

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

In the Matter of)	
)	
N N)	OAH No. 19-0552 SNA
_____)	Agency No.

DECISION

I. Introduction

N N was an Alaska Food Stamps recipient. She provided correct household income information to the Department of Health and Social Services, Division of Public Assistance (Division). Nevertheless, the Division failed to enter her income into their system correctly and, as a result, Ms. N received an overpayment of Food Stamps. The Division notified Ms. N of the overpayment and sought recoupment. Ms. N requested a Fair Hearing. Because the Division is required to pursue overpayments, regardless of fault, the Division’s recoupment efforts are affirmed.

II. Facts¹

Ms. N applied for Food Stamps in November 2018. In that application, she notified the Division that her incomes was based on her monthly social security.² When the Division processed Ms. N’s application, it did not enter her monthly income into the computer system, so Ms. N received an overpayment of Food Stamps.³ The Division reviewed Ms. N’s Food Stamp case and discovered the overpayment. From November 2018 to May 2019, the Division paid Ms. N \$232.00 per month, which was what she would receive if she had no income. But based on her actual income, she was only entitled to \$19.00 per month. The Division sent a recoupment notice to Ms. N on May 21, 2019 advising her that she owed \$1,355.00 in overpayments.⁴

Ms. N requested a Fair Hearing on June 7, 2019.⁵ The Fair Hearing was conducted telephonically on July 18, 2019. Sally Dial presented the Division’s position and testified. Exhibit 1-8.10 were admitted without objection. N N testified on her own behalf.

¹ The facts in this case are not contested and are based on the time frame of overpayment.
² Ms. Dial testimony; Exhibit 6; Ms. N testimony.
³ Ms. Dial testimony; Exhibits 4, 4.17, 6.1 -6.6.
⁴ Exhibits 4 – 4.25.
⁵ Exhibit 5; Ms. Dial testimony.

III. Discussion

The Food Stamps program is a federally funded program administered by each state. When the state overpays a person's benefit's, federal law requires the state to recover the overpayments, even when it is the Division's fault.⁶

The facts in this case are not in dispute. Ms. N does not contest that she received the overpayments, nor does she contest the amount.⁷ The evidence shows Ms. N notified the Division of her monthly household income, but the Division's failure to enter it in their system resulted in an overpayment of benefits.⁸

Ms. N asserts she should not be responsible for the Division's mistakes, especially because she cannot afford to repay the amount overpaid. However, 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."⁹ 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.¹⁰

The federal regulations and *Allen* decision are binding on the Division. Regardless of fault, the Division was required to pursue recoupment of overpayments made.

IV. Conclusion

Ms. N's situation is sympathetic, and her frustration is certainly understandable. However, there is no legal mechanism to conclude differently. The Division is required to seek reimbursement even though its error caused the overpayment. Because Ms. N

⁶ 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>

⁷ During Ms. N's testimony, additional possible deductions were explored. Ms. N did not have any and agreed with the Division's calculations.

⁸ Ms. Dial testimony.

⁹ 7 C.F.R. §273.18 (b) (3).

¹⁰ 203 P.3d 1155 (Alaska 2009).

does not contest the amount owed or that the money was overpaid, and the Division is required to pursue reimbursement, the Division's decision is affirmed.¹¹

Dated: July 25, 2019

Signed _____
Hanna Sebold
Administrative Law Judge

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 8th day of August, 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.]

¹¹ Sally Dial explained that the recoupment office could negotiate a settlement or payment plan, so Ms. N is encouraged to do so. 7 AAC 570 (i) provides the authority for the recoupment office to negotiate a settlement or payment plan.