

**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. 17-1329-CMB
) Agency No.
_____)

DECISION

I. Introduction

C J and his wife F G receive benefits under the Adult Public Assistance (APA) program. Due to cost of living increases in their Social Security benefits, the Division of Public Assistance (the Division) notified them effective January 2018 their total benefit would be changed to \$35 per month (\$18 for Mr. J and \$17 per month for Ms. G). The couple 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 17, 2018. Ms. G did not participate. Mr. J represented and testified on the couple's behalf. Jeff Miller, a Public Assistance Analyst, represented the Division of Public Assistance.

Mr. J does not dispute the Division's calculations of his monthly household income. He instead, disagrees with the payment standard used by the Division. He argues that the Division does not have APA payment standards and should not apply the SSI pay standard when determining his APA benefits because he is a recipient of SSDI. The Division correctly followed the applicable regulations. Accordingly, the Division's decision is therefore AFFIRMED.

II. Facts

The relevant facts are not in dispute in this case. Mr. J and Ms. G are married and reside together independently.¹ The Division considers them a couple for the APA program.² Both Mr. J and Ms. G are disabled. Mr. J receives benefits under the federal Social Security Disability Insurance (SSDI) program, and Ms. G receives benefits under the federal Supplemental Security Income (SSI) program. Both also receive Food Stamps and benefits under the state APA program.³

Beginning in January 2018, Mr. J and Ms. G received cost of living increases to their Social Security benefits.⁴ Mr. J's SSDI increased to \$888, and Ms. G's SSI increased to \$750.⁵ Accordingly,

¹ Hearing Record; Ex. 1-1.1; Ex. 7.1-7.6.
² Hearing Recording; Ex. 13-13.2; Ex. 14; Ex. 15.
³ Ex. 7, 7.3, 7.7-7.8.
⁴ Ex. 9; Ex. 10.

the Division calculated the couple's gross household income at \$1,638 and deducted an income disregard of \$20 to arrive at net countable household income of \$1,618.⁶ For 2018, the APA "Maximum Payment Standard" for a couple, where both are eligible for APA and are living independently in their own household is \$1,653.⁷ The Division then subtracted the couple's countable income of \$1,618 from the Maximum Payment Standard of \$1,653, to arrive at \$35 for the couple's total monthly benefit. Because Mr. J and Ms. G are a couple, the Division divided the benefit in half: \$17 for Ms. G and \$18 for Mr. J.

On December 13, 2018, the Division sent Mr. J notice that his monthly APA benefit would be changed to \$18, beginning in January 2018.⁸ Mr. J requested a hearing.

A hearing was held on January 17, 2018. Mr. J represented himself and testified on the couple's behalf. Jeff Miller, a Public Assistance Analyst, represented the Division of Public Assistance.

III. Discussion

Mr. J does not dispute the Division's calculations of his monthly household income. He instead, disagrees with the payment standard used by the Division. He argues that the Division does not have payment standards for APA and because he is a recipient of SSDI, the Division should not apply the SSI pay standard when determining his APA benefits. Mr. J's argument is a similar variation of arguments he has made, and which have been decided in past appeals.⁹ So, the sole issue for this appeal is whether the Division was correct in using the 2018 APA Maximum Payment Standard for a couple, who are both eligible for APA benefits, for calculating his APA benefits.

The income and resources of a spouse who is living with an applicant are considered income and resources of the applicant.¹⁰ The Division correctly calculated the couple's countable household income.¹¹ And a couple's living arrangement determines the APA payment standards against which countable income is compared when calculating APA benefit amounts.¹² There is no dispute that Ms. G is Mr. J's wife. Nor is there any dispute that they live together, independently. The 2018 APA

⁵ Ex. 9.

⁶ 7 AAC 40.320(a)(23).

⁷ Ex. 31.2.

⁸ Ex. 9; Ex. 10.

⁹ See Ex. 2-2.7; Ex. 3-3.5; Ex. 4-4.3.

¹⁰ 7 AAC 40.240.

¹¹ 7 AAC 40.320; 7 AAC 40.330; 7 AAC 40.350.

¹² Adult Public Assistance Manual, Ex. 10; 7 AAC 40.370(c); 7 AAC 40.240.

Maximum Payment Standard for a couple, who are both eligible for APA benefits, and who live independently is \$1,653.¹³ The Division correctly followed the applicable regulation, 7 AAC 40.370. Accordingly, the Division was correct to change the couple's monthly APA benefit to \$35 (\$17 for Ms. G and \$18 for Mr. J).

IV. Conclusion

The Division was correct when it sent Mr. J and Ms. G notice that their monthly APA benefit amount would be changed to a total of \$35 (\$17 for Ms. G and \$18 for Mr. J) beginning with the month of January 2018. Accordingly, the Division's decision is AFFIRMED.

Dated: February 26, 2018

Signed _____
Jessica Leeah
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 13th day of March, 2018.

By: *Signed* _____
Name: Jessica Leeah
Title: Administrative Law Judge

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

¹³ Alaska Adult Public Assistance Manual Addendum 1 (Ex. 29.2); 7 AAC 40.370(d) & (e) (requiring payment standards to be adjusted each year).