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

In the Matter of)	
)	OAH No. 18-1215-SNA
ΕJ)	Division No. 05180694
)	

DECISION

I. Introduction

E J was a Food Stamp¹ recipient in 2017 and 2018. The Division of Public Assistance (Division) sent her notice that she had received \$702 more in Food Stamp benefits than she was entitled to receive, and that she was required to repay that amount. She requested a hearing on November 19, 2018.² Her hearing was held on December 27, 2018. Ms. J represented herself. Michelle Cranford, a hearing representative for the Division, represented the Division.

The evidence shows that Ms. J received \$702 in Food Stamp benefits that she should not have due to the Division's error. Although 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. Facts³

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

Ms. J was a Food Stamp recipient in November 2017 through June 2018. She was the only person in her Food Stamp household. She is disabled, and her monthly income consists of Social Security payments and Adult Public Assistance payments. Her monthly gross income in November and December 2017 was \$1,097.⁴ Her monthly gross income in January through June of 2018 was \$1,112.

Ms. J has few countable monthly expenses. She shares an apartment with her elderly mother. Her share of the monthly rent is \$400, and she has a phone bill of \$50 per month. The rent normally includes all utilities; however, the landlady occasionally requests an additional

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.

See Ex. 5. The Division did not refer this case to the Office of Administrative Hearings (OAH) until February 20, 2018, 22 days after Ms. J's hearing request. The Division is required to refer cases to OAH for hearing "no later than 10 days after" it receives a hearing request. 7 AAC 49.080.

These factual findings are based upon Ms. J' hearing testimony, unless stated otherwise.

Exs. 16, 16.3.

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.

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.

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. 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. As a result, the Division's calculations of the overpayment are correct.

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

⁶ Ex. 14.4.

Exs. 14.4, 17 – 17.1, 17.4 – 17.5.

⁸ Ex. 11.7.

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: <u>Signed</u>	
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 _	<u>11'''</u>	day of	<u>January</u> , 2019.
			By: Signed
			Signature
			Lawrence A. Pederson
			Name
			Administrative Law Judge
			Title

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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).