

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

In the Matter of)	
)	
E B)	OAH No. 18-0899-SNA
_____)	Agency No. 05911851

DECISION

I. Introduction

E B appeals a decision by the Department of Health and Social Services, Division of Public Assistance (Division) that he received Food Stamp benefits for periods of time in which he was not eligible for any assistance, and that he must repay those benefits. Specifically, the Division asserts that Mr. B received \$1,150 in benefits for December 2017 through April 2018 when he was over the program’s resource eligibility limit, and he must repay that amount.

The Division met its burden to show that Mr. B owns a recreational vehicle valued well over the \$2,250 resource limit for the Food Stamp program. This vehicle is countable and not exempt, and it rendered Mr. B ineligible for any Food Stamp assistance for the five months at issue. Accordingly, the Division’s decision is affirmed. The Division therefore may recoup the benefits it paid to Mr. B for December 2017 through April 2018.

II. Facts

Mr. B is 53 years old. He lives in a household of one in Anchorage. On November 27, 2017, he submitted a Food Stamp recertification application.¹ The application indicated that he owned three vehicles: (1) a 2004 truck that he used as his primary vehicle, which he valued at \$5,000; (2) a 1996 pickup truck that he identified as a “back-up” vehicle, valued at \$7,500; and (3) a 1996 “MH” vehicle used as an RV or recreational vehicle, which Mr. B valued at \$40,000.²

The agency processed Mr. B’s application on December 28, 2017.³ During an interview with the Division that day, Mr. B explained that his third vehicle is a 1996 Freightliner semi tractor that he converted to an RV/camper by building a camper shell for the back.⁴ The Division’s eligibility technician determined that all three of Mr. B’s vehicles are exempt resources. The technician concluded that the value of the Freightliner RV was “unknown” because it was a rebuilt semi with a

¹ Exhibit 2.
² Exhibit 2.1.
³ Exhibit 3.
⁴ Exhibit 3.

manmade camper on the back.⁵ The Division then approved his application.⁶ It issued benefits of \$230 per month for the months of December 2017 through April 2018, for total benefits of \$1,150.⁷

In March 2018, the Division's Quality Assessment unit reviewed Mr. B's file and determined that the semi tractor/camper was not an exempt resource, and its value clearly exceeded the program's resource limit of \$2,250.⁸ As part of its review, the Division re-interviewed Mr. B. Its case notes indicate that Mr. B stated he values the camper at \$60,000, and he said he had been trying to sell it. He also indicated that a company called Freightliner of Alaska offered \$20,000 for it.⁹ Based on this offer, the Division determined that the camper should be valued at \$20,000.¹⁰

On August 23, 2018, the Division notified Mr. B that he had received \$1,150 in Food Stamp benefits for December 2017 through April 2018 despite being over the resource eligibility limit. It sought repayment of those benefits.¹¹ Mr. B requested a hearing.¹² The hearing took place by telephone on September 27, 2018. Mr. B represented himself and testified on his own behalf. Public Assistance Analyst Michelle Cranford represented the Division. All submitted documents were admitted to the record, which closed at the end of the hearing.

Mr. B testified that he bought the semi as a tractor-trailer combination for \$69,000, but he later traded off the trailer. He then converted the tractor to an RV/camper. He holds free and clear title to it, though he still owes on a home equity loan he took out to buy it. He argued that the vehicle is difficult to value because it is so unusual. He had hoped to sell it for \$40,000, which is why he listed that as its value in his Food Stamp recertification application. Mr. B provided vague information about his interactions with Freightliner of Alaska, explaining only that at some point in time it said it would value the semi/camper at \$20,000. Freightliner of Alaska may have made this assessment as part of an offer to buy the vehicle, but Mr. B was not clear about this. Mr. B disagreed with that value at the time, believing it to be too low.

Mr. B indicated that he had the semi/camper up for sale for roughly the last five years. He believes it did not sell because it is a specialized vehicle, for which there is a relatively small market. For instance, it requires a buyer who is comfortable driving a semi tractor and who will accept its poor

⁵ *Id.*

⁶ *Id.*

⁷ Exhibit 3; Exhibit 6-6.1.

⁸ Exhibit 3.1.

⁹ Freightliner of Alaska appears to be the local dealer for Freightliner trucks.

¹⁰ *Id.*

¹¹ Exhibit 6-6.9.

¹² Exhibit 7.

gas mileage. Mr. B still owns the semi/camper. Now that he is employed, he no longer feels he needs to sell it.

