

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

In the Matter of:)
)
C J) OAH No. 14-0011-CMB
) DPA Case No.

DECISION

I. Introduction

C J receives benefits under the Adult Public Assistance and Food Stamps programs. The Division of Public Assistance notified him that effective January, 2014, his benefit level would be \$28 per month in Adult Public Assistance and \$18 per month in Food Stamps.¹ The Food Stamps benefit was calculated based on the household income.² Mr. J requested a hearing and the matter was referred to the Office of Administrative Hearings. The assigned administrative law judge conducted a telephonic hearing on January 23, 2014. Mr. J participated and Jeff Miller represented the Division of Public Assistance.

At the hearing, Mr. J asserted that rather than determining his eligibility for Food Stamps benefits pursuant to 7 C.F.R. §273.2(j)(1), the Division should have deemed him categorically eligible, pursuant to 7 C.F.R. §273.2(j)(2). However, categorical eligibility under 7 C. F. R. §273.2(j)(2) is restricted to households in which each person receives either Supplemental Security Income (SSI) benefits or Public Assistance (PA) benefits that are in whole or part federally funded. Because Mr. J does not receive SSI, and benefits under the Alaska Adult Public Assistance program are entirely state-funded, his household is not categorically eligible. The Division's decision is therefore affirmed.

II. Facts

C J and his wife, F H, form a two-person household. Mr. J receives benefits under the federal Social Security Disability Insurance (SSDI) and the Medicaid (ME) programs,³ and Ms. H under the federal Supplemental Security Income (SSI) program.⁴ Both also receive benefits under the state Adult Public Assistance (APA) program.⁵

¹ Ex. 13. *See* Ex. 12.
² Ex. 13. *See* Ex. 12.
³ Ex. 1; Ex. 2.2.
⁴ Ex. 2.3
⁵ Ex. 1; Ex. 4-4.1.

III. Discussion

The sole issue raised by Mr. J is whether the division correctly determined that he is not categorically eligible for Food Stamps.

Categorical eligibility for Food Stamps is limited to households meeting the requirements of 7 C.F.R. §273.2(j)(2)(i)(A)-(E), unless a state has, at its option, extended categorical eligibility to households pursuant to 7 C.F.R. §273.2(j)(2)(ii). The State of Alaska has not extended categorical eligibility beyond the requirements of 7 C.F.R. §273.2(j)(2)(i)(A)-(E).⁶ Accordingly, in order to be categorically eligible, Mr. J's household must meet at least one of the requirements stated in 7 C.F.R. §273.2(j)(i)(A)-(E).

Categorical eligibility under 7 C.F.R. §273.2(j)(ii)(E) extends to "any household in which all members receive...PA [public assistance] and/or SSI benefits in accordance with [7 C.F.R. §273.2(j)(2)(i)(A)-(D)]."⁷ Paragraphs (A) through (D) include households in which all members receive:

- (A): "cash through a PA [public assistance] program funded in full or in part with federal money under Title IV-A [of the Social Security Act] or with State money counted for maintenance of effort (MOE) purposes under Title IV-A;"
- (B) & (C): certain non-cash or in-kind benefits or services; or
- (D): SSI benefits.

Mr. J does not receive non-cash or in-kind benefits or SSI, the subjects of paragraphs (B)-(D). At the hearing, Mr. J asserted that categorical eligibility extends to households receiving state public assistance benefits that are supplemental to SSI, such as Alaska's Adult Public Assistance benefits.⁸ But, as stated in 7 C.F.R. §273.2(j)(2)(ii)(A), this is true only to the extent that the supplemental public assistance benefits are funded in whole or in part with federal funds, or with state funds counted for maintenance of effort purposes under Title IV-A of the Social Security Act.

Adult Public Assistance (APA) benefits are entirely state-funded.⁹ Thus, receipt of APA benefits is a ground for categorical eligibility only if those benefits are paid for with state funds

⁶ See 7 AAC 46.021(a)(1)-(54) (listing state options adopted by the Department of Health and Social Services).

⁷ 7 C.F.R. §273.2(j)(2)(i)(E).

⁸ "The intent of the 1982 APA legislation was to establish APA as a state-funded and administered program to supplement the benefits provided by SSI." Adult Public Assistance Manual Sec. 400-1 (<http://dpaweb.hss.state.ak.us/manuals/apa/apa.htm>; accessed February 21, 2014).

⁹ "The APA program is now funded entirely by the State." Adult Public Assistance Manual Sec. 400-1 (<http://dpaweb.hss.state.ak.us/manuals/apa/apa.htm>; accessed February 21, 2014).

that are counted for maintenance of effort purposes under Title IV-A.¹⁰ To be counted for maintenance of effort purposes under Title IV-A, the state funds must be provided to or on behalf of a family that is eligible for the TANF program,¹¹ or for certain healthy marriage and responsible fatherhood activities.¹² Mr. J's family is not eligible for TANF, and APA funds are not tied to participation in healthy marriage or responsible fatherhood activities. Thus, APA funds may not be counted for purposes of the state's TANF maintenance of effort, and do not provide a ground for categorical eligibility for Food Stamps.

At the hearing Mr. J also argued that because a recipient of SSDI benefits, such as himself, is subject to the same income eligibility requirements for Food Stamps as a recipient of SSI, it is unfair to treat SSDI recipients differently than SSI recipients, for purposes of categorical eligibility for Food Stamps. But unlike SSI and Food Stamps, SSDI is not a needs-based program. Because eligibility for SSDI is not needs-based, it is not unfair to treat recipients of SSDI differently than recipients of SSI, for purposes of categorical eligibility for Food Stamps: not all recipients of SSDI will have income below the threshold for eligibility for Food Stamps.

Finally, Mr. J argued that it is unfair to deny categorical eligibility to recipients of APA, because all recipients of APA will meet Food Stamp eligibility standards. But, as discussed above, the state has not extended categorical eligibility to recipients of APA, and federal law does not extend categorical eligibility to public assistance recipients unless federal funds are involved. The division, and the administrative law judge, must apply the law as it is written.

IV. Conclusion

The division correctly determined that Mr. J's household is not categorically eligible for Food Stamps. Accordingly, the division's determination is sustained.

DATED February 21, 2014.

Signed _____
Andrew M. Hemenway
Administrative Law Judge

¹⁰ Title IV-A provides for federal grants to states under the Temporary Assistance for Needy Families (TANF) program. *See* 42 U.S.C §§601-619. In order to ensure that states do not use federal TANF funds to replace money that states were already providing for similar purposes, the federal government requires states to maintain their historical level of expenditures for those purposes ("maintenance of effort"). *See* 42 U.S.C. §609(a)(7).

¹¹ 45 C.F.R. §263.2(b)(1)(i).

¹² 45 C.F.R. §263.2(a)(4)(ii), (b)

Adoption

The undersigned by delegation from the Commissioner of Health and Social Services, adopts this decision as final under the authority of AS 44.64.060(e)(1).

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 20th day of March, 2014.

By: Signed
Signature
Andrew M. Hemenway
Name
Administrative Law Judge
Title

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