

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

In the Matter of)
)
N S) OAH No. 21-0064-ADQ
) Agency No.
_____)

DECISION AND ORDER

I. Introduction

N S received Supplemental Nutrition Assistance Program (“SNAP”) and Alaska Temporary Assistance Program (“ATAP”) benefits in 2017 and 2018. The amount of these benefits was based on Ms. S’s representation that she was not employed and had no income. The Department of Health and Social Services, Division of Public Assistance (“Division”) initiated this Administrative Disqualification case against Ms. S, alleging that she was in fact employed and therefore received greater benefits than she was entitled to.

A telephonic hearing was held on March 22, 2021. Ms. S represented herself and testified on her own behalf. Sharon Carter, an investigator with the Division’s Fraud Control Unit, represented and testified on behalf of the Division.

This decision concludes that the Division proved by clear and convincing evidence that Ms. S committed a first Intentional Program Violation of the SNAP and ATAP programs. Accordingly, Ms. S will be barred from SNAP benefits for 12 months and ATAP benefits for six months. Ms. S will also provide restitution of any overpaid benefits that have not been repaid.

II. Facts

Ms. S applied for SNAP benefits on March 10, 2017.¹ On her application, she wrote “N/A” across the pages for listing household employment and income.² In her eligibility interview the same day, Division notes indicate that Ms. S stated that “no one in [household] is working or odd jobs” and “no side jobs; odd jobs or self employment.”³ Ms. S began receiving SNAP benefits in April 2017, based on a household income of \$0.⁴

Ms. S then applied for ATAP benefits on July 7, 2017.⁵ She again wrote “N/A” across the page for listing household income.⁶ The Division granted benefits starting in August 2017

¹ Ex. 7.
² Ex. 7 at 12-13.
³ Ex. 9 at 1-2.
⁴ Ex. 9 at 6; Ex. 10 at 3.
⁵ Ex. 12.
⁶ Ex. 12 at 6.

because Ms. S was pregnant and would be in her third trimester starting that month.⁷ The benefit amount was based on \$0 household income.⁸

Ms. S submitted an eligibility review form on December 6, 2017, writing “N/A” across the section for identifying household employment and income.⁹ The Division approved her recertification January 5, 2018 and continued paying SNAP and ATAP benefits through July 2018.¹⁰

At the hearing, Ms. S denied working during some or all of this period. She testified that she stopped working in 2017 when pregnant with her daughter, who was born in November of that year, and did not work thereafter.

Employment records, however, tell a different story. Department of Labor records show that Ms. S received wages from Business A, LLC in the first three quarters of 2017 and throughout all of 2018.¹¹ The Division also consulted a third-party employment verification database which showed Ms. S receiving wages from Business A every two weeks from March 28, 2017 through December 19, 2017 and then resuming regular payments from March 13, 2017 through August 14, 2018.¹² A Business A payroll specialist confirmed to the Division that the company employed Ms. S from March 6, 2017 through October 25, 2018.¹³

Ms. S’s wages varied, but were generally a few hundred dollars per two-week pay period. If reported to the Division, these wages would have significantly decreased the amount of benefits Ms. S received in most months from April 2017 through July 2018. In total, the Division calculated that Ms. S was overpaid SNAP and ATAP benefits of \$6006.¹⁴ The Division seeks restitution of the entire overpayment and to disqualify Ms. S from SNAP and ATAP benefits as a first-time offender.¹⁵

III. Discussion

A person who intentionally makes false or misleading statements or omits facts on a SNAP application is responsible for paying back any overpayment as restitution and can be disqualified from receiving benefits for one year for a first offense.¹⁶ An ATAP applicant is

⁷ Ex. 12 at 16-17.

⁸ Ex. 12 at 15.

⁹ Ex. 8 at 3.

¹⁰ Ex. 9 at 8; Ex. 10 at 3.

¹¹ Ex. 11 at 2. In the fourth quarter of 2018, Ms. S also received wages from Business B Corporation.

¹² Ex. 11 at 4-6.

¹³ Ex. 11 at 3.

¹⁴ Ex. 10 at 3.

¹⁵ Ex. 1 at 7.

¹⁶ 7 U.S.C. § 2015(b)(1); 7 C.F.R. § 273.16(b)(1), (b)(12), (c)(1).

similarly responsible for restitution and can be disqualified for six months for a first-time offense for intentionally misrepresenting, concealing, or withholding a material facts to establish eligibility.¹⁷ The Division has the burden of demonstrating these intentional violations by clear and convincing evidence.¹⁸

The Division has met its burden. Ms. S did not list any employment or income on the three applications she submitted to the Division during the time period at issue.¹⁹ Nor did she identify any employment or income when interviewed by the Division.²⁰ Ms. S did not dispute this documentation at the hearing. Thus the Division demonstrated that Ms. S represented that she was not employed.

Ms. S's representation of unemployment was material to her benefits eligibility. SNAP and ATAP eligibility and the amount of benefits depend, in part, on household income.²¹ By intentionally misrepresenting herself as unemployed, Ms. S received higher benefits than she would have by acknowledging her income — \$6006 by the Division's calculations.²² Indeed, in two of the months Ms. S received ATAP, the Division calculates that she was not eligible for any ATAP payments given income.

