

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

In the Matter of )  
 )  
G E ) OAH No. 18-0710-SNA  
 ) Agency No. 05895979  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

G E receives food stamp benefits from the Division of Public Assistance for her household. In June 2018, Ms. E’ daughter turned 18, and the division notified Ms. E that her food stamp benefit would decrease based on the inclusion of her daughter’s wages and tips in the household’s income. Ms. E requested a hearing and an explanation.

The division is required to include O’s wages and tips in the household’s income, and the division has correctly calculated the household’s benefit at \$99 a month based on the household’s net income. Therefore, the division’s decision is affirmed.

**II. Facts**

G E has two children. Her daughter O is 12 years old. Her daughter O turned 18 in June 2018.<sup>1</sup> O lives with Ms. E. O sleeps at her father’s house, in part because she has pets that are not allowed by Ms. E’ landlord. However, O is home-schooled by her mother at her mother’s house and often eats meals there. There is no formal custody agreement between the parents or court-ordered custody arrangement.<sup>2</sup>

In April 2018 Ms. E completed an eligibility review form for her food stamp benefits. She listed herself, O, and O as the members of her household.<sup>3</sup> The division concluded that O was a member of her father’s household for purposes of the food stamp program, and Ms. E did not challenge this finding.<sup>4</sup> The division approved Ms. E for food stamp benefits of \$379 for her household of two beginning in May 2018.<sup>5</sup>

Ms. E’ daughter O is a full-time student. She is home-schooled and in high school, although she is also taking college classes.<sup>6</sup> O works at Employer A. The division averaged

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<sup>1</sup> Ex. 3.1.  
<sup>2</sup> Testimony of E.  
<sup>3</sup> Ex. 3.1.  
<sup>4</sup> Ex. 2 - 3; Testimony of E.  
<sup>5</sup> Ex. 5.  
<sup>6</sup> Testimony of E; Ex. 6.

O's wages and tips over three pay periods, and calculated O's average monthly wages at \$568.89 and monthly tips at \$207.35.<sup>7</sup>

In June 2018, the division notified Ms. E that her food stamp benefit would be reduced to \$18 a month beginning in July 2018, because O was turning 18 years old and O's income would therefore be included in the household's income.<sup>8</sup>

Ms. E requested a fair hearing.<sup>9</sup> In preparation for the hearing, the division reexamined Ms. E' case, and concluded that her benefits had been calculated incorrectly. The revised calculations showed that Ms. E' household, based on household income consisting of O's wages and tips and Ms. E' Alaska Temporary Assistance Program benefits, was entitled to \$99 a month in food stamps beginning in July 2018.<sup>10</sup> A telephonic hearing was held on July 19, 2018.

### **III. Discussion**

Ms. E' disagreement with the division's redetermination of her food stamp benefits is grounded in the notion of fairness. She does not believe that the division has adequately considered her unique circumstances. Ms. E' husband left her. Also, Ms. E spends a great deal of time with her younger daughter O, though O is counted as a member of her father's household. Finally, Ms. E's older daughter O needs all the money O makes for O's college and transportation expenses and therefore that money is not available to pay for food. Ms. E feels that she is being discriminated against by the division.<sup>11</sup>

The division notified Ms. E on June 13, 2018 that it would reduce her benefit starting in July 2018 based on the inclusion of O's income. Ms. E filed her appeal on June 26, 2018. The specific issue on appeal in this case is whether the division was correct to adjust the amount of Ms. E' food stamp benefit beginning in July 2018, after O turned 18.<sup>12</sup>

The food stamp program is a federally funded program administered by the state, and the division is obliged to follow the federal food stamp regulations in administering the program.<sup>13</sup> The federal food stamp program regulations employ a broad definition of income,

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<sup>7</sup> Ex. 6.

<sup>8</sup> Ex. 7.

<sup>9</sup> Ex. 8.

<sup>10</sup> Ex. 10 - 11.

<sup>11</sup> Testimony of E.

<sup>12</sup> Exhibit 7 and 8.

<sup>13</sup> AS 47.25.980; 7 AAC 46.010.

including “all income from whatever source,” excluding only categories of income specifically listed in the regulation.<sup>14</sup>

Ms. E argued that her temporary assistance benefits should not be counted as income, because those benefits are not earned income. However, the federal regulations specifically include cash assistance payments from need-based assistance programs (a category that includes Alaska’s temporary assistance program) as income.<sup>15</sup> Ms. E’ monthly temporary assistance benefit must therefore be counted towards her household’s income.

Ms. E also argued that it was wrong to count her daughter O’s wages and tips as part of her household’s income, because although O lives with Ms. E, O needs all of her income to pay for college and transportation expenses. The division did not dispute that O has her own expenses. However, the division does not have the option of excluding O’s income from the household’s income. O’s income was correctly excluded from household income under the federal regulations until O turned 18, because the income of a student under 18 is one of the categories of income specifically excluded from household income under the federal regulation.<sup>16</sup> However, this exclusion ends when the student turns 18. Under the regulations, “[i]t the student becomes 18 during the certification period, the student’s income shall be excluded until the month following the month in which the student turns 18.”<sup>17</sup> The division correctly determined that O’s income should be included in the household’s income starting July 2018, because O turned 18 in June 2018.