III. Discussion

Food Stamps is a federal program administered by the State.¹³ The Code of Federal Regulations (C.F.R.) contains the rules for determining a household's financial eligibility, which is determined, in part, based on the resources (assets) owned by the household members. The program has a resource limit of \$2,250 for a household whose members are under 60 years of age.¹⁴

Resources fall into two categories: countable and exempt. If a resource is exempt, it does not affect the household's financial eligibility for Food Stamps, regardless of its value. Exempt vehicles include, for example, those used for the household's basic needs (such as getting food, medical care or other essentials), vehicles used to transport a household member to and from work, vehicles used to produce income, to transport a disabled person, and vehicles with a realizable value of less than \$1,500.¹⁵ As to vehicles used for household transportation, federal Food Stamp regulations limit the exemption to one vehicle per adult household member.¹⁶

Here, Mr. B's 2004 pickup truck is exempt from the resource eligibility rules, since he uses it for basic household transportation and to get to and from work. His other two vehicles are not exempt. The Division's review did not specifically identify Mr. B as over-resource because of his second "back-up" pickup truck, which he valued at \$7,500. Therefore, the Division does not rely on that resource in this case. It argues that the 1996 Freightliner semi tractor and custom camper shell, which Mr. B uses as a recreational vehicle, placed him over the resource limit.

Though Mr. B argued that it is difficult to value his unusual camper, he did not argue that it is worth less than \$2,250. Such a conclusion would be both unreasonable and unsupported by the evidence. In discussing his efforts to sell the vehicle, Mr. B also chose his words carefully, saying only that no potential buyer had ever made him a cash offer. He did not detail what efforts he had made to sell the camper; he did not state that no one expressed interest in purchasing it; and he did not detail what other types of offers interested individuals might have proposed. He agreed that Freightliner of Alaska valued it at \$20,000, but he believed that estimate to be too low. Based on this evidence, the Division reasonably determined that Mr. B's Freightliner semi tractor/camper should be

¹³ 7 C.F.R. § 271.4(a).

¹⁴ 7 C.F.R. § 273.8(b); Alaska Food Stamp Manual Addendum 4 (Exhibit 6.7).

¹⁵ 7 C.F.R. § 273.8(e)(3)(i), Alaska Food Stamp Manual § 602-2C.

¹⁶ 7 C.F.R. § 273.8(f)(2)(ii).

valued at \$20,000. The Division also correctly determined that Mr. B's equity in the vehicle is \$20,000. This is its fair market value minus his outstanding debt on the vehicle, which is zero since he owns clear title.

Mr. B argued that the semi either should not count or should have little value because it is so unusual that it was essentially unsalable. The Division's Food Stamp Manual includes a provision allowing it to find that a vehicle has little or no value if the recipient lives in a remote area where local conditions and circumstances make it particularly difficult to find buyers.¹⁷ The conditions to be considered include the presence or absence of a significant cash economy and the accessibility of parts and repair services.

This provision does not apply to Mr. B, who lives in Anchorage rather than a remote area. The urban Anchorage area includes a cash economy, readily available parts and repair services (apparently including a Freightliner dealership), and an active used vehicle market. Further, Mr. B's testimony regarding the salability of the vehicle simply was not credible. More likely than not, he did not sell the vehicle because he was not a motivated seller or he was holding out for a high price, not because there was no interest or a market for it.

Mr. B's primary complaint is that the Division's technician initially told him the vehicle was exempt, and he believes the division should not be entitled to recoup benefits that were overpaid due to its own mistake in approving them. However, the federal regulations are clear that the Division "must establish and collect any claim" for overpaid food stamp benefits issued.¹⁸ This is required even when the overpayment is caused by the Division's own error.¹⁹ Adult members of the household are the persons responsible for repaying overpaid benefits.²⁰

The Division showed that Mr. B's 1996 semi tractor/camper is a countable resource with an equity value of more than \$2,250. As a result, Mr. B was not financially eligible for Food Stamp benefits from December 2017 through April 2018. As a matter of law, Mr. B was overpaid \$1,150 in Food Stamp benefits, and he is required to repay those benefits.

IV. Conclusion

¹⁷ See Alaska Food Stamp Manual §602-2C(3).

¹⁸ 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

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

²⁰ 7 C.F.R. § 273.18(a)(4)(i).

The Division’s decision to seek repayment of \$1,150 in Food Stamp benefits that were paid to Mr. B for December 2017 through April 2018, when he was over the resource eligibility limit, is affirmed.

DATED: September 28, 2018.

By: Signed
Signature
Kathryn A. Swiderski
Name
Administrative Law Judge
Title

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

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 16th day of October, 2018.

By: Signed
Signature
Kathryn A. Swiderski
Name
Administrative Law Judge
Title

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