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

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In the Matter of

K N

OAH No. 14-0119-CMB DPA Case No.

DECISION

I. Introduction

K N sought recertification of his eligibility to receive Food Stamps and Alaska Temporary Assistance Program (ATAP) benefits on July 3, 2014. His application was granted, but the Division of Public Assistance (division) determined his start date was July 3, 2014 because he had not filed his recertification application before June 30, 2014. Mr. N requested a hearing. Prior to the hearing, the division filed a position statement explaining that Mr. N was still frustrated and had complained that his electricity had been shut off because his start date for benefits in July was July 3, 2014 rather than July 1, 2014.

A hearing was held on July 24, 2014. Mr. N participated by telephone, as did the division representative, Terri Gagne. Mr. N explained that he wanted a hearing to get his views on the record because he was frustrated that he did not receive a notice that he had to apply for recertification in time to prevent the temporary suspension of his eligibility, which led to his electricity being shut off.

It is unfortunate that Mr. N suffered this hardship due to the suspension of his benefits, but because the division correctly terminated Mr. N's benefits when he failed to timely apply for recertification, and set Mr. N's start date for benefits on the date he filed for recertification, the division's actions are upheld.

II. Facts¹

Mr. N was receiving ATAP and Food Stamp benefits. He is alone in his household except for his service dog. Mr. N has been disabled for many years. He receives Social Security disability benefits.

¹ The facts are taken from the exhibits to the Agency's Fair Hearing Position Statement and the testimony received at hearing.

On May 16, 2014, the division sent Mr. N two notices. One notice informed him that he had to apply to recertify his eligibility for ATAP benefits. The other notice informed him that he had to apply to recertify his eligibility for Food Stamp benefits. Mr. N did not respond.

On June 16, 2014, the division sent a follow-up notice informing Mr. N that he needed to timely file his applications for recertification to avoid having his benefit payments interrupted. Mr. N did not respond before June 30, 2014. The division did not credit Mr. N's Quest Card on July 1, 2014 because Mr. N had not timely applied for recertification. Mr. N contacted the division that day. Mr. N explained that he had only received the recertification four days before July 1, 2014. Mr. N requested a hearing.

On July 3, 2014, Mr. N filed his application for recertification. On July 4, 2014, the division interviewed Mr. N regarding his applications. His applications for Food Stamp and ATAP benefits were approved on July 7, 2014, with an effective date of July 3, 2014, the date that he applied for recertification. Mr. N maintained his request for a hearing.

At the hearing, Mr. N explained that he is disabled, he did not timely receive notice of his need to apply for recertification, and he had his electricity turned off because he owed \$67. Mr. N explained that he cannot live in his home without electricity. Mr. N explained that he often does not stay at his address of record because his landlord does not allow his service dog to stay with him. Mr. N described his ongoing struggle with his landlord to get approval for his service dog.

III. Discussion

The ATAP and Food Stamp regulations require the division to recertify eligibility on an annual basis. The division acted within its authority in requiring Mr. N to file recertification applications, and acted expeditiously to provide him with an interview and approve his application once he filed his application.² Mr. N admitted that he received the notice that he needed to file his recertification application at least three days before his eligibility expired.³ At the hearing, Mr. N explained that he wanted a hearing not so much

² 7AAC 40.450(b) & (c) give the division the authority to require an application for recertification of eligibility.

³ 7AAC 40.450(b) & (c) give the division the authority to require an application for recertification of eligibility.

to appeal the division's actions as to put on record his frustration at having his electricity shut off because he did not get his July benefits in time to pay his bill. Mr. N indicated that he did not receive notice of his need to file for recertification until just a few days before his benefits expired. While it is very unfortunate that Mr. N had to go through this hardship, the division correctly applied the law in handling his case. Hopefully communication between Mr. N and the division will be better going forward.

IV. Conclusion

The division properly terminated Mr. N's benefits when he failed to timely apply for recertification.

DATED this 29th day of July, 2014.

By:

<u>Signed</u> Mark T. Handley 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 12th day of August, 2014.

By: <u>Signed</u>

Name: Mark T. Handley Title: Administrative Law Judge

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