

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

In the Matter of	)	
	)	
E N	)	OAH No. 20-0666-SNA
_____	)	Agency No.

**DECISION**

**I. Introduction**

Mr. E N was a Food Stamp<sup>1</sup> recipient during portions of 2019 and 2020. The Division of Public Assistance notified him that he received \$714 more in Food Stamp benefits than he was entitled, and that he was required to repay that amount. Mr. N requested a Fair Hearing on July 29, 2020 and it occurred telephonically on August 25, 2020. Mr. N represented himself. Jessica Hartley, a hearing representative for the Division, participated on its behalf.

The evidence shows that Mr. N received \$714 more in Food Stamp benefits than he was entitled due to an error by the Division. Although the overpayment was caused by the Division, Mr. N is still required to repay those benefits. The Division’s decision establishing its repayment claim in that amount is affirmed.

**II. Facts**

The following facts were established by the preponderance of the evidence at the hearing.

Mr. N was a Food Stamp recipient throughout portions of 2019 and 2020.<sup>2</sup> He is the only person in his Food Stamp household<sup>3</sup> and is characterized as an Able Bodied Adult Without Dependents (“ABAWD”).<sup>4</sup> He is construed as such because he is between 18-49 years old, is fit for work and is not exempt, or does not receive benefits in a household that includes a minor child.<sup>5</sup> Per federal regulations, the ABAWD work requirement only allows Food Stamps recipients to receive benefits for three months during a thirty-six month period.<sup>6</sup>

Due to high unemployment through September 2019, the State of Alaska was initially exempt from the ABAWD work requirement and time limitations.<sup>7</sup> As a consequence, Mr. N properly received monthly benefits for October, November and December 2019.<sup>8</sup> However,

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<sup>1</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance program (“SNAP”). However, the program is still commonly referred to as the Food Stamp program.

<sup>2</sup> Testimony of Ms. Jessica Hartley; Ex. 3.1; Ex. 7; Ex. 9; Ex. 10.

<sup>3</sup> Exs. 2, 3, 10.

<sup>4</sup> 7 C.F.R. § 273.24.

<sup>5</sup> State of Alaska SNAP Policy Manual §602-1L.

<sup>6</sup> 7 C.F.R. § 273.24; State of Alaska SNAP Policy Manual §602-1L.

<sup>7</sup> State of Alaska SNAP Policy Manual §602-1L(2).

<sup>8</sup> Testimony of Ms. Jessica Hartley; Ex. 10.

because of a change to Alaska’s exemption status concerning ABAWD work requirements and time limitations, Mr. N exceeded his three months of ABAWD allowed Food Stamp benefits beginning in January 2020.<sup>9</sup> Recognizing its error, the Division sent Mr. N a Food Stamp closure notice on March 20, 2020.<sup>10</sup>

Consequently, Mr. N was overpaid Food Stamp benefits in the amount of \$238 each month, from January through March 2020. These overpaid benefits total \$714.<sup>11</sup> The Division sent Mr. N letters on July 15, 2020 and August 17, 2020, explaining the overpayment, and requesting repayment.<sup>12</sup> Mr. N then timely submitted his request for a Fair Hearing essentially asserting that he did not believe he was responsible for the overpayment.<sup>13</sup>

### **III. Discussion**

The issue in this case is whether Mr. N is required to pay back \$714 in Food Stamp benefits that were issued to him in error. Mr. N did not dispute the total amounts referenced by the Division in its calculations. He did, however, disagree with the Division’s seeking to recover the overpayment when, in fact, the reason for the overpayment was due to the Division’s error. Namely, failing to timely recognize and stop issuing Mr. N benefits after the change to Alaska’s ABAWD exemption status occurred regarding work requirements and time limitations.<sup>14</sup>

Here, it was undisputed that that the Division erred in overpaying Mr. N three months of Food Stamp benefits, totaling \$714. The only question is whether, when an error in the payment of benefits is wholly attributable to the Division, the beneficiary can be held responsible for the error. Unfortunately, for Mr. N, the law is clear that the answer to that question is yes.

Per federal regulations, the Division “must establish and collect any claim” for overpaid Food Stamp benefits issued.<sup>15</sup> This is true even when the overpayment is caused by the Division’s error.<sup>16</sup> As the lone member of his household, Mr. N is responsible for repaying overpaid Food Stamp benefits.<sup>17</sup> Mr. N was overpaid \$714 in Food Stamp benefits and is

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<sup>9</sup> Testimony of Ms. Jessica Hartley; Ex. 10.

<sup>10</sup> Ex. 9.

<sup>11</sup> Exs. 10; 11-11.6.

<sup>12</sup> Exs. 12.2 - 12.13, 13 – 13.11.

<sup>13</sup> Ex. 14.

<sup>14</sup> Testimony of Ms. Jessica Hartley; Testimony of E N.

<sup>15</sup> 7 C.F.R. § 273.18(a)(1)(i); 7 C.F.R. § 273.18(a)(2).

<sup>16</sup> 7 C.F.R. § 273.18(b)(3); *Allen v. State, DHSS*, 203 P.3d 1155, 1164-1166 (Alaska, 2009).

<sup>17</sup> 7 C.F.R. § 273.18(a)(4)(i).

required to repay those benefits to the Division, regardless of the fact he was not at fault and the overpayment was caused by the Division's error.

**IV. Conclusion**

The Division's decision to seek recovery of the \$714 in Food Stamp benefits which were overpaid to Mr. N is AFFIRMED.

DATED September 14, 2020.

By: Signed  
Z. Kent Sullivan  
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 29<sup>th</sup> day of September, 2020.

By: Signed  
Signature  
Z. Kent Sullivan  
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.]