

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

In the Matter of )  
 )  
K T f/k/a K ) OAH No. 21-0041-ADQ  
G ) Agency No.  
\_\_\_\_\_ )

**DECISION and ORDER**

**I. Introduction**

K T, f/k/a K G,<sup>1</sup> applied for renewal of Food Stamp<sup>2</sup> benefits in April and November 2018 and June and December 2019. In reviewing Ms. T’s benefit history, the Division of Public Assistance (Division) determined that she failed to disclose bank accounts and income to the Division which caused her to receive benefits to which she was not otherwise entitled. The Division filed this Administrative Disqualification case against her, alleging she committed a first Intentional Program Violation of the Food Stamp program.<sup>3</sup> Ms. T requested an administrative hearing.

The evidence in this case shows that Ms. T intentionally withheld bank account information and income from the Division. As a result, this decision concludes that she committed an Intentional Program Violation of the Food Stamp program. This is Ms. T’s first Intentional Program Violation. She is therefore disqualified from receiving Food Stamps for 12 months. She must also repay the benefits wrongly received.

**II. Facts**

The following facts were established by clear and convincing evidence unless otherwise noted. Ms. T was a Food Stamp recipient who submitted Food Stamp benefits renewal applications, titled “Eligibility Review Forms” on April 27, 2018, November 26, 2018, June 5, 2019, and December 3, 2019.<sup>4</sup> On the second page of each application, she was required to identify any money that her or anyone within her household held in bank accounts. She was also required to identify how much money her or anyone in her household “receives” from any

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<sup>1</sup> Ms. T testified that her name is now K T and has been since she married in 2014. It was formerly K G. The applications at issue in this case and as referenced below, refer in most instances to K T, but occasionally, also to K G. The caption in this case has been changed to more accurately reflect Ms. T’s name.  
<sup>2</sup> Though still commonly called Food Stamps, the program is now officially known as the Supplemental Nutrition Assistance Program, a/k/a SNAP.  
<sup>3</sup> Ex. 3.  
<sup>4</sup> Ex. 7.

source. In response these questions, on all four applications, she marked a zero with a line through it.<sup>5</sup>

The last page of each application Ms. T was asked to complete a section titled as the “Statement of Truth.” It requires that the applicant certify by their signature that all statements in the application are true and correct to the best of their knowledge and that they have also read the “Rights and Responsibilities” information included within the application. The “Rights and Responsibilities” includes a discussion regarding fraud penalties that may be imposed if the application is submitted based on intentionally untruthful information or statements. For each application Ms. T submitted, she signed both the “Statement of Truth” and the “Rights and Responsibilities” acknowledgment.<sup>6</sup>

After the applications, Ms. T also conducted eligibility interviews with Division eligibility technicians.<sup>7</sup> At these interviews, she was once again asked about asset information. The rights and responsibilities information was also discussed and explained. At no point during the eligibility interviews, or at any other time, did Ms. T indicate or reference any assets held in a Northrim bank account.<sup>8</sup>

The Division’s Fraud Control Unit initially began an investigation in April 2017 regarding an allegation that Ms. T may have failed to declare a marriage and a household member. While those initial allegations were ultimately determined to be unfounded, during that investigation, it was discovered that Ms. T possessed an undisclosed personal bank account, in her name, with Northrim Bank.<sup>9</sup> The bank records for this account, obtained by the Division by subpoena, reveal that the account was opened in September 2017, in the name of K T. Ms. T was the sole signer on the account, and that undeclared cash and PayPal deposits into the account between June 2018 and May 2020 totaled \$36,306.<sup>10</sup> As a result of the undisclosed income, the Division determined that Ms. T received \$7,322 more in Food Stamp program benefits than she

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<sup>5</sup> Ex. 7, pp. 2, 3, 7, 8, 12, 13; Testimony of Ms. Holton.

<sup>6</sup> Ex. 6; Ex. 7, pp. 5, 10, 15 and 20; Testimony of Ms. Holton.

<sup>7</sup> Ex. 1, p. 4; Ex. 8; Testimony of Ms. Holton. However, as Ms. Holton’s testimony reflects, an interview was not conducted regarding the December 2019 application since an eligibility interview is only required ever six months. An interview had already been conducted within that timeframe based on Ms. T’s June 2019 application.

<sup>8</sup> Ex. 8; Testimony of Ms. Holton.

<sup>9</sup> Ex. 1, pp. 3, 5 and 6; Ex. 10; Testimony of Mr. Cramer.

<sup>10</sup> Ex. 1, pp. 6-7; Ex. 10; Testimony of Mr. Cramer.

was entitled.<sup>11</sup> At the hearing in this matter, Ms. T confirmed that the account belonged to her.<sup>12</sup> However, she indicated that the account was used both for the deposit of her children's Permanent Fund Dividends and as a repository for monies she was holding for friends.<sup>13</sup>

A telephonic hearing took place on March 3, 2020. Ms. T represented herself and testified on her own behalf. Kenneth Cramer, an investigator employed by the Division's Fraud Control Unit, represented the Division and testified at the hearing. Amanda Holton, an Eligibility Technician for the Division, also testified on its behalf. Exhibits 1 – 11 were admitted into evidence without objection or restriction.

