013, the Division notified Ms. L that her Family Medicaid benefits were terminated.³ Ms. L requested a hearing regarding both benefit programs on August 22, 2013.

Ms. L's hearing was held on October 11, 2013. Ms. L represented herself and testified on her own behalf. Terri Gagne, Public Assistance Analyst with the Division, represented the Division and testified on its behalf.

This decision concludes that the Division was correct to deny Ms. L's Food Stamp application, but that it should not have terminated her Family Medicaid benefits.

II. Facts

Ms. L was receiving Food Stamp and Family Medicaid benefits in May 2013.⁴ Her Food Stamp benefits were scheduled to expire at the end of June 2013.⁵ She applied to renew her Food Stamp benefits on May 31, 2013. As part of her application, she provided the Division with copies of her paystubs issued on April 12 and 26, 2013.⁶ On June 14, 2013, the Division sent Ms. L notice that it needed additional documentation to process her Food Stamp application: copies of her three most recent paystubs, tip information for April and May 2013, and a copy of

¹ The Medicaid program contains a number of eligibility categories. *See* 7 AAC 100.002. The general requirements for Medicaid are contained at 7 AAC 100.001 – 074; the specific requirements for the Family Medicaid category are contained at 7 AAC 100.100 – 199.

² 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.

³ Ms. L's son also receives Medicaid benefits; however his benefits were not terminated and remain in effect through December 2013.

⁴ Exs. 1, 4.

⁵ Exs. 1, 2.9.

⁶ Exs. 2.0 – 2.5, 2.7 – 2.8.

her rental award notice. The deadline for providing the requested information was June 24, 2013.⁷

Ms. L undisputedly did not provide the Division with the requested information by the June 24, 2013 deadline. The Division sent her notice on July 1, 2013 that her Food Stamp application was denied because she had not complied with its request for information.⁸

The Division also sent Ms. L a notice on June 14, 2013 that requested the same information as the June 13, 2013 Food Stamp notice. That notice was sent for the purpose of reevaluating her eligibility for Medicaid benefits. The deadline for a response to that notice was June 24, 2013.⁹ The Division reissued that notice to Ms. L on July 1, 2013, which asked only for her last three paystubs, and informed her that failure to provide them by July 10, 2013 could result in her Medicaid case being closed.¹⁰

Ms. L testified that after she received the July notice asking for information, she obtained a copy of the rental award letter, and provided it and one additional paystub to the Division sometime during the first or second week of July 2013 by placing it in the drop box at the Division's Gambell St. office. The Division, however, does not have any of the requested documents in Ms. L's public assistance file.¹¹

The Division notified Ms. L on August 19, 2013 that her Medicaid benefits would end on August 31, 2013 because she did not comply with its request for copies of her last three paystubs.¹²

III. Discussion

The issue in this case is whether Ms. L's Food Stamp application should have been denied and her Family Medicaid benefits terminated because she allegedly did not provide the Division with the requested information

Both the Food Stamp and Medicaid programs provide the Division with the authority to request information regarding an applicant/recipient's eligibility for those benefits.¹³ A recipient's income is a factor in determining financial eligibility for both Food Stamps and

⁷ Ex. 2.9.

⁸ Exs. 2.12, 2.21.

⁹ Ex. 2.10.

¹⁰ Ex. 2.13.

¹¹ Terri Gagne testimony.

¹² Ex. 2.15.

¹³ 7 C.F.R. § 273.2(d)(1) (Food Stamps); 7 AAC 100.016(a) (Medicaid).

Family Medicaid benefits.¹⁴ A recipient's rental expense (shelter cost) is also a factor in determining financial eligibility for Food Stamp benefits.¹⁵ If a person refuses to provide the Division with the requested information, then the Division may deny or terminate benefits.¹⁶

A. Food Stamp program

Ms. L testified that she provided the Division with her housing rental award information and one additional pay stub sometime during the first or second week of July. This constitutes an admission that she did not provide the information until after the Division's June 24, 2013 deadline. Her testimony is credible because it is against her own interest. If Ms. L had fully complied with the Division's information request, then her compliance would result in the Division approving her Food Stamp reapplication effective the date of her compliance, *i.e.*, by the second week of July at the latest.¹⁷ However, by Ms. L's own statement, she did not fully comply. The Division requested that Ms. L provide it with a copy of her rental award letter, three most recent paystubs, and her tip information for April and May. She provided it with the rental award information and one additional paystub. Although the Division already had her paystubs for her pay issued in April, Ms. L would have needed to provide her paystubs for mid-May through the end of June, and provide her tip information in order to fully comply.

The next question is whether Ms. L refused to comply with the information request. The Food Stamp program does not penalize failures to provide information, merely refusals to provide information.¹⁸ However, Ms. L had the ability to fully comply, but did not. Consequently, she refused to comply. The Division was therefore justified in denying her Food Stamp application.

B. Family Medicaid

As discussed above, Ms. L did not fully comply with the Division's information request. However, a review of the underlying notice demonstrates that the Division's information request was procedurally inadequate. The Division's July 1 information notice gave Ms. L until July 10 to provide the information. This gave Ms. L nine days¹⁹ to comply, assuming the July 1 notice

¹⁴ 7 C.F.R. § 273.8(b) (Food Stamps); 7 AAC 100.102(c)(2) (Medicaid).

¹⁵ 7 C.F.R. § 273.9(d)(6)(ii)(A).

¹⁶ 7 C.F.R. § 273.2(d)(1) (Food Stamps); 7 AAC 100.016(b) (Medicaid).

¹⁷ 7 C.F.R. § 273.14(e)(2).

¹⁸ 7 C.F.R. § 273.2(d)(1).

¹⁹ "The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded." AS 01.10.080.

was also mailed on July 1.²⁰ However, by regulation, the Division is required to provide a minimum of ten days notice.²¹ Because the Division's notice only provided Ms. L with nine days to provide the requested information, it was procedurally defective. As a consequence, Ms. L's failure to comply cannot be used to justify termination of her Family Medicaid benefits.²²

IV. Conclusion

The Division's decision to deny Ms. L's Food Stamp application is upheld. Its decision to terminate her Family Medicaid benefits is reversed.

DATED this 22nd day of October, 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 5th day of November, 2013.

By: Signed

Name: Lawrence A. Pederson
Title/Agency: Admin. Law Judge, DOA/OAH

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

²⁰ This may be a mistaken assumption, given that the Division's *Family Medicaid Eligibility Manual* states, at Section 5006-3, "[t]he mailing date is usually the day following the date the caseworker establishes the notice on [the Eligibility Information System]."

²¹ The Division is required to provide a recipient with "at least 10 days after the date of the notice to submit the additional documentation." 7 AAC 100.022(a).

²² It must be noted that the Division did not send Ms. L notice that her Family Medicaid benefits would be terminated until August 19, 2013. *See* Ex. 2.15. However, the legal deficiency in the notice is not excused by the Division's not immediately following up after the notice deadline.