

T O lives in City A. She applied for Food Stamp benefits from June 2015 through April 2020, the time period at issue in this case, and she listed herself, her two daughters K Z and D N, and her granddaughter J.R.J. as household members during that timeframe.³

Between June 2015 and January 2020, Ms. O submitted eight different Food Stamp applications. Two of the applications were new applications for benefits. Six of the applications were eligibility recertification forms to renew ongoing benefits. Ms. O signed the eight application forms on the following dates:

- 1) June 13, 2015 (recertification application);⁴
- 2) December 16, 2015 (new application);⁵
- 3) August 1, 2016 (recertification application);⁶
- 4) February 13, 2017 (recertification application);⁷
- 5) January 10, 2018 (recertification application);⁸
- 6) July 26, 2018 (recertification application);⁹
- 7) June 28, 2019 (new application);¹⁰
- 8) December 23, 2019 (recertification application).¹¹

On the first five applications, Ms. O reported K Z, D N, and J.R.J. were all members of her household. In June 28, 2019, of those three family members, Ms. O only reported J.R.J. as part of her household; and in December 23, 2019, she reported D and J.R.J. as members of the household.¹²

Each of the applications Ms. O signed and submitted includes a “Statement of Truth.” The statement immediately precedes the application’s signature, and it requires the applicant to certify under penalty of perjury that all of the information contained in the application is true and correct to the best of the applicant’s knowledge.¹³ The applicant also certifies that she had read and understood the “Rights and Responsibilities” section of the application, including its fraud

³ Exh. 8. There were other family members that lived with Ms. O, but there are not allegations pertaining them at issue in this case. Cramer testimony.

⁴ Exh. 8, pp. 48-52.

⁵ Exh. 8, pp. 36-47.

⁶ Exh. 8, pp. 31-35.

⁷ Exh. 8, pp. 26-30.

⁸ Exh. 8, pp. 21-25.

⁹ Exh. 8, pp. 16-20.

¹⁰ Exh. 8, pp. 6-15.

¹¹ Exh. 8, pp. 1-5.

¹² Exh. 8.

¹³ *Id.*

penalty information. The four-page “Rights and Responsibilities” document attached to each Food Stamp application explains in detail the program’s reporting requirements. It also warns that prosecution and penalties can apply to applicants who provide false, incorrect or incomplete information to get public assistance to which they are not entitled. Ms. O signed her name in the “Statement of Truth” section of each application.¹⁴

Between mid-January 2016 and January 2, 2020, Ms. O participated in seven eligibility interviews regarding the Food Stamp applications she had submitted.¹⁵ During each interview she was informed of the ramifications of giving false or misleading answers in an application for benefits.¹⁶ Ms. O indicated that she understood the program requirements and her obligations as a benefits applicant and potential recipient.¹⁷ She was approved on each occasion to receive Food Stamp benefits that were based on the factual representations in her applications.

On October 4, 2018, K Z contacted DPA and informed them that her mother, T O, had applied for Food Stamps with herself, D, and J.R.J. listed as household members on multiple applications.¹⁸ Her report indicated that her mother had lied on the applications, as Ms. Z had been living in Florida with her daughter J.R.J. since 2011, and her stepsister D N moved in with them in August of 2015.¹⁹

Shortly after that, DPA Investigator Cramer reviewed and investigated Ms. O’s DPA case. Through a signed release form, Mr. Cramer obtained school district records from Alaska and Florida. These documents show that D N’s school records were transferred to Florida with no return back to Alaska, and that the only school records on file for J.R.J. are from Florida.²⁰

Based on the information obtained by DPA, on December 3, 2020 DPA initiated this fraud proceeding.²¹ It alleged that Ms. O committed her second IPV of the Food Stamp program, and it requested that she be temporarily disqualified from receiving Food Stamp benefits and be ordered to repay the amount of overpaid benefits.²² DPA calculated that Ms. O received \$14,450 in overpaid Food Stamps for the eligibility periods discussed above.²³

¹⁴ Exh. 8; Holden Testimony.
¹⁵ Exh. 9, pp. 5-10, 13, 15 & 18.
¹⁶ *Id.*
¹⁷ *Id.*
¹⁸ Exh. 2.
¹⁹ Exh. 2; Cramer Testimony.
²⁰ Exh. 1, pp. 5-6.
²¹ Exh. 3.
²² Exh. 1, p. 7.
²³ Exh. 13.

