

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

In the Matter of )  
 )  
W X ) OAH No. 21-0269-ADQ  
 ) Agency No.  
\_\_\_\_\_ )

**DECISION**

**I. Introduction**

W X received Supplemental Nutrition Assistance Program (“SNAP”) benefits January 2018 through June 2018 based on the household members having no income other than Social Security and public assistance benefits. But during this period, a member of her household was in fact working and earning money. The Department of Health and Social Services, Division of Public Assistance (“Division”) initiated this Administrative Disqualification case against Ms. X alleging that she had committed an Intentional Program Violation with regard to her SNAP benefits by intentionally misrepresented her household income and therefore received benefits to which she was not entitled.

A telephonic hearing was held in this case on April 19, 2021. Ms. X represented herself and testified on her own behalf. The Division was represented by Kenneth Cramer. Eligibility technician Amanda Holton testified for the Division. As discussed below, the evidence in this case shows the Division has met its burden of demonstrating that Ms. X intentionally misrepresented her household income. As a result, Ms. X has committed an Intentional Program Violation of the SNAP program and is sanctioned as described below.

**II. Facts**

Ms. X applied for SNAP benefits on December 5, 2017.<sup>1</sup> On the application, Ms. X listed the household as herself, daughter N, and son Z D.<sup>2</sup> In the box for listing if anyone in the household is working, Ms. X wrote “NA.”<sup>3</sup> For household income, Ms. X listed only social security benefits that her daughter received.<sup>4</sup> At a January 17, 2018 eligibility interview, Ms. X listed her daughter’s social security and Alaska Temporary Assistance Program benefits as the

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<sup>1</sup> Ex. 7.  
<sup>2</sup> Ex. 7 at 1.  
<sup>3</sup> Ex. 7 at 3.  
<sup>4</sup> *Id.*

only household income.<sup>5</sup> Beginning in January 2018, Ms. X received SNAP benefits for her household based on a three-person household with no income from employment.<sup>6</sup>

On May 1, 2018, Ms. X signed an eligibility review form that listed the same household members.<sup>7</sup> Ms. X again wrote “NA” for household members working and listed only her daughter’s social security for household income.<sup>8</sup>

While reviewing Ms. X’s eligibility, the Division discovered that a member of the household was in fact employed.<sup>9</sup> Department of Labor records show that Z D was employed by Business A, Inc. during the fourth quarter of 2017 and all of 2018.<sup>10</sup> The Division asked Ms. X to provide verification of Mr. D’s income. Division records noted receiving paystubs for June and July 2018.<sup>11</sup>

The Division determined that for the period of January 2018 through June 2018, Mr. D’s income, if disclosed, would have rendered the household ineligible for SNAP.<sup>12</sup> The Division calculated that Ms. X received a total of \$2136 in overpaid benefits during this time.<sup>13</sup>

At the hearing, Ms. X testified that Mr. D got a job and moved out in early January 2018. Ms. X stated that she called the Division in January to report that Mr. D had moved out, but that this call is not included in the case notes that the Division submitted as Exhibit 8. According to Ms. X, the case worker stated that he did not believe her that Mr. D had moved out. Ms. X further testified that Mr. D moved back in with her just before she submitted the May 2018 eligibility review form that listed him as a household member. Ms. X acknowledged that Mr. D was employed at that time and that she provided pay stubs to the Division upon request.

### **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.<sup>14</sup> The Division has the

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<sup>5</sup> Ex. 8 at 1.

<sup>6</sup> Ex. 1 at 5.

<sup>7</sup> Ex. 7 at 6.

<sup>8</sup> Ex. 7 at 8.

<sup>9</sup> Ex. 1 at 5.

<sup>10</sup> Ex. 9 at 2.

<sup>11</sup> Ex. 8 at 3.

<sup>12</sup> Ex. 10.

<sup>13</sup> *Id.*

<sup>14</sup> 7 U.S.C. § 2015(b)(1); 7 C.F.R. § 273.16(b)(1), (b)(12), (c)(1).

burden of demonstrating these intentional violations by clear and convincing evidence.<sup>15</sup> The makeup of a household and its income are both material to SNAP eligibility and benefits amounts.<sup>16</sup>

Ms. X does not dispute that she submitted applications in December 2017 and May 2018 stating that Mr. D was a member of her household and that the household had no income other than public benefits. Nor does Ms. X dispute that Mr. D was employed during most, if not all, of the January to June 2018 time period at issue. Instead, Ms. X claims that Mr. D was not a member of the household during this period — except at the specific times when she submitted applications listing him as a household member — but that the Division refused to believe this at the time and insisted on paying her benefits based on Mr. D being in the household and not working.

