

payment when utility bills are high. Ms. J does not have any receipts or record of those excess payments. Ms. J also has some uncovered medical bills that she must pay. She again does not have any easy way to obtain records of those payments.⁵ In addition, she also pays for internet, cable, and car insurance.

In October 2017, while processing Ms. J' case, the Division mistakenly entered the amount of \$800 for her rent, which is the total rent for her apartment, rather than the \$400 that she paid. This resulted in Ms. J receiving Food Stamp benefits for November and December 2017 in the amount of \$111 for each month, and for January through June 2018 in the amount of \$104 each month.⁶

The Division reviewed Ms. J' Food Stamp case in June 2018. In its review, it discovered that it had been using the figure of \$800 per month for rent, instead of the correct amount of \$400 per month. The Division then recalculated Ms. J' benefits for November 2017 through June 2018, using her Social Security and Adult Public Assistance income, and monthly shelter costs of \$440 (rent \$400 and \$40 phone allowance). It determined that she should have received \$18 per month instead during the entire period, for a total overpayment of \$702.⁷

III. Discussion

The issue in this case is whether Ms. J is required to pay back \$702 in Food Stamp benefits that were issued to her in error. Ms. J did not dispute the income used by the Division in its calculations. She, however, disagreed with the Division's not providing her with more deductions than the \$400 monthly rent and the \$40 monthly phone allowance. Her monthly phone bill is \$50. She also occasionally pays some utilities and has medical payments.

Concerning the phone bill, the Food Stamp program only allows a standard phone allowance of \$40 per month, regardless of the actual cost of the phone.⁸ While Ms. J testified that she had occasional utility costs and medical costs, she declined to assert those further because she did not have receipts and it would be difficult for her to provide them. The other expenses which she testified to, auto insurance, internet, and cable, are not allowable deductions.⁹ As a result, the Division's calculations of the overpayment are correct.

⁵ Ms. J was asked if she wanted time to provide a list of payments and receipts but declined.

⁶ Ex. 14.4.

⁷ Exs. 14.4, 17 – 17.1, 17.4 – 17.5.

⁸ Ex. 11.7.

⁹ See 7 C.F.R. § 273.9(d) for a list of allowable deductions.

The Division has therefore met its burden of proof that Ms. J was overpaid \$702 in Food Stamp benefits. The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.¹⁰ This is true even when the overpayment is caused by the Division’s error.¹¹ Adult members of the Food Stamp recipient’s household are the persons responsible for repaying overpaid Food Stamp benefits.¹² Ms. J was overpaid \$702 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.

IV. Conclusion

The Division's decision to seek recovery of the \$702 in Food Stamp benefits which were overpaid to Ms. J is affirmed.

DATED this 28th day of December, 2018

By: Signed
Signature
Lawrence A. Pederson
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 11th day of January, 2019.

By: Signed
Signature
Lawrence A. Pederson
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.]

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

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

¹² 7 C.F.R. § 273.18(a)(4)(i).