

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

In the Matter of)	
)	
S X)	OAH No. 19-0454-SNA
<hr style="width: 80%; margin-left: 0;"/>)	Agency No.

DECISION

I. Introduction

S X applied for Food Stamps. His application was denied because he did not present himself for the interview. While this decision does not affect Mr. X’s ability to apply for Food Stamps in the future, because Mr. X did not present himself for the interview, the Division of Public Assistance’s (Division) denial of his February 5, 2019 application is affirmed.

II. Facts

S X applied for Food Stamps on February 5, 2019.¹ As part of the application packet, Mr. X was advised he was required to submit to an interview.² On February 12, 2019 the Division called Mr. X for an interview as part of his application process.³ The Division first tries to reach the applicant for an interview through a “cold call” to speed up the process, but if an applicant is unavailable at this stage, they send notice of a scheduled appointment for the interview.⁴

Unable to reach Mr. X on February 12, 2019, the Division sent him notice on February 13, 2019 that his telephonic interview was scheduled for 1:00 p.m. on February 20, 2019.⁵

On February 20, 2019, the Division called Mr. X at 1:00 p.m. and 1:06 pm at (907) 000-0000 but the Division was unable to reach him. The Division left a voicemail message at that time.⁶ Mr. X was sent written notice of the efforts to interview him, and he was advised he needed to schedule an interview before the 30th day from his application (February 5, 2019), or his application would be denied.⁷ On March 8, 2019, Mr. X was notified his application was denied because he did not attend his interview.⁸

¹ Exhibit 2-2.12.
² Ms. Dial testimony.
³ Exhibit 3; Ms. Dial testimony.
⁴ Ms. Dial testimony. There is no consequence for unavailability of the “cold call.”
⁵ Exhibit 3.1.
⁶ Exhibit 4; Ms. Dial testimony. This is the same number Mr. X was reached at for this hearing.
⁷ Exhibit 4.1; Ms. Dial testimony.
⁸ Exhibit 5.

On May 13, 2019, Mr. X appealed his Food Stamps application denial.⁹ Mr. X's hearing was held telephonically on June 12, 2019. Mr. X testified on his own behalf. Sally Dial, a Fair Hearing Representative for the Division, represented the Division and testified on its behalf.

Mr. X did not dispute the Division's facts, rather he shared that his mother had passed away a year ago and that times had been difficult.¹⁰ Mr. X explained that he missed his interview because he was away from his home ("across the river"), did not return until May 10, and did not check his mail while he was out.¹¹

III. Discussion

Food stamps is a federal program administered by the states.¹² 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 Food Stamp program in Alaska 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. The application process has many requirements, which includes the requirement for the applicant to submit to an interview.¹³

The statutes and regulations for Food Stamps are strictly adhered to.¹⁴ The Division must schedule "all interviews as promptly as possible to insure eligible households receive an opportunity to participate within 30 days after the application is filed."¹⁵ A telephonic hearing with Mr. X was scheduled within 7 days of his application.¹⁶ Mr. X was not reached for his interview on February 20, 2019.

When an applicant fails to appear for an interview, "the State agency must notify the household it missed the scheduled interview and that the household is responsible for rescheduling the missed interview."¹⁷ The Division left a voice mail message on Mr. X's voice mail on February 20, 2019.¹⁸ The Division provided written notice to Mr. X of the missed

⁹ Exhibit 6.

¹⁰ Mr. X testimony.

¹¹ Mr. X testimony; Exhibit 6.

¹² 7 C.F.R § 271.4 (e) (1).

¹³ 7 C.F.R § 273.2(d)(1).

¹⁴ 7 C.F.R § 273.2 (a) and (e); *In re B. S.* (18-0626-SNA) (Comm'r Health and Soc. Servs., June 2018).

Available at <https://aws.state.ak.us/OAH/Decision/Display?rec=6395>

¹⁵ 7 C.F.R § 273.2 (e)(3).

¹⁶ Exhibit 3.1

¹⁷ 7 C.F.R § 273.2 (e) (3).

¹⁸ Exhibit 4.

appointment on February 21, 2019, along with instructions on how to proceed.¹⁹ In the notice, Mr. X was advised he had 30 days from February 5, 2019, to contact the Division for an interview.²⁰ Mr. X did not contact the Division within 30 days.

When an applicant fails to submit to an interview within the first thirty days of applying, the Division, after determining who is at fault for the missed interview, can provide an additional 30 days for the applicant to contact the Division for an interview.²¹ As the Division met its obligation, Mr. X was responsible for the missed interview. He does not dispute this, nor does Mr. X assert any wrongdoing by the Division that caused him to miss his interview.

Mr. X, who bears the burden in this case, provided no explanation for why he was unreachable by phone for his interview. While he repeatedly stated that he was “over the river” (meaning that he was away from his home) he did not elaborate on where he was physically located that he could not appear telephonically for an interview.

When, as here, the household is at fault, and the applicant does not complete the “the application process by the end of the second 30-day period, the State agency shall deny the application and require the household to file a new application if it wishes to participate...”²² Since Mr. X did not participate in the interview, or follow up to schedule another interview, the application process was not completed within the required time frame, and the Division was required to deny his application.²³

IV. Conclusion

Mr. X’s application for Food Stamps was denied because part of the application process requires an interview and he did not participate in the interview. While Mr. X’s situation is sympathetic, it is not a legal basis to excuse his non-compliance to timely interview with the Division. As indicated above, while this does not preclude him from applying in the future, the Division’s denial of Mr. X’s Food Stamps application is affirmed.

Dated: June 19, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

¹⁹ Exhibit 4.1
²⁰ 7 C.F.R § 273.2 (h)
²¹ 7 C.F.R § 273.2 (h) (1)(i) (D); 7 C.F.R § 273.2 (h)(2).
²² 7 C.F.R § 273.2 (h)(4)(iii).
²³ 7 C.F.R § 273.2 (e).

Adoption

The undersigned, on behalf of the Commissioner of Health and Social Services and in accordance with AS 44.64.060, adopts this Decision and Order 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. 602(a)(2) within 30 days after the date of this decision.

DATED this 2nd day of July, 2019.

By: Signed
Signature
Hanna Sebold
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.]