

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

In the Matter of:	)	
	)	
Q.B.	)	OAH No. 22-0324-ADQ
_____	)	Agency No. 05620572

**DECISION**

**I. Introduction**

Q.B. is a former recipient of Food Stamp benefits. The Department of Health and Social Services, Division of Public Assistance (Division) brought this administrative disqualification proceeding against him, alleging that he had committed an Intentional Program Violation (IPV) by intentionally misrepresenting that his son was living with him on his application for benefits.

A hearing was held on May 19, 2022. Brent Fraser, an investigator with the Division’s Fraud Control Unit, represented and testified on behalf of the Division. Amanda Holton, an eligibility technician with the Division, also testified on its behalf. Q.B. was provided advance notice of the hearing.<sup>1</sup> He did not appear at the hearing, which was held in his absence.<sup>2</sup>

This decision concludes that Q.B. committed a first-time IPV of the Food Stamp program.<sup>3</sup> Because he received more benefits than he was entitled to receive, he is temporarily disqualified from participating in the program and must pay restitution for the overpaid amounts.

**II. Facts**

Q.B. is S.B.’s father. S.B. was taken into state custody in 2021 and has been living in a foster home since 2021.

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<sup>1</sup> On April 18, 2022, the Fraud Control Unit notified Q.B. of the hearing by mailing him a Thirty-Day Advance Notice packet by regular and certified mail, which Q.B. picked up on April 21, 2022. Exs. 2 and 3. The Fraud Control Unit also mailed Q.B. its exhibit packet by regular and certified mail, which was picked up on May 11, 2022. Exs. 5 and 6. Meanwhile, the Office of Administrative Hearings sent Q.B. a Notice of Hearing containing the hearing date and time, and the phone number the administrative law judge would use to call Q.B. for the hearing.

<sup>2</sup> Q.B. did not answer his phone when called for the hearing, did not return a voice mail message left for him, and did not answer his phone when he was called a second time. If a person “cannot be located or fails to appear. . . without good cause,” the Food Stamp program regulations allow a hearing on an IPV to proceed in the person’s absence. 7 C.F.R. §273.16(e)(4).

<sup>3</sup> Congress changed the official name of the Food Stamp program to the Supplemental Nutrition Assistance Program (SNAP) in 2008. The program is still commonly known as the Food Stamp program, however.

On July 21, 2021, Q.B. submitted an application for services, through Cook Inlet Tribal Council, to obtain Food Stamp benefits.<sup>4</sup> The form requires applicants to identify members of their household by providing “[i]nformation about you and the people who live with you.”<sup>5</sup> Q.B. identified his household as consisting of himself and his minor son, S.B..<sup>6</sup>

When Q.B. signed the application form, he certified that the information he provided on the form was “true and correct” to the best of his knowledge. He signed and certified that he read and understood an attached two-page “Rights and Responsibilities” document, which contained general program information and a fraud penalty warning.<sup>7</sup>

Based on Q.B.’s written application, he was approved to receive Food Stamp benefits as a two-person household consisting of himself and S.B. beginning in July 2021. He continued to receive benefits for a household of two through November 2021.<sup>8</sup>

On October 25, 2021, the Division learned of possible inaccuracies in Q.B.’s public benefits and began an investigation. On November 1, 2021, the Division’s Fraud Unit received certified records from the Office of Children’s Services showing that S.B. had been taken into state custody in 2021 and placed in a foster home in 2021.<sup>9</sup>

As part of the investigation, Eligibility Technician III Amanda Holton analyzed the benefits paid to Q.B. and the benefits for which he was actually eligible. Based on that analysis, she prepared a Loss Statement Summary which showed Q.B. had received more benefits for the months of July through November of 2021 than he was eligible to receive.<sup>10</sup> For those months, Q.B. received benefits based on a household of two, when the actual household size for benefits purposes was one. This resulted in an overpayment of \$976.00.<sup>11</sup>

In April 2022, the Division initiated this action. The Division asked that Q.B. be temporarily disqualified from receiving Food Stamp benefits and that he be directed to repay the overpaid benefits.

