

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

In the Matter of	)	
	)	
L O	)	OAH No. 21-0563-SNA
_____	)	Agency No.

**DECISION**

**I. Introduction**

L O was a Supplemental Nutrition Assistance Program<sup>1</sup> (SNAP) benefit recipient. On March 19, 2021, the Division of Public Assistance (DPA) notified Ms. O that she received SNAP benefits in the amount of \$1,705 in June through December of 2020, that she should not have received, and that she was required to repay those benefits.<sup>2</sup>

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

The evidence in this case showed, by a preponderance of the evidence, that Ms. O was not financially eligible for SNAP benefits in June through December of 2020. As a result, she is required to repay DPA for the \$1,705 in SNAP benefits she received during those months. DPA’s repayment requirement is therefore AFFIRMED.

**II. Facts<sup>3</sup>**

Ms. O has a one-person household, which is comprised solely of herself. Ms. O submitted a SNAP application on March 16, 2020 that showed she was minimally employed.<sup>4</sup> Her application was approved on March 17, 2020 and she began receiving SNAP benefits.<sup>5</sup>

Ms. O was able to obtain a new job shortly thereafter in March of 2020. She testified that she informed DPA of that new job at the end of March 2020 in a telephone conversation with a

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

<sup>2</sup> DPA sent Ms. O a supplemental notice on April 14, 2021, which corrected Ms. O’s pay information contained in the earlier notice, but which did not change the repayment amount required. *See Exs. 23 – 23.24.*

<sup>3</sup> The facts in this case were proven by a preponderance of the evidence. Unless specifically provided otherwise, they are derived from Ms. O’s and Ms. Hartley’s testimonies.

<sup>4</sup> Exs. 2 – 2.11.

<sup>5</sup> Ex. 5.

DPA representative, during which she was told not to worry about it.<sup>6</sup> DPA does not have a record of that conversation.

Ms. O applied to renew her SNAP benefits on November 30, 2020. Her application disclosed that she was employed.<sup>7</sup> After discussions with Ms. O and reviewing Ms. O's Alaska Dept. of Labor and Economic Development employment records for that job for the 2<sup>nd</sup> quarter (April through June) and 3<sup>rd</sup> quarter (July through September) of 2020, the Division determined that Ms. O's monthly average gross wages from that job was \$1,910.66 beginning in June 2020.<sup>8</sup> The gross monthly income limit for a one-person household is \$1,690.<sup>9</sup> Consequently, DPA concluded that Ms. O should not have received SNAP benefits from June 2020 forward because her gross monthly income exceeded the gross monthly income limit for her one-person household of \$1,690. DPA then notified Ms. O that she would have to repay the SNAP benefits she received from June 2020 through December 2020, which totaled \$1,705.<sup>10</sup>

Ms. O requested a hearing to challenge the repayment requirement, which resulted in a subsequent review by DPA of the repayment requirement.<sup>11</sup> DPA reexamined Ms. O's pay information and found that Ms. O's average gross monthly income was \$1,784.16 for June rather than the \$1,910.66 it had calculated earlier, and \$1,910.66 for the following months.<sup>12</sup> However, that did not change the result and DPA sent Ms. O a corrected notice that she was required to reimburse it for the \$1,705 she received in SNAP benefits during the relevant time period.<sup>13</sup> Ms. O did not disagree with DPA's calculations of her gross monthly income, and an independent review of Ms. O's pay information shows that those calculations were correct.<sup>14</sup> DPA has therefore established by a preponderance of the evidence that Ms. O's average gross monthly household income was \$1,784.16 for June 2020 and \$1,910.66 for the following months of July through December 2020.

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<sup>6</sup> *Also see* Ex. 16.

<sup>7</sup> Exs. 11 – 11.6.

<sup>8</sup> Exs. 12 – 13.3, 16.

<sup>9</sup> Ex. 30.

<sup>10</sup> Exs. 19 – 19.12.

<sup>11</sup> Exs. 20 – 20.1

<sup>12</sup> Ex. 17. *See* Ex. 13 showing 2<sup>nd</sup> quarter income for the relevant employer of \$5,354.28. \$5,354.28 divided by 3 equals \$1,784.76 per month. Ex. 13 shows 3<sup>rd</sup> quarter income for the relevant employer of \$5,731.98, which comes to \$1,910.66 per month.

<sup>13</sup> Exs. 17, 23 – 23.12.

<sup>14</sup> *See* fn. 12 above.

### III. Discussion

The issue in this case is whether DPA was correct to require Ms. O to repay the \$1,705 in Food Stamp benefits that she received in June through December of 2020. This issue is resolved by looking at Ms. O's household income.

As found above, Ms. O's average gross monthly income was 1,784.16 for June 2020 and \$1,910.66 for the following months of July through December 2020. The monthly gross income limit for a one-person household is \$1,690.<sup>15</sup> SNAP is a federal program which is administered by the individual states, and this income limit is set by federal law.<sup>16</sup> What this means is that because Ms. O's average gross monthly income was greater than \$1,690, she was not eligible to receive SNAP benefits in June through December of 2020.

Ms. O did not dispute that she had received her SNAP benefits, nor did she disagree with DPA's gross income calculations. Instead, she argued that her household had insufficient income to meet its expenses, which included a large amount taken from her paycheck for a child support payment. However, by federal law, child support payments are only available as a deduction to determine net income eligibility and benefit amounts.<sup>17</sup> In order to qualify, Ms. O must first pass the gross income test. Deductions, such as child support payments, are only considered for an applicant/recipient who first satisfies the gross income test. Even though Ms. O's household income is inadequate to meet its expenses, the federal gross monthly income limit still applies.

Ms. O also argued that she should not have to repay her SNAP benefits because the overissuance 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

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<sup>15</sup> Ex. 30.

<sup>16</sup> 7 C.F.R. § 271.4; 7 C.F.R. § 273.8(a)(1)(ii).

<sup>17</sup> See 7 C.F.R. 273.9(d) for a list of available deductions and 7 C.F.R. § 273.10(e) for the process for determining net monthly income.

recipients.<sup>18</sup> Even if the overpayment was caused by DPA's error DPA is required to recover the overpaid benefits, which amount to \$1,705.

#### **IV. Conclusion**

DPA's decision to require Ms. O to repay it the \$1,705 in SNAP benefits which she received in June through December of 2020 is upheld.

Dated: May 11, 2021

*Signed* \_\_\_\_\_  
Lawrence A. Pederson  
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 25<sup>th</sup> 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.]

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<sup>18</sup> *Allen v. State, DHSS 203 P.3d 1155, 1164 - 1166 (Alaska, 2009).*