Ms. X’s testimony about notifying the Division about Mr. D’s residence and employment and the Division’s inaction in response is not credible. The evidence demonstrates that the Division requires notification of household changes and takes action to modify or reject benefits based on such changes. The SNAP application includes a “Rights and Responsibilities” document informing applicants of the need to report household changes.<sup>17</sup> Notes from the January 17, 2018 interview indicates these Rights and Responsibilities were reviewed with Ms. X.<sup>18</sup> When Ms. X submitted her eligibility review, the Division investigated Department of Labor records to confirm Ms. X’s information and put her application on hold when the Department of Labor records contradicted the application.<sup>19</sup> It is not credible that an agency that takes the veracity of information and SNAP eligibility this seriously would refuse to accept a recipient reporting a change in household information or to take action on that information.

Nor is it credible that Mr. D started his job in January 2018, as Ms. X testified. Department of Labor records show that Mr. D was employed by Business A in the fourth quarter of 2017.<sup>20</sup> These are certified government records reflecting information provided by Mr. D’s employer as a regular course of practice, unrelated to this matter. These records do not show Mr. D’s exact start date with Business A, nor did the Department provide evidence of that specific

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<sup>15</sup> 7 C.F.R. § 273.16(e) (6); 7 AAC 45.585(d).

<sup>16</sup> 7 CFR 273.10.

<sup>17</sup> Ex. 6.

<sup>18</sup> Ex. 8 at 1.

<sup>19</sup> Ex. 8 at 5.

<sup>20</sup> Ex. 9 at 2.

date. But the Department of Labor records do show Mr. D receiving wages during the fourth quarter 2017 that are roughly half the wages he received in each quarter of 2018.<sup>21</sup> This suggests that Mr. D was employed roughly half of the fourth quarter of 2017, well before Ms. D submitted her application on December 5, 2017 stating that he was not employed.

Even accepting Ms. X's testimony that Mr. D started his job in early January, that would have been pertinent information to share with the Division during the January 17, 2018 eligibility interview. The evidence shows Ms. X did not do so. At various times in her testimony, Ms. X both acknowledged this interview and stated she did not remember it. The Division provided testimony from an eligibility technician that the Division enters notes in its case note system during eligibility interviews to capture the information contemporaneously. The notes from the January 17, 2018 interview indicate Ms. X included Mr. D as a member of her household and stated that the household had no income aside from public benefits.<sup>22</sup> If Mr. D had moved out, as Ms. X testified, then her statement in this interview that he remained a member of her household was false. If Mr. D had not moved out, then Ms. X's statements about the household's income were false. Both the members of a household and the household's income are material facts, so either way Ms. X misrepresented material facts.

The May 2018 eligibility review form supports the Division's claim that Ms. X's misrepresentations were intentional. Ms. X testified that as of May 2018, Mr. D was living in her household and remained employed. Yet Ms. X continued to seek SNAP benefits based on her household having no income aside from public benefits.<sup>23</sup> This intentional misrepresentation in May 2018 suggests Ms. X's misrepresentations months earlier were intentional as well.

Weighing the evidence as a whole, including Ms. X's lack of credibility, the Division has met its burden of proof and demonstrated by clear and convincing evidence that Ms. X intentionally misrepresented household income information for the period of January through June of 2018. Accordingly, Ms. X has committed a first Intentional Program Violation of the SNAP program.

Ms. X's misrepresentation was material to her household receiving SNAP benefits. SNAP eligibility and the amount of benefits depend, in part, on household income.<sup>24</sup> By

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Ex. 7 at 8.

<sup>24</sup> 7 C.F.R. § 273.10.

intentionally misrepresenting her household as unemployed, Ms. X received SNAP benefits — \$2136 by the Division’s calculations — that she would not have received if she had disclosed Mr. D’s employment.<sup>25</sup>

#### **IV. Conclusion**

Ms. X committed a first time Intentional Program Violation of the SNAP program. Accordingly, she is disqualified from receiving benefits for 12 months starting June 1, 2021.<sup>26</sup> This disqualification applies only to Ms. X and not to other individuals in her household. For the duration of the disqualification period, Ms. X will need to report her income and resources, but her own needs will not be considered when determining SNAP eligibility or benefit amounts.<sup>27</sup>

The Division will provide written notice to Ms. X and any other household members of the benefits they will receive during the period of disqualification or if they need to reapply.<sup>28</sup>

If there are over-paid benefits that have not been repaid, Ms. X or any remaining household members are now required to make restitution.<sup>29</sup> If Ms. X disagrees with the Division’s calculation of \$2136 in overpaid benefits, she may request a separate hearing on that limited issue.<sup>30</sup>

Dated: April 23, 2021

*Signed* \_\_\_\_\_  
Rebecca Kruse  
Administrative Law Judge

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<sup>25</sup>

*Id.*

<sup>26</sup> 7 C.F.R. § 273.16(b)(13), (e)(8)(i).

<sup>27</sup> 7 C.F.R. § 273.16(b)(11), (c)(1).

<sup>28</sup> 7 C.F.R. § 273.16(e)(9)(ii); 7 AAC 45.580(k).

<sup>29</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).

<sup>30</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 3<sup>rd</sup> day of June, 2021.

By: *Signed* \_\_\_\_\_  
Name: Carmen Clark  
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.]