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<sup>4</sup> Ex. 7.

<sup>5</sup> Ex. 7, p. 3.

<sup>6</sup> *Id.*

<sup>7</sup> Ex. 7, pp. 12 – 14.

<sup>8</sup> Ex. 9, p. 1.

<sup>9</sup> Ex. 8; Fraser testimony.

<sup>10</sup> Ex. 9;

<sup>11</sup> Ex. 9; Holton testimony.

### III. Discussion

To prevail in this matter, the Division must prove that Q.B. committed an Intentional Violation of the Food Stamp program: that he intentionally “made a false or misleading statement, or misrepresented, concealed, or withheld facts” regarding his eligibility.<sup>12</sup> The Division must prove these elements by clear and convincing evidence.<sup>13</sup> Food Stamp eligibility and benefits are determined, in part, based on the number of persons in the household.<sup>14</sup>

It is undisputed that S.B. was in state custody since 2021, and that he was in a foster home since 2021. Thus, Q.B. falsely listed S.B. as living with him on his July 21, 2021 Food Stamps application.

The remaining question is whether Q.B. made the false statement intentionally. Because he did not testify, the answer to this question must be found through the totality of the surrounding circumstances. There is no question that Q.B. was fully aware that S.B. was not living with him and instead was in the foster care system when he submitted his application and certified to the accuracy of its contents. Thus, when he falsely stated on the application that S.B. was living with him, he knew this statement was untrue. This false statement constituted an intentional and material misrepresentation regarding his eligibility for benefits.

The Division has met its burden of proving by clear and convincing evidence that Q.B. committed an intentional violation of the Food Stamps program. Because it has not been alleged that he was ever found to have committed a prior IPV, the violation in this case is treated as Q.B.’s first IPV.

### IV. Conclusion

Q.B. committed a first-time IPV of the Food Stamp program. He is therefore disqualified from receiving Food Stamp benefits for a twelve-month period.<sup>15</sup> The Food Stamp disqualification period shall begin July 1, 2022.

This disqualification applies only to Q.B., and not to any other individuals who may be included in his household.<sup>16</sup> For the duration of the disqualification period, Q.B.’s needs will not be considered when determining Food Stamp eligibility and benefit amounts for his household.

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<sup>12</sup> 7 U.S.C. § 2015(b) and 7 C.F.R. § 273.16(c).

<sup>13</sup> 7 C.F.R. § 273.16(e)(6).

<sup>14</sup> 7 C.F.R. § 273.1, 273.8, 7 C.F.R. §273.9, and 7 C.F.R. § 273.10.

<sup>15</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).

<sup>16</sup> 7 C.F.R. § 273.16(b)(11).

However, he must report his income and resources so that they can be used in these determinations.<sup>17</sup>

The Division shall provide written notice to Q.B. and any remaining household members of the benefits they will receive during the period of disqualification, or they must reapply because the certification period has expired.<sup>18</sup>

If over-issued Food Stamp benefits have not been repaid, Q.B. or any remaining household members are now required to make restitution.<sup>19</sup> If Q.B. disagrees with the Division's calculation of the amount of the benefits to be repaid, he may request a separate hearing on that limited issue.

Dated: May 31, 2022

Signed \_\_\_\_\_  
Lisa M. Toussaint  
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 14<sup>th</sup> day of June, 2022.

By: Signed \_\_\_\_\_  
Name: Lisa M. Toussaint  
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>17</sup> 7 C.F.R. § 273.11(c)(1).

<sup>18</sup> 7 C.F.R. § 273.16(e)(9)(ii).

<sup>19</sup> 7 C.F.R. § 273.16(b)(12); 7 C.F.R. § 273.16(e)(8)(iii).