The Division also demonstrated that Ms. S was in fact employed while receiving SNAP and later ATAP benefits in April 2017 through July 2018. The Division provided three independent sources that show Ms. S was employed — Department of Labor records, a third-party database, and the employer itself.²³ Ms. S stated that she did not recall much from the time period at issue given the passage of time, but denied working while pregnant with her child in 2017 and after her child was born. While it is plausible Ms. S could forget exact dates of employment, it is not plausible she would forget or misremember whether she was working in relation to the timing of a major life event like the birth of her child. In light of the multiple sources documenting Ms. S's employment during this period, her denial of employment is not credible.

The Division further demonstrated that Ms. S's misrepresentations were intentional. While Ms. S did not recall her representations to the Division, her intent can be deduced from the

¹⁷ AS 47.27.015(e); 7 AAC 45.570(a); 7 AAC 45.580(c), (d), (n).

¹⁸ 7 C.F.R. § 273.16(e) (6); 7 AAC 45.585(d).

¹⁹ Ex. 7 at 12-13; Ex. 12 at 6; Ex. 8 at 3.

²⁰ Ex. 9 at 1-2.

²¹ 7 C.F.R. § 273.10; 7 AAC 45.275.

²² Ex. 10 at 3.

²³ Ex. 11.

circumstances. Ms. S's former employer confirmed she was hired on March 6, 2017.²⁴ Yet on March 10, Ms. S represented to the Division, on an application and in an eligibility interview, that she was not employed and had no income.²⁵ Ms. S again represented to the Division that she was unemployed and had no income in a July 7, 2017 application.²⁶ At that time, she had been receiving bi-weekly payments steadily for several months.²⁷ Ms. S submitted her third application representing no employment or income on December 6, 2017.²⁸ Ms. S had given birth to her daughter in November, but was continuing to work and receive paychecks through December 19, 2017.²⁹ It was only in late 2017 and early 2018 when she had a break in income, with paychecks resuming on March 13, 2017 and continuing regularly through August 14, 2018.³⁰ It is not credible that Ms. S would have misrepresented her employment status three different times as a mistake or oversight. Ms. S would have been aware of being hired and of receiving regular paychecks at the times she claimed to the Division that she had no job and no income. These circumstances demonstrate that her misrepresentations were intentional.

The Division has also demonstrated that Ms. S misrepresented her employment status to qualify for ATAP. Ms. S made this false statement on her ATAP application.³¹ Division records show a representative reviewed the program requirements with Ms. S.³² When her application was approved, Ms. S was also advised that the benefits were based on her having no income and that she would need to notify the Division if her employment status changed.³³ From these circumstances, it is apparent that Ms. S misrepresented herself as unemployed to qualify for and receive increased ATAP benefits.

IV. Conclusion

Ms. S committed a first time Intentional Program Violation of the SNAP and ATAP programs.

For SNAP, Ms. S is disqualified from receiving benefits for 12 months starting June 1, 2021.³⁴

²⁴ Ex. 11 at 3.

²⁵ Ex. 7 at 12-13; Ex. 9 at 1-2.

²⁶ Ex. 12 at 6.

²⁷ Ex. 11 at 6.

²⁸ Ex. 8 at 3.

²⁹ Ex. 11 at 6.

³⁰ Ex. 11 at 4-6.

³¹ Ex. 12 at 6.

³² Ex. 12 at 13.

³³ Ex. 12 at 15-17.

³⁴ 7 C.F.R. § 273.16(b)(13), (e)(8)(i).

For ATAP, Ms. S is disqualified from benefits for six months.³⁵ If Ms. S is currently receiving ATAP benefits, the disqualification period will begin as provided in 7 AAC 45.580(f)(1). If Ms. S is not currently receiving ATAP, her disqualification period is postponed until she applies and is found eligible for ATAP benefits.³⁶

These disqualifications apply only to Ms. S and not to other individuals in her household. For the duration of the disqualification periods, Ms. S will need to report her income and resources, but her own needs will not be considered when determining SNAP or ATAP eligibility or benefit amounts.³⁷

The Division will provide written notice to Ms. S and any other household members of the benefits they will receive during the period of disqualification or if they need to reapply.³⁸

If there were over-issued benefits that have not been repaid, Ms. S or any remaining household members are now required to make restitution.³⁹ If Ms. S disagrees with the Division's calculation of \$6006 in overpaid benefits, she may request a separate hearing on that limited issue.⁴⁰

DATED: March 25, 2021.

By: Signed
For: Rebecca Kruse
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 14th day of April, 2021.

By: Signed
Name: Cheryl Mandala
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.]

³⁵ 7 C.F.R. § 273.16(b)(13), (e)(8)(i).

³⁶ 7 AAC 45.580(g).

³⁷ 7 C.F.R. § 273.16(b)(11), (c)(1); 7 AAC 45.580(e)(1).

³⁸ 7 C.F.R. § 273.16(e)(9)(ii); 7 AAC 45.580(k).

³⁹ 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii); 7 AAC 45.570(b).

⁴⁰ 7 C.F.R. § 273.15; 7 AAC 45.570(l).