

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

In the Matter of)	
)	
Z T)	OAH No. 19-0902-CMB
<hr style="width: 80%; margin-left: 0;"/>)	Agency No.

DECISION

I. Introduction

Z T applied to renew her Food Stamps and Public Assistance-Medicaid benefits. The Division of Public Assistance (Division) denied her requests because it found she exceeded the income limit; the Division also sought reimbursement of Food Stamps benefits, which it alleged Ms. T should not have received. Ms. T appealed the denials and the Division’s pursuit of reimbursement.

The hearing was held on October 16, 2019. Ms. T appeared telephonically and testified. Sally Dial appeared on behalf of the Division. Ms. Dial sent exhibits 1-15.1 to Ms. T, but Ms. T had not received them at the time of the hearing. After confirming the documents were sent to the correct address, Ms. T was provided the opportunity to continue the matter to allow Ms. Dial to resend the exhibits. Ms. T asked to go forward without the documents in front of her, but she was given additional time to lodge any objections to the admission of the exhibits. All exhibits were admitted into evidence without objection October 25, 2019.

The evidence shows the Division correctly calculated Ms. T’s income for both Food Stamp and Medicaid purposes. Her income placed her over the Food Stamp income limits, both during the month of August 2019 and at the time of her reapplication. As a result, both the recoupment of issued Food Stamp benefits and the denial of her Food Stamp renewal application are affirmed. Further, Ms. T’s income exceeded the income limit for Medicaid benefits when she applied to renew those benefits, so the denial of her Medicaid renewal application is also affirmed.

II. Facts

Ms. T was a recipient of Food Stamps and Medicaid benefits.¹ In April 2019, Ms. T became eligible for Social Security widow’s benefits in the amount of \$1,580.00 per month,

¹ Exhibit 1.

which she began receiving in June 2019.² Ms. T notified the Division that she was receiving those benefits on July 8, 2019.³ Ms. T is the legal guardian for her 36-year-old disabled daughter who lives with her.⁴ Ms. T receives \$750.00 per month as rent in her role as a guardian of her daughter.⁵ Both she and her daughter receive an annual Permanent Fund Dividend (PFD).⁶ Her daughter receives \$771.00 in SSI benefits.⁷ However, for purposes of Food Stamps, Ms. T and her daughter are considered separate households.⁸

On August 13, 2019, Ms. T submitted a renewal for Medicaid and Food Stamps.⁹ Ms. T listed the \$1,580.00 in Social Security widow's benefits, and \$750.00 for the care of her daughter on that application.¹⁰ Her monthly income totals \$2,330.00, which did not include the PFD. Ms. T's household's monthly income increases to \$2,596.66 when both Ms. T's and her daughter's PFDs are included.¹¹

The Division denied Ms. T's renewal request for Food Stamps and Medicaid, and the notices of denial were sent August 30, 2019.¹² The notices explained the denial was based on Ms. T exceeding the income limit for each of these programs.¹³

On September 17, 2019, the Division sent notice advising that as a result of Ms. T exceeding the Food Stamps income limit, Ms. T should not have received any Food Stamp benefits in August 2019, and therefore was required to repay the Division the \$184.00 she received for its inadvertent error.¹⁴

Ms. T timely requested a fair hearing for both the denials and the reimbursement requirement.¹⁵

² Exhibit 5.1.

³ Exhibits 5 – 5.1.

⁴ Ms. T's testimony.

⁵ Ms. T testimony; Exhibit 2.4.

⁶ Ms. T testimony; Exhibit 2.1.

⁷ It is undisputed that Ms. T's daughter receives social security disability benefits; the \$771.00 is not included in the Medicaid eligibility analysis, and because Ms. T is a separate household from her daughter for purposes of Food Stamps, the amount was not considered in calculating Ms. T's Food Stamp eligibility. *See* Exhibit 2.1; Exhibit 7.2.

⁸ Ms. Dial testimony. The Division did not dispute that they are separate households for the purposes of this decision. *See* 7 C.F.R. § 273.1(a)(2).

⁹ Exhibit 2.2-2.11.

¹⁰ Exhibit 2.4; Exhibit 5.1; Ms. Dial testimony.

