

**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. 21-0547-SNA
) Agency No.
_____)

DECISION

I. Introduction

E N was a Supplemental Nutrition Assistance Program¹ (SNAP) benefit recipient. On March 22, 2021, the Division of Public Assistance (DPA) sent Ms. N that she received SNAP benefits in the amount of \$758 during February 2021, and that she was required to repay those benefits.

Ms. N disagreed with DPA’s repayment requirement and requested a hearing. Her hearing was held telephonically on April 29, 2021. Ms. N represented herself and testified on her own behalf. Jessica Hartley, a Fair Hearing Representative with DPA, represented DPA.

The evidence in this case showed, by a preponderance of the evidence, that Ms. N was not financially eligible for SNAP benefits in February 2021. As a result, she is required to repay DPA for the \$758 in SNAP benefits she received in February 2021. DPA’s payment requirement is therefore AFFIRMED.

II. Facts²

Ms. N has a three-person household, which consists of her, her 19-year old daughter, and her younger son. Ms. N and her daughter both work. Ms. N submitted a SNAP application, along with her and her daughter’s recent pay information, on January 4, 2021.³ DPA approved her application for SNAP benefits for February 2021.⁴ Ms. N received a total of \$758 in SNAP benefits during February 2021.⁵

DPA subsequently reviewed the pay information that Ms. N submitted as part of her January application and determined that between Ms. N’s income and her daughter’s income,

¹ The Supplemental Nutrition Assistance Program was previously referred to as the Food Stamp program. It is still commonly referred to as “Food Stamps.”

² The facts in this case were proven by a preponderance of the evidence. Unless specifically provided otherwise, they are derived from Ms. N’s testimony.

³ Exs. 9 – 9.16.

⁴ Ex. 12.

⁵ Exs. 12, 16.

that they received \$3,091.60 in monthly gross income, which made them ineligible for SNAP benefits and closed their SNAP benefit case.⁶ In arriving at its conclusion that Ms. N's and her daughter's monthly gross income was \$3,091.60, DPA took Ms. N's and her daughter's pay information that was submitted as part of her January application, and averaged their paychecks to determine that Ms. N earned \$2,140 in gross wages per month, and after excluding an unusually high holiday pay check for the daughter, determined that the daughter earned \$951.60 in gross wages per month.⁷ Ms. N did not disagree with DPA's determination that her and her daughter's combined gross monthly income was \$3,091.60. An independent review of the household pay information shows that DPA's calculations were correct. DPA has therefore established by a preponderance of the evidence that Ms. N and her daughter's combined gross monthly household income was \$3,091.60.

DPA then, on March 22, 2021, sent Ms. N notice that she was required to repay it the \$758 in SNAP benefits that she received in February 2021.⁸

III. Discussion

The issue in this case is whether DPA was correct to require Ms. N to repay the \$758 in Food Stamp benefits that she received in February 2021. This issue is resolved by looking at Ms. N's household income.

Because both Ms. N and her daughter are paid every two weeks, instead of twice per month, they receive either two or three paychecks per month, depending upon when their pay days occur. In addition, their pay fluctuates depending upon their work hours. In order to address the pay fluctuation and the fact that some months have two pay periods while others have three, DPA averages a recipient's pay and then multiplies the average by 2.15 (there are 2.15 two week pay periods per month) to arrive at the pay for the month.⁹ Using this methodology, Ms. N's and her daughter's combined gross income at the time of the January 2021 application was \$3,091.60.

⁶ Ex. 15.

⁷ Ex. 14.

⁸ Exs. 18 – 18.10.

⁹ 7 AAC 46.021(a)(28).

The SNAP gross monthly income limit for a three- person household is \$2,942, which is set by federal law.¹⁰ This means that Ms. N’s household was not eligible for SNAP benefits and DPA should not have approved the application.

Ms. N argued that her household had insufficient income to meet its expenses, which included a high rent. She made the point that any over issuance of Food Stamp benefits was caused by DPA’s error, because she provided it with the income information as part of the application process. Ms. N’s arguments are valid. However, SNAP is a federal program, whose benefits are governed by federal law. Even though Ms. N’s household income is inadequate to meet its expenses, the federal gross monthly income limit still applies.

Ms. N was not financially eligible for SNAP benefits and should not have received them for February 2021. Regarding Ms. N’s argument that the February overpayment was caused by DPA’s error, not hers, there is a specific federal statute that addresses Food Stamp overpayments. 7 U.S.C. § 2022(b)(1) provides that the “state agency *shall* collect any issuance of benefits issued to the household . . .” [emphasis added]. The specific federal 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 *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.” The Alaska Supreme Court has ruled that these federal requirements apply to Alaska Food Stamp recipients.¹¹ Even though the overpayment was caused by DPA’s erroneous approval of the application, DPA is required to recover the overpaid benefits, which amount to \$758.

IV. Conclusion

DPA’s decision to require Ms. N to repay it the \$758 in Food Stamp benefits which she received in February 2021 is upheld.

Dated: May 5, 2021

Signed

Lawrence A. Pederson
Administrative Law Judge

¹⁰ Ex. 18.4.

¹¹ *Allen v. State*, DHSS 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).

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 19th day of May, 2021.

By: Signed _____
Name: Lawrence A. Pederson
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.]