

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

In the Matter of)	
)	
K S-W X)	OAH No. 18-1162-SNA
<hr style="width: 80%; margin-left: 0;"/>)	Agency No. 05420050

DECISION

I. Introduction

K S-W X is a Food Stamp recipient who applied to renew her Food Stamp benefits. After her application was received, the Division of Public Assistance requested information from Ms. S-W X. The Division subsequently determined that it had not received the requested information and denied her application. Ms. S-W X appealed that decision.

The evidence in this case showed that Ms. S-W X first provided information stating that her children had bank accounts, and then when asked for information regarding those accounts, provided contradictory information after the applicable deadline. Her failure to provide the requested information in a timely manner was a refusal to respond and justifies denial of her application. Accordingly, the denial of her application is upheld.

II. Facts

Ms. S-W X has a four-person household that consists of herself, another adult, and her two minor children.¹ She and her household were receiving Food Stamp benefits in the summer of 2018. She applied to renew those benefits on August 31, 2018.² The Division, on September 7, 2018, sent Ms. S-W X a request for additional information. Among the items requested was whether her household members would be receiving a 2018 PFD, how those funds would be spent, and if the funds would be expended by the end of October 2018. Ms. S-W X was given until September 17, 2018 to respond to the information request.³

Ms. S-W X timely responded to the Division’s request on September 11, 2018. In her response, she stated that her PFD and the other adult household member’s PFD were subject to claims that reduced the amount paid and the remainder would be spend on heating and rent. The response further provided that the children’s PFDs would be placed in a court ordered savings account.⁴

¹ Ex. 2.1.
² Exs. 2.1 – 2.8.
³ Ex. 3.
⁴ Ex. 4.5.

On October 8, 2018, the Division responded to Ms. S-W X's information regarding the PFDs by asking for proof of the children's bank accounts, including the balance in the accounts, and who had access to the accounts. The deadline for responding to the information request was October 19, 2018.⁵ Ms. S-W X testified that she went into her local Division office sometime between October 15 and 17, 2018 and asked about her application and was not told that it was on hold awaiting information. She further testified that there is often a delay in receiving mailed notices in her community and that she did not receive the notice asking for information until October 22, 2018.⁶

The Division then decided to deny Ms. S-W X's application on October 30, 2018 and sent her written notice, on October 31, 2018, that her renewal application was denied because she had not responded to its request for information about the children's bank accounts.⁷ That same day, the Division received both a hearing request form and a written statement from Ms. S-W X explaining that the PFDs would be spent on travel and household expenses, stating that the children

do not have any bank accounts that I can attest to, as every year I have had to spend it. However, it was court ordered that they not be touched. Each year I hope that will change that I'll have the ability to deposit them.⁸

The hearing request was dated October 24, 2018.⁹ Ms. S-W X placed the hearing request and written statement in the Division's after hours drop box on October 30, 2018.¹⁰ Ms. S-W X's hearing testimony regarding the bank accounts and use of the PFDs was substantially similar to the statements contained in the written statement received by the Division on October 31, 2018.

III. Discussion

This case presents two issues. The first issue is whether the Division was justified in asking for the information about the children's bank accounts. The second issue is, assuming the request was justified, did Ms. S-W X refuse to provide the information in a timely manner.

Regarding the first issue, the Division is allowed to request information regarding an applicant's eligibility.¹¹ In this case, the Division inquired regarding the children's bank accounts. This was a justifiable request because the children's bank accounts could possibly have been a countable resource for the household, which would affect its eligibility for Food Stamp benefits. The Division is only

⁵ Ex. 5.

⁶ Ms. S-W X testified she left her home town and went to Anchorage on October 18, 2018, so that would place the date of her inquiry sometime between Monday October 15 and Wednesday October 17, 2018.

⁷ Exs. 6 - 7.

⁸ Exs. 8.2 - 8.3.

⁹ Ex. 8.1.

¹⁰ Ms. S-W X's testimony.

¹¹ 7 C.F.R. § 273.2(f)(8); 7 C.F.R. § 273.14(b)(4).

required to provide “a minimum of 10 days to provide required verification.”¹² The Division also complied with the minimum 10-day notice requirement inasmuch as its notice was dated October 8 and gave Ms. S-W X until October 19, 2018 to comply. Ms. S-W X undisputedly did not provide the information by October 19, 2018. Although she testified that she got the notice on October 22, she did not file her response until after business hours on October 30, 2018, making the effective date of her response the same day she was sent her denial notice. Ms. Reed Van-X therefore did not timely comply.

The next question is whether Ms. S-W X failed to comply with the information request or refused to comply. The Food Stamp program distinguishes between a failure to comply and a refusal to comply. A failure to comply is not grounds for a denial, whereas a refusal to comply is grounds for denial.¹³

Ms. S-W X argued that her failure to timely comply was not intentional, i.e., not a refusal. She asserted that the delay was attributable to mail service delays and that when she stopped by the Division offices sometime between October 15 and 17, she was not advised of the pending request for information. The facts show the following:

- She was able to respond to the Division’s first notice request, sent on September 7, 2018, only four days later on September 11, 2018.
- In that response, Ms. S-W X asserted that the children’s PFDs would go into their bank accounts.
- Ms. S-W X testified she did not receive the information request until October 22, 2018, after the deadline had passed, and that the delay was attributable to bad mail service.
- Ms. S-W X has a written hearing request dated October 24, 2018. However, she did not provide that written hearing request to the Division. She did not submit either the hearing request or provide the Division the requested information until after the close of business on October 30, 2018, which meant the Division did not receive the information until October 31, 2018.
- The information provided regarding the children’s bank accounts, as part of her hearing request and in her hearing testimony was that the children did not have bank accounts.

The inconsistency between Ms. S-W X’s initial statement that the children had bank accounts, and then her subsequent statement that they did not, makes her a less than credible witness. As a result,

¹² 7 C.F.R. § 273.14(b)(4).

¹³ 7 C.F.R. § 273.2(d)(1).

her testimony that she inquired at the Division's offices between October 15 and 17, 2018 is also not credible. When coupled with the fact she was able to respond in a very timely manner to the Division's first request for information, her testimony that she received the request for information on October 22, 2018, and the fact that her written hearing request was dated October 24, 2018, leads to the conclusion that it is more likely true than not true that Ms. S-W X could have provided the Division with the requested information, if not by the deadline of October 19, certainly before the Division decided to deny her application on October 30, 2018. Instead, she consciously waited to respond to the Division's request for information until after work hours on October 30, 2018. This was a refusal to timely provide the information. As a result, the denial of her application is upheld.

IV. Conclusion

The denial of Ms. S-W X's renewal application for Food Stamp benefits is upheld.

Dated: December 13, 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 26th day of December, 2018.

By: Signed
Signature
Lawrence A. Pederson
Name
Administrative Law Judge
Title