¹¹ Ms. Dial testimony. The State does not include PFDs as part of income calculation, however the Federal government, for purposes of Medicaid does.

¹² Exhibit 3-3.6.

¹³ Exhibit 3-3.6.

¹⁴ Exhibit 6.1-6.2.

¹⁵ Exhibit 4; Exhibit 7.1.

III. Discussion

A. Food Stamps

Food Stamps is a federal program administered by the states.¹⁶ Its statutes are codified primarily at 7 U.S.C. §§ 2011 – 2029, and its regulations are codified primarily at 7 C.F.R. §§ 271-274. The Division administers the Alaska food stamp program and has promulgated its own regulations at 7 AAC 46.010 - 7 AAC 46.990. Eligibility for Food Stamps, and the amount of benefits awarded, depends primarily on household size, household income, and applicable income exclusions and deductions.¹⁷

Generally, Food Stamps benefit amounts are calculated based on the number of people living in the household and monthly income.¹⁸ But when looking specifically at Food Stamps households, people who reside together but do not purchase and prepare meals together can be considered separate households.¹⁹ The household concept is important because it affects the amount of income the people in the household are allowed to earn and still be Food Stamp eligible and the benefit amount they receive. It is undisputed that Ms. T is a separate household for the purposes of Food Stamps.²⁰

The gross income limit for a household of one for Food Stamps is \$1,645.00, with a net income limit of \$1265.00.²¹ Ms. T receives \$1,580.00 in death benefits from social security, as well as \$750.00 in rent for her adult daughter, for a total of \$2,330.00 per month.²² This exceeds the gross income limit for a household of one.

Ms. T argues that the Division miscalculated her income by including \$750.00 per month, which is provided to her as rent for her daughter, and therefore should not be counted as income for her, because she only acts as a landlord and then turns around and pays the same amount to the owner of the property.²³ No one disputes that she uses that money to care for her daughter. However, because the rent is paid directly to Ms. T, regardless of its use or purpose, it counts

¹⁶ Exhibit 6.5-6.7; 7 C.F.R. § 271.4(a).

¹⁷ Exhibit 6.4-6.7; Exhibit 9- 9.14.

¹⁸ Exhibit 6.5-6.7; 7 C.F.R. § 273.10.

¹⁹ Exhibit 6.5-6.7; 7 C.F.R. § 273.1(a)(2).

²⁰ Ms. Dial testimony.

²¹ Exhibit 6.5-6.8.

²² Exhibit 2.4; Exhibit 5.1; Ms. Dial testimony.

²³ Ms. T testimony; Exhibit 2.1; Exhibit 2.4; Exhibit 6.12; Exhibit 7.2.

towards her income.²⁴ As it was properly included in her income, the Division was correct in denying her renewal.

B. *Recoupment of Food Stamps Overpayment*

As discussed above, the Food Stamps program is a federally funded program administered by each state. When the state, in its administration of Food Stamps program, overpays a person's benefits, federal law requires the state to recover the overpayments, even when it is the Division's fault.²⁵

Ms. T properly notified the Division of the increase in her household's income. Her receipt of benefits in August was solely the result of an inadvertent Division error.²⁶ Ms. T's objections are two-fold. First, she claims she does not exceed the income limit. Second, she asserts that since the Division created this situation, it should be required to live by its own miscalculation. Basically, to collect from her for their error, is, from her perspective, unfair.

As discussed above, the Division correctly calculated her August income, which exceeded the income limit for Food Stamp benefits. Because she exceeded the income limit, she should not have received Food Stamp benefits during that month, and therefore the receipt of August Food Stamps was an overpayment. As the Division is required to pursue any overpayments, the Division did not err in attempting recoup it.

It may be true that it is unfair to hold a Food Stamp recipient responsible for reimbursement when the recipient is not at fault, but the federal law requires the Division to pursue overpayment even when it was caused by "an action or failure to take action by the State agency."²⁷ The Alaska Supreme Court, in *Allen v State* found that Congress considered the unfairness component when drafting the regulation:

We are sympathetic to the argument that it is unfair to require indigent food stamps recipients to repay benefits that were overissued to them through no fault of their own, but Congress has already made the policy decision that a ten dollar, or ten percent cap on monthly allotment reduction coupled with allowing state agencies some flexibility to compromise claims is sufficient to mitigate this unfairness.²⁸

²⁴ Ms. Dial testimony; 7 C.F.R. 273.9 (b)(ii); Exhibit 9-9.14.

