

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

In the Matter of)
)
 D P)
_____)

OAH No. 18-1265-SNA
Agency No.

DECISION

I. Introduction

Due to an agency error, more Food Stamp benefits were issued to the P household in 2017 and early 2018 than the household was entitled to. The Division of Public Assistance (DPA) sought repayment from D P of the portion of these benefits that were not more than one year old, informing her it would require her to repay excess benefits totaling \$5140. Ms. P requested a hearing.

A telephone hearing was held on January 7, 2019. There is no dispute that Ms. P had been paid erroneous benefits—although the amount is slightly less than the agency had requested—and there is no dispute that the overpayment was entirely a result of agency error. Nonetheless, federal law relating to Food Stamps allows no discretion; unless the debt is compromised, Ms. P is obligated to repay the overpayment. The overpayment finding must therefore be affirmed. However, Ms. P seeking a compromise or payment plan, and the agency representative who presented the case at hearing is following up with the claims department to ensure that her request is processed.

II. Facts

D P is part of a household of six who were receiving benefits from the Supplemental Nutrition Assistance Program (SNAP, commonly known as Food Stamps) in 2017. On April 20, 2017, she carefully and properly reported that her husband had begun work for Business A Services a few days previously.¹ DPA did not process the information, and did not note it until a recertification in May of 2018.² This resulted in a year of overpayments based on income that was improperly calculated.³ DPA acknowledges that agency error was the sole cause of the overpayments. However, no action to recover overpaid benefits was taken until November of 2018, when an overpayment notice was issued.⁴

¹ Ex. 2.1.
² Ex. 2.
³ *Id.*
⁴ Ex. 3, 4.1.

The delay in acting on the discovery was actually fortunate for Ms. P because, when overpayments are caused by agency error, DPA pursues recovery only up to one year previously.⁵ By the time this matter was pursued, only five of the twelve months of overpayment were still within the window for recovery. The evidence is undisputed that benefits were overpaid within the one-year window as follows:⁶

Month	Paid	Should have been	Overpayment
Dec 2017	1094	0	1094
Jan 2018	1094	0	1094
Feb 2018	1094	775	319
Mar 2018	1094	0	1094
Apr 2018	1094	0	1094
TOTAL	5470	775	4695

Since this is more than DPA originally claimed from Ms. P, the agency issued a revised notice while this case was pending, reducing the overpayment claim to \$4695.⁷

III. Discussion: Overpayments Are Subject to Recovery, Even if Caused by Agency Error.

DPA acknowledges that the overpayment was due to agency error. However, that the overpayment was a government mistake does not release a recipient from having to repay the excess benefits she received.

Food Stamp benefits are governed by federal law. The federal statute pertaining to the recoupment of overpaid Food Stamp benefits is 7 U.S.C. § 2022. Subsection (b)(1) of that statute provides that the “state agency *shall* collect any overissuance of benefits issued to a household” [emphasis added]. This statute requires, on its face, that DPA attempt to recover overpaid Food Stamp benefits.

The federal implementing regulation pertaining to the recoupment of Food Stamp benefits is 7 C.F.R. § 273.18. Subsection (a)(2) of that regulation provides that “the State agency

⁵ Alaska SNAP Manual 607-3E(3). The legal basis for this manual provision has not been explored, but since there is apparently a corresponding time limit in all other states’ SNAP programs, it is presumably imposed by federal law or policy.

⁶ Ex. 7.7. In general, the NANA Management income put the household’s gross into the range of \$5000-\$7500 per month, which exceeded the Food Stamp limit of \$4465 for a household of six. See Ex. 4.5.

⁷ Ex. 7.

must establish and collect any claim” Under subsection (b)(3), collection action is required even where (as here) the “overpayment [is] caused by an action or failure to take action by the State agency.” Thus, federal law requires DPA to attempt to recover overpaid Food Stamp benefits, even if the overpayment is the result of the division’s own error.

This was confirmed ten years ago by the Alaska Supreme Court in the case of *Allen v. State of Alaska Department of Health & Social Services*.⁸ After holding that federal law requires the state to pursue repayment of all overpaid Food Stamp benefits, the court observed:

We are sympathetic to the argument that it is unfair to require indigent food stamp 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.^[9]

The federal regulations and the *Allen* decision are binding on the Department of Health and Social Services.

IV. Conclusion

The Division’s decision that Ms. P was overpaid \$5140.00 in Food Stamp benefits is affirmed in part. An overpayment of \$4695.00 has been established. Nothing in this decision prevents Ms. P from receiving a compromise or payment plan.

Dated this 10th day of January, 2019.

Signed

Christopher Kennedy
Administrative Law Judge

⁸ 203 P.3d 1155 (Alaska 2009).

⁹ *Id.* at 1164 (footnotes omitted).

Adoption

The undersigned, by delegation from of 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 25th day of January, 2019.

By: Signed
Name: Christopher Kennedy
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.]