III. Discussion

In this case, DPA seeks to establish an IPV by Ms. O in the Food Stamp program. Federal law prohibits a person from obtaining Food Stamp benefits by concealing or withholding facts.²⁴ In order to establish an IPV of the Food Stamp program, DPA must prove that Ms. O intentionally “made a false or misleading statement, or misrepresented, concealed, or withheld facts,”²⁵ and it must prove the violation by clear and convincing evidence.²⁶ Clear and convincing evidence is established if the truth of the asserted facts is “highly probable.”²⁷ Based on evidence offered by DPA that Ms. O has been found to have committed a prior IPV, the alleged IPV in this case will be evaluated on the assumption that it is a second-time violation.

Based on the testimony and documents presented by DPA, it is clear that Ms. O understood her responsibility to disclose all household-related information as a requirement for Food Stamps eligibility. DPA established, by clear and convincing evidence, that Ms. O claimed on eight separate application forms submitted between January 2015 and January 2020, and in seven eligibility interviews during the same timeframe, that her daughters, K Z and D N, and her minor granddaughter, J.R.J., were members of her household when they were not. The documents presented by DPA at the hearing clearly established that Ms. O’s daughters and granddaughter were residing in Florida when she claimed them as members of her household in Alaska. This constituted misrepresentation and concealment of facts that were pertinent to Ms. O’s household’s eligibility for benefits. The remaining issue is whether the misrepresentations were intentional.

Ms. O appeared at her hearing, but she opted to exercise her right not to testify in rebuttal to DPA’s evidence regarding the IPV allegations.²⁸ Nonetheless her intent can be deduced from circumstantial evidence. The evidence demonstrated that Ms. O has a great deal of experience with the Food Stamps application and eligibility review process, as well as with IPV’s as a general matter. The disclosure requirements regarding household composition are straightforward and are clearly explained to applicants during the application process; and Ms. O clearly understood these requirements, because she reported other household changes at various times during the relevant

²⁴ 7 C.F.R. § 273.16(c).

²⁵ 7 C.F.R. § 273.16(c).

²⁶ 7 C.F.R. § 273.16(e)(6).

²⁷ *Saxton v. Harris*, 395 P.2d 71, 72 (Alaska 1964).

²⁸ Ms. O’s only responses were to generally express regret for having “made a mistake,” and to assert that her family members in Florida had allegedly committed unspecified frauds of their own.

timeframe.²⁹ Her failure to disclose, therefore, cannot have been a mere oversight or misunderstanding. DPA has established that it is more than “highly probable” that Ms. O’s pattern of misrepresentation and concealment was intentional behavior.

DPA met its burden of proof and established that Ms. O intentionally misrepresented and concealed her household composition. As a result of her conduct, Ms. O’s household received Food Stamp benefits to which it was not entitled. Ms. O has therefore committed a second IPV of the Food Stamp program.

IV. Conclusion and Order

DPA demonstrated that Ms. O committed an Intentional Program Violation as defined by Food Stamp program regulations. As this is her second known Food Stamp IPV, she is disqualified from receiving Food Stamp benefits for a period of 24 months, and she is required to reimburse the Division for benefits that were overpaid as a result of her IPV.³⁰ This disqualification applies only to Ms. O, and not to any other individuals who may be included in her household in the future.³¹ For the duration of the disqualification period, Ms. O’s needs will not be considered when determining Food Stamp eligibility and benefit amounts for her household. However, she must report her income and resources as they may be used in these determinations.³²

The Division shall provide written notice to Ms. O and any remaining household members of the benefits they will receive during the period of disqualification, or that they must reapply because the certification period has expired.³³

If over-issued Food Stamp benefits have not been repaid, Ms. O is now required to make restitution.³⁴ If she disagrees with DPA’s calculation of the amount of over-issued benefits to be repaid, she may request a hearing on that limited issue.³⁵

DATED: July 15, 2021.

By: Signed _____
Andrew M. Lebo
Administrative Law Judge

²⁹ See, e.g., exh. 9, p. 14 (discussing O report of household composition change, 10/3/18).

³⁰ 7 C.F.R. §273.16(b)(1)(i); 7 C.F.R. §273.16(b)(12); 7 C.F.R. §273.16(e)(8)(iii).

³¹ 7 C.F.R. §273.16(b)(11).

³² 7 C.F.R. §273.11(c)(1).

³³ 7 C.F.R. §273.16(e)(9)(ii).

³⁴ 7 C.F.R. §273.16(b)(12); 7 C.F.R. §273.16(e)(8)(iii).

³⁵ 7 C.F.R. §273.15.

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 30th day of July, 2021.

By: Signed
Signature
Andrew M. Lebo
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.]