²⁵ 7 U.S.C. § 2022(b)(1) (the "state agency shall collect any over issuance of benefits issued to a household"); Ex. 8 (7 C.F.R. § 273.18(a)(2) ("the state agency must establish and collect any claim")); *In re M.R.*, (OAH No. 18-0092-SNA) (April 2018) available at <https://aws.state.ak.us/OAH/Decision/Display?rec=6184>.

²⁶ Ms. Dial testimony.

²⁷ 7 C.F.R. §273.18 (b) (3); Exhibit 10.

²⁸ *Allen v. State*, 203 P.3d 1155 (Alaska 2009).

The federal regulations and *Allen* decision are binding on the Division. Regardless of fault, the Division is required to pursue recoupment of overpayments made. The federal regulations are clear that the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.²⁹ The Division met its burden of burden of proof that Ms. T was overpaid Food Stamp benefits and that she is required to reimburse the Division for those benefits in the amount of \$184.00.

C. *Medicaid*

Medicaid is also a program created by the federal government, but administered by the state. It provides payment for medical services for low-income citizens.³⁰ On September 1, 2015, Alaska expanded Medicaid eligibility to include the “expansion group.” The expansion group includes adults aged 19 through 64 who make 133% or less of the federal poverty limit and are not eligible for another type of Medicaid or Medicare.³¹ The modified adjusted gross income (MAGI), applies financial methodologies to calculate eligibility.³²

The MAGI Medicaid income limit for a household of two is \$2,431.00, which is the federal income limit plus an additional 5% deduction.³³ For purposes of MAGI Medicaid countable income, the Division included \$1,580.00 from widow benefits, \$750.00 rental income and the \$133.33 for her PFD.³⁴ Because her daughter is a dependent for Medicaid purposes because of the guardianship, \$133.33 for her PFD is also counted as income.³⁵ The family’s countable income totaled \$2,596.66.³⁶ Therefore, Ms. T’s household income exceeds the income limit.

Ms. T argued, as above, that the \$750.00 rent received to care for her daughter Melony, and also that their PFDs should not be counted as household income. As discussed above, because it was paid to Ms. T, it is considered part of her income. With regard the PFD, while Alaska does not consider it income for Food Stamp purposes, the Federal government does count it as income for Medicaid purposes.³⁷ The Division was correct in including \$133.33 per month

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

³⁰ See Medicaid Recipient Handbook at <http://dhss.alaska.gov/dhcs/Documents/PDF/Recipient-Handbook.pdf>

³¹ Exhibit 11-11.4; *Family Medicaid Eligibility Manual* §§ 5000-1 & 5706; see also 42 C.F.R. § 435.603.

³² 42 CFR § 435.603.

³³ Exhibit 15-15.1.

³⁴ Exhibit 5.1; Exhibit 11.1; Ms. Dial testimony; Ms. T testimony.

³⁵ Ms. Dial testimony; Ms. T testimony; Exhibit 2.2-2.11. Melony also receives her own SSI benefits, but those are not included as part of the income calculation.

³⁶ Exhibit 2.2- 2.11; Exhibit 3.2.

³⁷ Ms. Dial testimony; 42 C.F.R 435.603 (e); Exhibit 11.1; Exhibit 14.5.

for Ms. T's PFD, as well as \$133.33 for her daughter. Because Ms. T's income exceeded the income limit, the Division was correct in its denial.

IV. Conclusion

The Division correctly determined that at the time she renewed her application, Ms. T's income exceeded the limit for both the Food Stamps and Medicaid programs. And because she exceeded the limit, even though it was the agency's fault, she is required to repay the \$184.00 overpayment in Food Stamps for August 2019.³⁸

Dated: November 6, 2019

Signed

Hanna Sebold
Administrative Law Judge

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 15th day of November, 2019.

By: Signed

Name: Hanna Sebold

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.]

³⁸ Ms. T can contact the Division to work out a payment plan, and if she becomes eligible for benefits in the future. Exhibit 10.2- 10.5 see also 7 C.F.R. 273.18 (e) and (f).