The division has acknowledged that it counted O’s wages incorrectly when it initially recalculated Ms. E’ benefits at \$18.<sup>18</sup> As part of the appeal process, the division recalculated the monthly benefit at \$99 a month beginning in July 2018.

Ms. E argued that the \$99 figure was incorrect and that each person in the household is supposed to receive \$230. Ms. E argued that she does not work, her temporary assistance benefit should not be counted as income, and that her daughter O is herself a low-income person. According to Ms. E’ logic, she and O should each be entitled to a monthly benefit of \$230. However, the \$230 figure is the maximum food stamp allotment for a household of one.

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<sup>14</sup> 7 C.F.R. 273.9(b).

<sup>15</sup> 7 C.F.R. 273.9(b)(2)(i).

<sup>16</sup> Exhibit 13.7 (7 C.F.R. 273.9(c)(7)).

<sup>17</sup> Exhibit 14.6 (7 C.F.R. 273.10(e)(2)(i)(E)).

<sup>18</sup> See Exhibit 7.

A household of one with no monthly net income would be entitled to \$230. However, Ms. E and O live together. As a child under 22 living with her natural parent, O must be included in Ms. E' food stamp household.<sup>19</sup> The division does not have the option of calculating benefits for two separate households consisting of one person each in this case. Ms. E included O on her application, and she and O are a household of two for purposes of the food stamp program. Each has income that must be counted according to the federal regulations. Therefore, the division did not err in applying the income eligibility and maximum allotment standards for a household of two in this case.

The division went through its calculations on the record during the hearing. The maximum allotment for a household of two is \$422.<sup>20</sup> Because Ms. E' household has countable income, Ms. E' household is not entitled to the maximum monthly benefit. Under the federal regulations, a household's monthly benefit "shall be equal to the maximum SNAP allotment for the household's size reduced by 30 percent of the household's net monthly income."<sup>21</sup> This requirement is captured on Lines R, U, and W of the division's food stamp budget worksheet form. On line R, the division identified Ms. E' monthly net income as \$1,073.49. This was calculated by counting Ms. E' temporary assistance benefit and O's wages and tips as gross monthly income. The division subtracted an earned income deduction of \$155 (20% of O's earned income) and a standard deduction for a household of five or fewer people of \$273. It calculated the amount by which Ms. O's monthly shelter costs (including her actual rent and standard amounts for telephone and electricity) exceeded half of the household's income.<sup>22</sup> It then deducted excess shelter costs of \$95.50 to arrive at monthly net income of \$1,073.49 for the household.<sup>23</sup> It multiplied this by 0.3 to arrive at a figure of \$322.05, and it subtracted this amount from the maximum monthly benefit to arrive at Ms. E' monthly food stamp benefit amount of \$99.<sup>24</sup> The division used the correct standards and maximum allotments in calculating the benefits for Ms. E' household of two.

The division does not have discretion to exclude O's income from Ms. E' household income now that O is 18. The division must include Ms. E' temporary assistance benefits as

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<sup>19</sup> Exhibit 12 (7 C.F.R. 273.1(b)(1)(ii)).

<sup>20</sup> Exhibit 11.1, Exhibit 15.1. The \$422 figure is the maximum allotment for a household of two specified on the Alaska Supplemental Nutrition Program (SNAP) Standards and Maximum Allotments, Addendum 4 to the Alaska SNAP Manual, effective October 1, 2017 through September 30, 2018.

<sup>21</sup> 7 C.F.R. 273.10(e)(2)(ii)(A).

<sup>22</sup> See Exhibit 15.2 for electricity and phone standards.

<sup>23</sup> Exhibit 11.

<sup>24</sup> Exhibit 11.1.

income. And the division must treat Ms. E and O as a household of two, rather than two separate households, for the purpose of calculating benefits. The division has properly calculated Ms. E' household's monthly food stamp benefit at \$99 using the program's maximum allotment amount adjusted according to the household's net income.

**IV. Conclusion**

The division's decision reducing Ms. E' monthly food stamp benefit to \$99 beginning in July 2018 is affirmed.

Dated: July 21, 2018.

By: Signed  
Name: Kathryn L. Kurtz  
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.]

**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 7<sup>th</sup> day of August, 2018.

By: Signed  
Name: Kathryn L. Kurtz  
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.]



**Non-Adoption Options**

A. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(2), declines to adopt this Decision, and instead orders under AS 44.64.060(e)(2) that the case be returned to the administrative law judge to

take additional evidence about \_\_\_\_\_;

make additional findings about \_\_\_\_\_;

conduct the following specific proceedings: \_\_\_\_\_.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title/Agency: \_\_\_\_\_

B. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(3), revises the enforcement action, determination of best interest, order, award, remedy, sanction, penalty, or other disposition of the case as follows and adopts the proposed decision as revised:

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 \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title/Agency: \_\_\_\_\_

C. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(4), rejects, modifies or amends one or more factual findings as follows, based on the specific evidence in the record described below:

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 \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title/Agency: \_\_\_\_\_

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D. The undersigned, by delegation from the Commissioner of Health and Social Services and in accordance with AS 44.64.060(e)(5), rejects, modifies or amends the interpretation or application of a statute or regulation in the decision as follows and for these reasons:

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 \_\_\_\_\_ day of \_\_\_\_\_, 2018.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title/Agency: \_\_\_\_\_