

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

In the Matter of )  
 )  
 N Q ) OAH No. 18-0551-SNA  
 ) Division No.  
 \_\_\_\_\_ )

**DECISION**

**I. Introduction**

N Q was a Food Stamp<sup>1</sup> recipient from October 2017 through March 2018. The Division of Public Assistance (Division) sent her notice that she had received \$1,261 more in Food Stamp benefits than she was entitled to receive, and that she was required to repay that amount. She requested a hearing to challenge the repayment claim.

Ms. Q received \$1,261 more in Food Stamp benefits than she should have due to the Division’s error. Regardless of the fact that the overpayment was caused by the Division’s error, she is required to repay those benefits. The Division’s decision establishing a repayment claim in that amount is affirmed.

**II. Facts**

The following facts were established by a preponderance of the evidence.

Ms. Q applied for Food Stamp benefits on October 17, 2017. Her written application and her interview both disclosed that she was residing in a residential drug treatment center.<sup>2</sup> Her application was approved, and she received \$1,261 of Food Stamp benefits from October 2017 through March 2018.<sup>3</sup>

Ms. Q applied to renew her Food Stamp benefits in March 2018. When her renewal application was reviewed, the Division determined that she was ineligible because she was residing in an ineligible residential drug treatment center.<sup>4</sup> The Division then notified her that she had to reimburse it for the Food Stamp benefits she received from October 2017 through March 2018.<sup>5</sup>

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<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program (“SNAP”). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> Exs. 1.1 – 1.21.

<sup>3</sup> Exs. 1.1, 3.7, 3.10; Ms. Q’s testimony.

<sup>4</sup> Exs. 2 – 2.7.

<sup>5</sup> Exs. 3.1 – 3.10; *Also see* Ex. 13.

It is undisputed that the residential drug treatment center where Ms. Q was residing was not approved for its residents to receive Food Stamp benefits. It is also undisputed that Ms. Q applied for benefits herself, and not through an authorized representative of the drug treatment center.

### **III. Discussion**

The issue in this case is whether Ms. Q is required to pay back \$1,261 in Food Stamp benefits that were allegedly issued to her in error. Ms. Q did not dispute her receipt of the benefits.

The federal Food Stamp regulations allow persons residing in residential drug and alcohol treatment centers to receive Food Stamp benefits. However, the treatment center must first be approved by either the federal Food and Nutrition Services or by the Department before its residents can obtain Food Stamp benefits. In addition, the application has to be made by the treatment center's authorized representative.<sup>6</sup> It is undisputed that the drug treatment center Ms. Q attends was not an approved center during the time period in question.<sup>7</sup> It therefore follows that there would not be an authorized representative to apply for benefits on Ms. Q's behalf.

Ms. Q's October 2017 Food Stamp application should not have been approved, and she should not have received any benefits based on that application. The approval, and subsequent issuance of benefits, was clear error committed by the Division: Ms. Q told Division staff where she was residing, both on her application and during her eligibility interview. However, the federal regulations are clear that the Division "must establish and collect any claim" for overpaid Food Stamp benefits issued.<sup>8</sup> This is true even when the overpayment is caused by the Division's error.<sup>9</sup> Adult members of the Food Stamp recipient's household are the persons responsible for repaying overpaid Food Stamp benefits.<sup>10</sup> As a matter of law, Ms. Q was overpaid \$1,261 in Food Stamp benefits and is required to repay those benefits to the Division, regardless of the fact she was not at fault and the overpayment was caused by the Division's error.

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<sup>6</sup> 7 C.F.R. § 271.11(e).

<sup>7</sup> That situation has apparently been recently rectified according to the testimony of the drug treatment center's director Ms. J. However, the approval occurred sometime in May 2018, which is after the relevant time period for this case.

<sup>8</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>9</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS* 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

<sup>10</sup> 7 C.F.R. § 273.18(a)(4)(i).

#### **IV. Conclusion**

The Division's decision to seek recovery of the \$1,261 in Food Stamp (SNAP) benefits which were overpaid to Ms. Q is affirmed.

DATED this 5<sup>th</sup> day of July, 2018.

*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 19<sup>th</sup> day of July, 2018.

By: *Signed* \_\_\_\_\_  
Name: Lawrence A. Pederson  
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.]