

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

In the Matter of )  
 )  
M J ) OAH No. 17-1330-CMB  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

M J requested a hearing to challenge the determination of the Division of Public Assistance (“Division”) that her family was not eligible for benefits under the Alaska Temporary Assistance Program (“ATAP”) and Supplemental Nutrition Assistance (Food Stamp) Programs because the household’s income exceeded the regulatory maximum for a family of two. A hearing was held on January 24, 2018 in which Ms. J and Division representative Jeff Miller participated and testified by telephone. The record closed at the hearing’s conclusion.

As discussed below, the evidence presented by the Division establishes that Ms. J’s monthly household income is in excess of the maximum need standard allowed for a household of two. Therefore, the Division’s denial of Ms. J’s application is affirmed.

**II. Facts**

There are no genuine issues of material fact in dispute. Ms. J challenges the application of the law to the following undisputed facts:

On December 4, 2017, Ms. J applied for ATAP and Food Stamp benefits for her household, which consists of herself, her husband, and her infant son. Her application was denied, based on their household income exceeding the maximum need standard. Ms. J then filed this appeal.<sup>1</sup>

Prior to the hearing, the Division’s representative, Mr. Miller, submitted a position statement that described the denial of the household’s eligibility based on calculations for a three-person household. During a pre-hearing status conference, Mr. Miller indicated that he needed to perform some recalculations, which he anticipated would result in the household being eligible for some Food Stamp benefits.

Subsequently, however, the Division submitted a new position statement on January 22, 2018 which described the denial of both ATAP and Food Stamp benefits, based on calculations for a two-person household. Mr. Miller explained in his testimony at the

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<sup>1</sup> Exh. 5.

hearing that the household is considered to consist of just Ms. J's husband and son, because Ms. J is not a U.S. citizen, and is not a "qualified alien" under the applicable regulations. Ms. J is a legal alien who entered the U.S. in April 2014; for a legal alien to be considered a "qualified alien," they have to have resided in the U.S. for five years (this is called the "five year bar" requirement). At the time that she filed her application, Ms. J had resided in the U.S. for just over three and a half years, so she is not yet a "qualified alien." This results in her household being considered a household of two persons, with only her husband and son being eligible for benefits.<sup>2</sup>

The Division's revised position statement set forth the calculations performed by Mr. Miller in preparation for the hearing.<sup>3</sup> Mr. Miller explained that the household's gross monthly income of \$2,483.34 exceeds the Food Stamp program maximum income of \$2,199.<sup>4</sup> The household's net income, after deducting child support payments withheld from Ms. J's husband's paychecks, is \$1,899.06 per month. This exceeds the ATAP maximum income standard of \$1,416 per month for household of two persons.<sup>5</sup>

Ms. J did not dispute that she is not a qualified alien, nor did she dispute the Division's calculations of her household income. In her request for hearing, and in her testimony, she simply pointed out that her husband's income, after child support is withheld from his paychecks, is insufficient for her family to be able to pay its bills and still have food to eat.

### **III. Discussion**

The Food Stamp program is a federal program administered by the State of Alaska. The Code of Federal Regulations (CFR) contains the rules for determining a household's financial eligibility, which is determined, in part, based on the income earned by the household members.

The Alaska Temporary Assistance Program (ATAP) is provided under the federal Temporary Assistance for Needy Families (TANF) block grant. ATAP provides temporary cash assistance and work services to low-income families with children to help them while they get back on their feet.<sup>6</sup> Eligibility for ATAP benefits is based on financial need, which is based in

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<sup>2</sup> Miller testimony.

<sup>3</sup> See Exh. 11.

<sup>4</sup> Miller testimony; see Exh. 9.

<sup>5</sup> Miller testimony; see Exh. 10.

<sup>6</sup> AS 47.27.005(1).

part on whether the household's monthly net income exceeds the need standards established in Alaska regulations.<sup>7</sup>

As mentioned above, Ms. J did not dispute the calculations performed by Division staff in determining her household's ineligibility, nor did she suggest that she should be considered a qualified alien. Rather, she appealed the denial of benefits because her family needs help surviving on their limited income.

Ms. J's household's income is only a few hundred dollars over the eligibility limits for both programs. In a more perfect world, there might be some method of providing assistance for families who are close to the border between eligibility and non-eligibility. Clearly, the Js' financial situation is nearly indistinguishable from that of a person with a few hundred dollars less in monthly income. However, the applicable statutes and regulations provide no room for discretion. The Commissioner of Health and Social Services, the Division, and the undersigned must apply the regulations as written and must adhere to the bright line between eligibility and non-eligibility. To provide ATAP and Food Stamp benefits to Ms. J would require changes that cannot be made through the hearing process.

#### **IV. Conclusion**

Ms. J's household is considered a household of two persons, because she is not a qualified alien, and the household income exceeds the eligibility standards for a household of two under both the ATAP and Food Stamp programs. Therefore, the J household is not eligible for benefits under either program, and the Division's denial of her application for benefits is affirmed.<sup>8</sup>

Dated this 8th day of March, 2018.

*Signed* \_\_\_\_\_  
Andrew M. Lebo  
Administrative Law Judge

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<sup>7</sup> See 7 AAC 45.275(b).

<sup>8</sup> Mr. Miller stated at the end of the hearing that he would mail Ms. J a packet of material regarding community resources that may be available to assist Ms. J's household; she is encouraged to take advantage of those resources if possible.

## 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 19 day of March, 2018.

By: Signed \_\_\_\_\_  
Name: Christopher Kennedy  
Title: Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]