### III. Discussion

It is prohibited by federal law for a person to obtain Food Stamp benefits by concealing or withholding facts.<sup>14</sup> The Division alleges that Ms. T violated that prohibition and committed an Intentional Program Violation of the Food Stamp program. It asserts she did so by making false or misleading statements and withholding material facts regarding her Northrim bank account, April 27, 2018, November 26, 2018, June 5, 2019, and December 3, 2019 Food Stamp applications, and related eligibility interviews.

To establish an Intentional Program Violation of the Food Stamp program, the Division must prove by clear and convincing evidence<sup>15</sup> that Ms. T intentionally “made a false or misleading statement, or misrepresented, concealed, or withheld facts.”<sup>16</sup> To satisfy this standard, the division must show that it is *highly probable* that Ms. T intended to misrepresent, conceal, or withhold facts.<sup>17</sup> Food Stamp eligibility and benefits are determined based upon a household's composition, assets, and income.<sup>18</sup>

The facts in this case clearly reveal that Ms. T did not notify the Division about her bank account either in any of the applications at issue or in the eligibility interviews.<sup>19</sup> This was a concealment or withholding of facts.

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<sup>11</sup> Ex. 1, p. 6; Ex. 11; Testimony of Mr. Cramer.

<sup>12</sup> Testimony of Ms. T.

<sup>13</sup> Testimony of Ms. T.

<sup>14</sup> *See, e.g.*, 7 U.S.C. § 2015(b).

<sup>15</sup> 7 C.F.R. § 273.16(e)(6).

<sup>16</sup> 7 C.F.R. § 273.16(c).

<sup>17</sup> *DeNuptiis v. Unocal Corporation*, 63 P.3d 272, 275 n. 3 (Alaska 2003, emphasis supplied) (defining clear and convincing standard).

<sup>18</sup> 7 C.F.R. § 273.10(e)(1)(i)(A).

<sup>19</sup> Exs. 7, 8; Testimony of Ms. Holton.

It must therefore be determined whether Ms. T's concealment/withholding of her bank account and related information was intentional. Ms. T testified that she thought she had disclosed the account on her last Food Stamps application. She also indicated that she only used the account to receive her children's Permanent Fund Dividends.<sup>20</sup> However, Ms. T's testimony was less than credible and it was also directly at odds with the evidence provided by the Division.

Contrary to what she testified, her applications reflect that she made no reference to any Northrim accounts or to any significant assets, either at Northrim or elsewhere.<sup>21</sup> Further, she later contradicted her own testimony about the account only being used to deposit her children's Permanent Fund Dividends. This occurred when she admitted that significant sums were in fact paid into and out of the account. She testified that the monies actually belonged to friends and she was doing them a favor by letting them use her account because they did not possess accounts of their own.<sup>22</sup> This testimony was not credible. Ms. T also did not report either the Northrim account nor the monies it contained during her eligibility interviews. The facts therefore support a finding that Ms. T intentionally omitted the existence of the Northrim bank account and the monies it contained from both her Food Stamp applications and during her eligibility interviews.

The Division has therefore met its burden of proof and established that Ms. T committed an Intentional Program Violation of the Food Stamp program by her failure to list her Northrim bank account on her applications, and by failure to disclose either the account or the monies it contained during her eligibility interviews. This is her first Intentional Program Violation.

#### **IV. Conclusion and Order**

Ms. T has committed a first time Intentional Program Violation of the Food Stamp Program. She is disqualified from receiving Food Stamp benefits for a 12 month period, and is required to reimburse the Division for benefits that were overpaid as a result of the Intentional Program Violation.<sup>23</sup> The Food Stamp Program disqualification period shall begin May 1,

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<sup>20</sup> Ms. T Testimony.

<sup>21</sup> Ex. 7, pp. 2, 3, 7, 8, 12, 13; Ex. 8.

<sup>22</sup> Ms. T Testimony.

<sup>23</sup> 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).

2021.<sup>24</sup> This disqualification applies only to Ms. T, and not to any other individuals who may be included in her household.<sup>25</sup> For the duration of the disqualification period, Ms. T'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.<sup>26</sup>

The Division shall provide written notice to Ms. T 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.<sup>27</sup>

If over-issued Food Stamp benefits, have not been repaid to date, Ms. T is now required to make restitution.<sup>28</sup> If Ms. T disagrees with the Division's calculation of the amount of over issuance to be repaid, she may request a separate hearing on that limited issue.<sup>29</sup>

Dated this 1<sup>st</sup> day of April 2021.

Signed  
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Z. Kent Sullivan  
Administrative Law Judge

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<sup>24</sup> See 7 C.F.R. § 273.16(b)(13) and (e)(8)(i); *Garcia v. Concannon*, 67 F.3d 256, 259 (9<sup>th</sup> Cir. 1995). Insofar as 7 C.F.R. § 273.16(e)(9)(ii) is inconsistent with this result, it must be disregarded as contrary to statute, as discussed in *Garcia* and in *Devi v. Senior and Disabled Serv. Div.*, 905 P.2d 846 (Or. App. 1995).

<sup>25</sup> 7 C.F.R. § 273.16(b)(11).

<sup>26</sup> 7 C.F.R. § 273.11(c)(1).

<sup>27</sup> 7 C.F.R. § 273.16(e)(9)(ii).

<sup>28</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

<sup>29</sup> 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 16<sup>th</sup> day of April, 2021.

By: *Signed* \_\_\_\_\_

Name: Z. Kent Sullivan

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.]

